

Quartz
June 2020

EXHIBIT 10

FILED UNDER SEAL

IN THE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

DIANA HOFFMANN,)	
individually and as)	
Independent Administrator)	
of the Estate of THOMAS R.)	No. 17-L-517
HOFFMANN, Deceased, et al.,)	
)	
Plaintiff,)	
)	
v.)	
)	
SYNGENTA CROP PROTECTION,)	
LLC, et al.,)	
)	
Defendants.)	

CONFIDENTIAL

REMOTE VIDEOCONFERENCE CORPORATE DEPOSITION OF
SYNGENTA CORPORATION, BY AND THROUGH ITS
REPRESENTATIVE

CLARK OUZTS

MONDAY, JUNE 22, 2020

REPORTED BY:

DEBRA A. DIBBLE, RDR, CRR, Notary Public

JOB NO. 27661

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1 REMOTE VIDEOCONFERENCE DEPOSITION OF CLARK
 2 OUZTS, produced as a witness at the instance of
 3 the Plaintiffs and duly sworn, was taken in the
 4 above-styled and numbered cause on the
 5 above-referenced date, from 9:10 a.m. to 4:15 p.m.
 6 EDT, before Debra A. Dibble, RDR, CRR, Notary
 7 Public, reported by realtime stenographic means at
 8 the location of the witness, pursuant to Illinois
 9 Supreme Court Rules Section 206 and 204(a)(3).
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<p>1 PROCEEDINGS 2 (June 22, 2020 at 9:10 a.m. EDT) 3 THE VIDEOGRAPHER: Good morning. 4 We are now on the record. Today's date is 5 June 22nd, 2020, and the time is 9:10 a.m. Eastern 6 Standard Time. 7 This is the video deposition of 8 Clark Ouzts in the matter of Diana Hoffmann verses 9 Syngenta Crop Protection, LLC, et al., filed in 10 the Circuit Court for the Twentieth Judicial 11 Circuit, in St. Clair, County, Illinois, Case 12 No. 17-L-717. 13 This deposition is taking place 14 via video conference with all participants 15 attending remotely due to the COVID-19 pandemic. 16 My name is Jose Reyes. I'm the 17 videographer representing TransPerfect. Will 18 counsel on the conference please identify 19 yourselves and state whom you represent beginning 20 with the questioning attorney. 21 MR. TILLERY: Steven Tillery from 22 Korein Tillery, representing the plaintiffs. 23 MR. WEIR: Tom Weir for Kirkland & 24 Ellis, representing Syngenta. 25 THE VIDEOGRAPHER: Is that</p>	<p>1 testified as follows: 2 DIRECT EXAMINATION 3 BY MR. TILLERY: 4 Q. For the record, I'll note that this is 5 a deposition of an adverse party or agent of an 6 adverse party, so I'll be conducting in accordance 7 with 2-1102 of the Illinois Code of Civil 8 Procedure, which is 735 ILCS 5/2-1102. 9 And we note, of course, that this 10 is a remote deposition, and it is being taken with 11 attorneys from different parts of the country 12 observing it through a Zoom connection, where a 13 videographer makes a film of this and another 14 stenographer in another location records it. 15 So could you tell us, first of 16 all, what your name is, sir, and I'll go over some 17 details for this. 18 A. Yes, sir. My name is Clark Ouzts. 19 Q. And, Mr. Ouzts, where are you 20 physically located at this time for purposes of 21 your deposition? 22 A. I'm in Greensboro, North Carolina. Do 23 you need home address? 24 Q. Are you at home? Is that where you 25 are?</p>
Page 11	Page 13
<p>1 everyone? 2 MR. TILLERY: I think there's 3 other people on the call but watching it. But if 4 you're going to show their -- we do have 5 representatives here from Wilbur Ellis in 6 California, and we have representatives on the 7 call for Growmark and for Chevron Corporation. 8 The issue is whether they want to 9 enter their appearance. It doesn't matter to me. 10 THE STENOGRAPHER: I will have 11 them all on the appearance page, so if you just 12 want to denote all counsel on the stenographic 13 record, we can do that. 14 MR. TILLERY: That's fine. 15 MR. WEIR: Before we start, can I 16 just note that the deposition will be confidential 17 under the protective order and we reserve the 18 right to read and sign. 19 MR. TILLERY: Yes. Absolutely. 20 THE VIDEOGRAPHER: Okay. Our 21 court reporter today is Debbie Dibble, 22 representing TransPerfect. The court reporter 23 will now swear in the witness. 24 CLARK OUZTS, 25 having first been duly sworn, was examined and</p>	<p>1 A. Yes, sir. I am at home, 6097 Royster 2 Road, Greensboro, North Carolina. 3 Q. And in your home, you have a setup for 4 this deposition? 5 A. Yes, sir, I'm in my office. Yes, sir. 6 Q. So let's just go over basic rules in 7 terms of expectation of all of the parties. 8 Given the fact that the deposition 9 is taken remotely, it, according to the court 10 rules, should be taken as closely as possible as 11 you would were all of the attorneys representing 12 all of the different parties present with you 13 during the deposition. For that, our expectation 14 is that there are no communications of any kind 15 except during a break with counsel. In other 16 words, there's no form of electronic communication 17 or anything else like that. 18 Do you understand that? 19 A. Yes, sir, I do. 20 Q. All right. And do you also understand 21 there's not to be anybody in that room? Did you 22 understand that as well? 23 A. Yes. 24 Q. All right. So you are in a room by 25 yourself answering our questions; right?</p>

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1 A. That is correct.
 2 Q. Okay. All right. Have you given a
 3 deposition before, sir?
 4 A. No, sir, I have not.
 5 Q. All right. What is your date of
 6 birth?
 7 A. July 27, 1962.
 8 Q. And what is your business address?
 9 A. 410 Swing Road, Greensboro,
 10 North Carolina 27409.
 11 Q. And for whom -- or strike that.
 12 By whom are you employed?
 13 A. Employed by Syngenta Crop Protection.
 14 Q. Would you give us the benefit of a
 15 summary of your education?
 16 A. Yes, sir. Real short. A BS degree in
 17 biology and a master's degree in biology science.
 18 Q. And where did you get your bachelor's
 19 degree?
 20 A. Sorry, at a small school in
 21 Mississippi Delta, Delta State University.
 22 Q. Okay. And when was that awarded?
 23 A. Undergrad, December of '85; graduate
 24 '87.
 25 MR. TILLERY: And we don't need to

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1 go off the record, but for purposes of the
 2 stenographer and the videographer, noting that
 3 there's a delay here between his imagery and the
 4 voice, is that going to disturb the record of this
 5 as well? Are you getting a consistent response
 6 from his image with his voice?
 7 THE STENOGRAPHER: I am.
 8 MR. TILLERY: Can somebody address
 9 this? We're getting a delay. Are you getting a
 10 delay? If so, it may be a bandwidth.
 11 THE STENOGRAPHER: I would say
 12 there have been two times where his voice has just
 13 glitched a little bit. I have been able to
 14 understand his words so we do have an accurate
 15 record. If it becomes a problem, I will
 16 absolutely address it.
 17 THE VIDEOGRAPHER: The same goes
 18 for me. I got a little delay on his end.
 19 MR. TILLERY: Well, let's keep our
 20 eye on it to see if we maybe have to adjust what
 21 we're doing.
 22 Q. (BY MR. TILLERY) Again, sir, what
 23 year did you graduate from college?
 24 A. So undergrad, I misspoke. It was
 25 actually December of 1984, and then my graduate

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1 degree was in May of '87.
 2 Q. And your graduate degree was a
 3 master's degree in May of '87?
 4 A. Yes, sir.
 5 Q. And was that also in biology?
 6 A. Yes, sir.
 7 Q. And would you mind telling me again,
 8 where was your master's degree awarded?
 9 A. Same university, Delta State
 10 University. Both at the same university.
 11 Q. So when did you have your first
 12 full-time employment?
 13 A. First full-time employment was that
 14 summer of 1987.
 15 Q. And what was your first employment?
 16 A. I was a cotton consultant with Ganyard
 17 Ag Consulting Service in Minutesville,
 18 South Carolina.
 19 Q. What did that job entail?
 20 A. Essentially, I was an entomologist.
 21 My role was to guide a team of scouts. We did
 22 consulting work for growers making a determination
 23 of pest infestations in their fields, and from
 24 that, making recommendations for pest control with
 25 appropriate pesticides.

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1 Q. How long were you in that job?
 2 A. In that role, just for that summer.
 3 Q. And then what was your next full-time
 4 job?
 5 A. My next full-time job was -- came in
 6 from there, worked part time with USDA, and then I
 7 work with Parke-Davis Pharmaceutical as a
 8 pharmaceutical sales rep.
 9 Q. And which pharmaceutical products were
 10 you involved with?
 11 A. At that time, I was selling anti -- or
 12 sorry, lipid-control products for high
 13 cholesterol, antibiotics, also birth control, and
 14 anti-inflammatory.
 15 Q. And how long did you have that job?
 16 A. I did that for one year.
 17 Q. And then what did you do, sir?
 18 A. Then I went to work as a research
 19 biologist -- well, started out part time in
 20 research at USDA in Stoneville, Mississippi, and
 21 then moved into a full-time research biologist
 22 over there.
 23 Q. And what was your job as a researcher
 24 at the USDA?
 25 A. In that particular job, I was -- I

1 conducted both greenhouse spray trials, looking at
2 herbicides, control, and then also electron
3 microscopy, doing evaluations in morphology of
4 plants. Most of my research was working -- for
5 several years was working with *Erythroxylum coca*,
6 which is one of the plants that produce cocaine.
7 And we were looking at that as far as to
8 understand it and potential control measures for
9 that.

10 Q. What years are we talking about now is
11 your work involved with the USDA?

12 A. So with the USDA, I started at
13 approximately -- that's a long time ago -- '80 --
14 '88, '88 until 1990 -- '94, '95, approximately. I
15 may be off.

16 Q. Then what did you do?

17 A. After with the USDA, I went to work --
18 I had a consulting business. While I was with
19 USDA, I consulted, and then I had a year or so
20 after the USDA with -- as a consultant. And then
21 in 1994, late '94, early '95, I went to work with
22 Zeneca as a technical -- we call it an agronomist,
23 an agronomy rep in the field.

24 Q. So as a consultant for one year, what
25 type of work were you doing?

1 A. Very similar to what I was doing in
2 South Carolina. Essentially, I was -- a
3 continuation working in cotton, providing
4 information related to economic thresholds of
5 insects in the crop, and from that making
6 pesticide recommendations should they be at levels
7 that mandated that we needed to treat to control
8 to minimize any impact on yield.

9 Q. So you -- I understand Zeneca is a
10 corporate predecessor of Syngenta --

11 A. Yes, sir.

12 Q. -- correct?

13 And you said you went to work
14 there in '94. Could you give us a better detailed
15 history of each of the jobs and your
16 responsibilities in each of them moving forward
17 from your first employment at Zeneca?

18 A. At Zeneca, yes, sir.

19 So started out as a technical rep
20 in the field, which would be equivalent to an
21 agronomist rep.

22 From that worked with a team in
23 Mississippi and Tennessee and Louisiana over that
24 period of time. And that was a period of about
25 four to -- about four years. And the numbers

1 are -- from that, I moved into a sales rep role
2 for a short period of time, a year, almost two
3 years.

4 Q. When was that, sir?

5 A. Yes, sir. That was in -- I'm
6 thinking.

7 That was in the late '90s.

8 Approximately during the late '90s. And then
9 moved back into an agronomy role in early 2000.
10 That was when we merged to form Syngenta.

11 And from there was in the agronomy
12 role until 2001, 2002, and then moved to
13 Greensboro, North Carolina as an application
14 technology researcher in the formulation and
15 development lab. And from that moved into -- and
16 that was -- I did that for four years, so that was
17 approximately 2007. I was a marketing specialist
18 for approximately one year. In 2008, I became the
19 head of technical support for -- in the customer
20 service group. And then approximately a year,
21 April of last year, I moved from the technical
22 support role into product marketing lead for
23 nonselective herbicides and serial herbicides.

24 Q. And you said you became the head of
25 technical support, supporting customers. What did

1 you do in that job?

2 A. Yes, sir. So I led a team of -- I had
3 a weed scientist, a plant pathologist, an
4 agronomist, and four technical resource reps.

5 And essentially, we fielded calls
6 from customers who had questions about our
7 products, whether that was directions for use. We
8 managed product quality. We managed concerns
9 about compatibility of products when mixing,
10 providing information related to just labels,
11 samples that needed to be analyzed.

12 And this is not only for crop
13 protection, but we also worked for the seeds, our
14 seeds company as well as our professional products
15 company. So we were -- we were the hub
16 essentially for people wanting information. We
17 would provide the information. If we did not have
18 access or did not know the answer, then we would
19 seek out technical expertise as far as to answer
20 that and then respond back to the customer.

21 Q. Have we covered all of your jobs at
22 Syngenta?

23 A. Yes, sir.

24 Q. And your current responsibility or
25 title -- let's say that. What is your current

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1 title?
 2 A. My current title is product marketing
 3 lead, and I'm responsible for nonselective
 4 herbicides and serial herbicides.
 5 Q. And what is a nonselective herbicide?
 6 A. So nonselective herbicide is
 7 essentially a product that -- it controls and has
 8 activity on all weed species, so both broadleaf
 9 and diquats. But for example, non-selective would
 10 be -- Gramoxone is one of the products that I
 11 manage.
 12 Q. What are some of the other
 13 nonselective herbicides?
 14 A. The other non-selective we have would
 15 be diquat. So that would mean Reglone was the
 16 other product that we sell.
 17 Q. Okay.
 18 Did you know anything about
 19 paraquat before you were first employed by
 20 Syngenta or its predecessor Seneca?
 21 A. I was aware that it was out there,
 22 just growing up in the ag industry, you know, with
 23 farmers and growers.
 24 Q. Had you seen it applied or applied it
 25 yourself before you started working at Zeneca?

Page 23

1 A. I'd seen it applied.
 2 Q. Okay. And how, in what context had
 3 you seen it applied?
 4 A. Both by air, by ground, and spot-spray
 5 applications in both self-propelled equipment
 6 primarily; very little as far as sprayers.
 7 Q. And what did you know about paraquat's
 8 herbicidal mode of action before you were first
 9 employed at Syngenta?
 10 A. I knew that it was a nonselective. I
 11 knew that it was very fast-acting.
 12 Going through some of the
 13 herbicide training courses, you know, we learned a
 14 lot of the different modes of action of -- so
 15 basically studied that. I'm not -- I'm not a weed
 16 scientist, so mode of action information is not,
 17 you know, top of mind for me. But I did recognize
 18 that -- how it went into the plant to cause the
 19 rapid activity in the plant. It's a photosystem I
 20 product. It essentially has to have
 21 photosynthesis to work, and from that, it causes
 22 cells to rupture as it reacts in the plant.
 23 Q. You can actually watch it kill a
 24 plant, can't you? In the sunlight?
 25 A. In certain -- yes, sir. I mean, it's

Page 24

1 very fast-acting. You can start to see effects
 2 potentially in 15 minutes.
 3 Q. But in terms of -- I -- strike that.
 4 If I use terms like "redox
 5 cycling" or any of these things in terms of the
 6 mode of action of how the biochemistry works with
 7 respect to this, this is something you would defer
 8 to another person, a weed scientist; correct?
 9 A. Yes, sir, as far as if we're getting
 10 into specifics. I have a very high-level working
 11 understanding of it, but as far as specifics in
 12 the actual -- actual biochemistry as far as a site
 13 of action or mode of action, I would have to
 14 defer. I mean, that's why we had technical
 15 specialists on our team. That was more --
 16 [crosstalk]
 17 Q. Right. What did you know about
 18 paraquat's toxicity to humans before you were
 19 first employed at Syngenta or any of its
 20 predecessors?
 21 A. Well, recognizing and looking at the
 22 label, I mean, with the skull and crossbones, it
 23 was understood that this product if not used
 24 correctly could be dangerous. Specifically as far
 25 as the ingestion, as far as oral ingestion was

Page 25

1 very -- you know, it was dangerous.
 2 Q. In other words, if you get it in your
 3 mouth or drink or even a sip of it, it could
 4 poison you and kill you. That's what was pretty
 5 clear on the label, wasn't it?
 6 A. Well, it did -- yes, sir. I mean,
 7 it -- it was poison.
 8 Q. Now, when did your first job
 9 responsibilities have anything do with paraquat?
 10 A. Essentially, when I started as an
 11 agronomist with my first role. I mean, at that
 12 time we were selling Gramoxone, so that was one,
 13 as far as understanding the weeds it could
 14 control, the best methods as far as to control,
 15 which granules which we -- typically were our
 16 target pest, and the early spring, as far as to
 17 burn down to prepare seed beds for crops.
 18 Q. And has that maintained a consistent
 19 pattern throughout your entire association over
 20 the last 16 years with Syngenta?
 21 MR. WEIR: Object to form.
 22 THE WITNESS: Could you clarify,
 23 sir? I mean, when you say 16 --
 24 Q. (BY MR. TILLERY) Yeah. Are you still
 25 working routinely with paraquat?

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1 A. At this stage, yes, I am now, but in
 2 prior, being a technical specialist -- or, you
 3 know, working as far as, you know, technical
 4 support, we managed all of the products. So that
 5 was not a primary.
 6 Q. (BY MR. TILLERY) Right. But you were
 7 working with it consistently throughout this
 8 period of time; right?
 9 A. It came up from time to time, yes. As
 10 far as having questions and, you know, about the
 11 product.
 12 Q. Let me ask you, did you have access to
 13 the science groups if you had questions beyond
 14 your weed scientist?
 15 A. Access to science books, you said,
 16 sir?
 17 Q. Science groups.
 18 A. Oh, science groups. Yes, sir. I
 19 mean, in our prior -- yeah, in my prior role as
 20 the tech support manager there, if we had
 21 questions related to toxicology or anything
 22 related to Gramoxone, we would defer to them.
 23 They were the ones who had the knowledge.
 24 Q. So here's what I'm getting at. If a
 25 farmer were to call you up and say, will this

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1 product you're selling to me as Gramoxone, will it
 2 cause neurotoxicity in my brain?
 3 How would that be answered?
 4 A. Well, typically how we would answer
 5 that was based on the information we have, is that
 6 the neurotoxic -- it is our understanding that
 7 paraquat is not neurotoxic, but if it got deeper
 8 than that, we would defer and ask our technical
 9 experts.
 10 Q. Okay. So who would those technical
 11 experts be who would answer that question?
 12 A. At the time that would have been
 13 Tim Pastoor. And then Dr. Wolf. I can't remember
 14 Dr. Wolf's first name, but we would refer to his
 15 team.
 16 Q. And Dr. Wolf is in what city?
 17 A. He is -- he works out of Greensboro,
 18 but I believe he lives in Raleigh; so he goes back
 19 and forth.
 20 Q. And Dr. Wolf would have answered your
 21 questions. When was the last time you talked to
 22 either of these gentlemen about any of these
 23 topics?
 24 MR. WEIR: Object to form.
 25 THE WITNESS: So, Tim Pastoor, I

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1 haven't talked to him in several years since he
 2 has retired. And Dr. Wolf, we had a concern over
 3 a cow that had potentially eaten some -- that had
 4 eaten some grass that was sprayed with Gramoxone.
 5 And there were some other animals, some goats, and
 6 the claim was that these animals had passed away.
 7 So we asked for direction as far as what root
 8 cause could have been and to understand that the
 9 paraquat on the pasture could have caused
 10 mortality of the animals.
 11 Q. (BY MR. TILLERY) Do you specifically
 12 remember ever asking either Dr. Wolf or
 13 Tim Pastoor whether paraquat is neurotoxic to
 14 humans?
 15 A. No, sir.
 16 Q. Do you specifically remember anyone at
 17 Syngenta, either during a training session
 18 seminar, any type of meeting or any bulletin, ever
 19 telling you or members of your team who are
 20 interacting with farmers and applicators that
 21 paraquat is neurotoxic?
 22 A. No, sir, I don't remember any event
 23 there.
 24 Q. Now, do you understand your role here
 25 today? Has that been explained to you?

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1 A. Yes, sir.
 2 Q. And to go over it to make sure we're
 3 clear, you're what's called a corporate designee
 4 witness. Under our rules, it's a -- it's under
 5 Rule 206, and it means that you're speaking for
 6 Syngenta today.
 7 A. Mm-hmm.
 8 Q. We can't ask questions to a legal
 9 entity like Syngenta AG and Syngenta Crop
 10 Protection, LLC, but those entities can put up a
 11 representative who speaks for them.
 12 You understand that?
 13 A. Yes, sir.
 14 Q. All right. And you've had an
 15 opportunity to speak to counsel in preparation for
 16 your deposition, haven't you?
 17 A. Yes, sir.
 18 Q. And you've been provided documents or
 19 you provided documents to read and prepare for to
 20 answer my questions because we gave you the topics
 21 that you were going to speak to; right?
 22 A. Yes, sir.
 23 Q. And those topics, for purposes of the
 24 overriding motion -- well, strike the question.
 25 And those topics from the

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1 deposition notice are 31Q, 50A through C, 51A
 2 through C, 52 and 68.
 3 Does that sound reasonable to you?
 4 A. Yes, sir, those numbers sound
 5 familiar.
 6 Q. Now, for purposes of this deposition,
 7 I want to make sure we're on the same page when
 8 you answer something. When I say "you" or when I,
 9 say, reference to something that sounds personal,
 10 I want you to understand I'm talking about
 11 Syngenta, not Clark Ouzts, okay?
 12 A. Yes, sir.
 13 Q. I'm talking about Syngenta.
 14 And when I say "Syngenta," I don't
 15 just mean Syngenta AG. I mean to include Syngenta
 16 Crop Protection, LLC.
 17 In other words, both of the
 18 defendants in this litigation who are within the
 19 Syngenta umbrella.
 20 Do you understand that as well?
 21 A. Yes, sir, I do.
 22 Q. If there's any time you want to take a
 23 break, you are fully permitted to do that at any
 24 moment so long as it's not in the middle of one of
 25 my questions, okay?

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1 A. Yes, sir.
 2 Q. Do you understand?
 3 A. Yes, sir.
 4 Q. So if you need to take a break, we'll
 5 do that.
 6 Was it explained to you and do you
 7 understand that in testifying for Syngenta on the
 8 designated topics, you're required to answer not
 9 based solely on information known or available to
 10 you personally, but also based on information
 11 known or reasonably available to Syngenta?
 12 A. Yes, sir, that's my understanding.
 13 Q. All right. So, for example, I will
 14 guarantee you, based upon the history of you
 15 starting in 1994, that I will be asking you
 16 questions that pre-date that time period. So you
 17 understand --
 18 A. Yes.
 19 Q. Okay. You understand the obligation
 20 as to access information and look at it and be
 21 prepared to answer the questions; correct?
 22 A. To the best of my ability, yes, sir.
 23 Q. So what have you done in
 24 preparation --
 25 A. Well, I --

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1 Q. -- to be able to do --
 2 A. Sure. I've reviewed the documents and
 3 reviewed information that was given to me by
 4 counsel. I have gone back and looked through some
 5 earlier labels just to glean information.
 6 I have reviewed the information,
 7 and from that, I've also had conversations with
 8 Syngenta counsel just to have discussions on
 9 process, to understand -- I've never done a
 10 deposition -- to understand process as far as in
 11 the deposition. We've had -- Mr. Weir and I've
 12 probably had somewhere in the neighborhood of
 13 15 hours or so of conversations related to that
 14 and as well as myself going through the documents
 15 that were presented to me for review. I've gone
 16 through those on quite a few different occasions,
 17 probably a total time of 30 -- 30-plus hours as
 18 far as to try to get ready for the conversations
 19 that we're going to have today.
 20 Q. All right. And what other counsel
 21 have you met in preparation?
 22 A. Mr. Weir, and then I've had
 23 conversations with Mark Smith, who is our internal
 24 counsel, as well.
 25 Q. Okay, Mark Smith, Weir. What about

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1 Mr. Ragan Naresh?
 2 A. No, sir, I have not. I don't
 3 recognize that name.
 4 Q. All right. Any other counsel that
 5 you've met with?
 6 I don't want the substance of your
 7 conversations, just to know who you've met with.
 8 A. Yeah, just Mr. Weir and then
 9 Mr. Smith. Those are the only two counsel, and
 10 they've been related to Syngenta only; no others
 11 than that.
 12 Q. I assume Mr. Nadel as well, your --
 13 A. And with Mr. Nadel, yeah, briefly, but
 14 most of my conversations have been with Mr. Smith
 15 and Mr. Weir.
 16 Q. So you are prepared today to testify
 17 for Syngenta on the designated topics based on
 18 information known or reasonably available to
 19 Syngenta.
 20 Would that be a fair statement?
 21 A. Yes, sir.
 22 Q. Now, in preparing, you understood that
 23 knowledge or information would extend back to the
 24 corporate predecessors of Syngenta as well;
 25 correct? You worked for one?

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1 A. Yes, sir.
 2 Q. So our notice clearly indicates that
 3 the questions we ask will extend backwards to
 4 Zeneca, ICI, ICI Chemical Industries, Limited; ICI
 5 Americus. All of those are listed in there. You
 6 understand that those are predecessors in terms of
 7 the use of paraquat; use, manufacturing,
 8 distribution of paraquat in the United States;
 9 correct?
 10 A. Yes, sir.
 11 Q. All right. And if I later refer to
 12 Syngenta's predecessors, I want to make sure you
 13 understand that to mean, with respect to their
 14 paraquat business, to include Agro Zeneca, Zeneca
 15 Group, ICI, ICI and Chemical Industries Limited,
 16 and the subsidiaries of those companies.
 17 Do you understand that?
 18 A. Yes, sir, I do.
 19 Q. In order to get information beyond
 20 talking to the attorneys, did you speak to any
 21 other person to get answers to questions that you
 22 might have had?
 23 A. Yes. I spoke to some of my old team
 24 just to understand some of the history. And then
 25 also I spoke to my technical product lead,

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1 Dane Bowers, just on a few questions related to,
 2 you know, Gramoxone use, so...
 3 Q. And who in your old team did you speak
 4 to?
 5 A. Collectively, Jennifer Yocum,
 6 David Lowe, Theresa Acosta, Samantha Downey.
 7 Q. And what were the topics of those
 8 conversations?
 9 A. Essentially, just a refresher as far
 10 as just a frequency of questions that we got
 11 around Gramoxone that would be related to, you
 12 know, human safety, as far as just any health
 13 effects and things like that.
 14 Q. And you've had an opportunity over the
 15 years, have you, to see the product paraquat
 16 applied to different fields?
 17 A. Yes, sir.
 18 Q. You've seen it applied by farmers with
 19 spray applications, haven't you?
 20 A. Yes, sir. I mean, I've seen it done,
 21 you know, by farmers. My brother is an aerial
 22 applicator. I've seen it done many times. I've
 23 seen it applied on numerous occasions.
 24 Q. Have you ever applied the chemical
 25 yourself?

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1 A. Yes, sir, I have.
 2 Q. Where have you applied it?
 3 A. I applied it in small-scale plots that
 4 we were using as demonstration plots in
 5 preparation for our spring burndown. Just they
 6 were -- they were a demonstration and an
 7 advertising, so to speak. We would spray small
 8 areas in the field and then put signage on that
 9 just to remind people of the activity of
 10 Gramoxone.
 11 Q. Any other connection you've had
 12 personally with the application or use of
 13 paraquat?
 14 A. No, sir. As far as a custom
 15 application or anything, no, sir.
 16 Q. And does your brother in his aerial
 17 application or spray, does he spray paraquat?
 18 A. Yes, sir. Both of my brothers. I
 19 have a younger brother who just started, and he
 20 does as well.
 21 Q. And where do they do that?
 22 A. They're in Mississippi.
 23 Q. Okay.
 24 A. In Cleveland, Mississippi.
 25 Q. And how long have they been spraying

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1 paraquat?
 2 A. Well, my brother -- my first brother
 3 has been doing it all of his professional career,
 4 so he's going on close to 30 years; probably 27,
 5 28 years.
 6 And then my younger brother, the
 7 youngest brother, he's just started this year.
 8 And he has flown some in the past, so the first
 9 full season, I would say, as a profession.
 10 Q. You said earlier you did
 11 demonstrations of paraquat.
 12 A. Yes, sir.
 13 Q. Remember?
 14 A. Yes, sir.
 15 Q. Were videos taken of those
 16 demonstrations?
 17 A. No, sir, no videos. Essentially, we
 18 would -- in some cases what we would do is we
 19 would make the applications, apply the signage,
 20 and then we might come back and take a picture, a
 21 still photograph. But that would be the only type
 22 of documentation.
 23 Q. So you've had also personal
 24 observational experience of people in the field,
 25 different farmers and applicators applying this

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1 product; right?
 2 A. Yes, sir.
 3 Q. And I assume that you believe that
 4 gives you a sufficient fund of knowledge to be
 5 able to answer questions about the kinds of
 6 precautions that farmer applicators take when
 7 using this product; right?
 8 A. Through the observations, I think,
 9 yeah, I have an understanding, yes.
 10 Q. And from the materials you read;
 11 right?
 12 A. Correct.
 13 Q. Okay. Has the eDepoze system been
 14 explained to you?
 15 A. Yes, sir.
 16 Q. Some of the documents we're going to
 17 be relying on here today and looking at are
 18 extensive documents. And some of them you may not
 19 have seen.
 20 I believe every document we're
 21 looking at -- and I may be mistaken about one or
 22 two -- has been produced by the parties in the
 23 litigation. Okay?
 24 A. Yes, sir.
 25 Q. Do you understand that?

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1 A. Yes, sir.
 2 Q. All right. So it may be, however,
 3 that you haven't seen them all. And I want to
 4 make sure you understand that you have the right
 5 to -- if you know how to control that system on
 6 eDepoze -- to actually take over the document,
 7 familiarize yourself with it so you have some
 8 understanding.
 9 If you've seen the document and
 10 you already know it and are aware of it and you
 11 don't need that opportunity, please let us know.
 12 Okay?
 13 A. Yes, sir.
 14 Q. Okay. So we're going to start off,
 15 we're going to go back all the way to 1965.
 16 Did you understand, sir, in 1965,
 17 that was the first year that paraquat was sold in
 18 the United States?
 19 A. Yes, sir, I did. It was actually
 20 discovered and started in 1962, I believe, was
 21 some of the first time. But in the U.S., I
 22 believe '65, yes, sir.
 23 Q. You understood it was patented in 1955
 24 in the UK, and then patented in the United States
 25 following that ICI patent in '62; right?

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1 A. I think that's correct, yes, sir.
 2 Q. And you knew about the close working
 3 relationship between Chevron Chemical Company and
 4 now in this case, the successor being Chevron
 5 USA -- you're familiar with that relationship and
 6 ICI, which was the predecessor to Syngenta.
 7 You understand that?
 8 A. Yes, sir, my understanding Chevron was
 9 the company that sold the product here in the U.S.
 10 initially.
 11 Q. And formulated it?
 12 A. Correct.
 13 Q. You understood that?
 14 And formulated it in California
 15 and sold it throughout the United States; correct?
 16 A. That's my understanding, yes.
 17 Q. And you understood that relationship
 18 to start sometime before first sale in 1965 and to
 19 extend until roughly September of 1986.
 20 Did you understand that as well?
 21 A. Yes, sir. I wasn't exactly sure on
 22 the final date as far as '86, but I knew it was
 23 sometime in that -- in the '80s.
 24 Q. Okay. All right.
 25 So we're going to pull up -- and

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1 this will be marked as Ouzts Deposition Exhibit
 2 No. 1.
 3 (Ouzts Deposition Exhibit 1
 4 marked.)
 5 MR. TILLERY: And this, for
 6 counsel on the call, is CUSA -- I'm going to refer
 7 to this -- instead of spelling out C-U-S-A, it's
 8 CUSA, which is Chevron USA. That's the
 9 abbreviation.
 10 Q. (BY MR. TILLERY) Mr. Ouzts, so you
 11 understand when we do this, I'll be referencing
 12 that Bates number. The Bates number that I
 13 reference is the assigned number that counsel put
 14 on the document when they produced it to us.
 15 Do you understand that?
 16 A. Yes, sir, that's the long number on
 17 the bottom right-hand corner of the page?
 18 Q. It is. It sometimes -- it's most of
 19 the time there, but sometimes they put it
 20 somewhere else.
 21 A. Yes, sir.
 22 Q. But, yes, we'll be able to find it.
 23 And this one is CUSA-00190354.
 24 Okay?
 25 And then if you'd take a look at

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1 that document.
 2 And to orient you, I'm going to
 3 make sure you, while you're looking at it, tell
 4 you what we understand it to be.
 5 A. Okay.
 6 Q. And we understand it to be a letter
 7 from Norma Frost at PPL, namely from Syngenta's
 8 predecessor, to R. Celis y Cia in El Salvador
 9 dated May 12, 1965.
 10 And the letter is addressing
 11 Gramoxone. And it's attempting to answer
 12 questions that they have. So if you'd just look
 13 at that document, then what we're going to do is
 14 put that on the screen, because it's a two-page
 15 letter, and I'm going to direct you to one portion
 16 of this letter.
 17 [Document review.]
 18 A. Okay.
 19 Q. Do you see that?
 20 A. Okay, I've -- I've skimmed it.
 21 Q. I have just a couple of questions,
 22 nothing in detail. Okay?
 23 A. Okay.
 24 Q. Can you take charge and put the
 25 document up to page No. 1, and this document page

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1 reference is CUSA-00190367.
 2 And do you see this, sir? May 12,
 3 1965.
 4 A. Yes, sir.
 5 Q. And this is to R. Celis, y Cia,
 6 San Salvador, El Salvador.
 7 Do you see that?
 8 A. I do, yes, sir.
 9 Q. And if the -- on the next page -- we
 10 don't have to skip to that -- the document was
 11 signed by Norma Frost, Technical Information
 12 Services, Plant Protection Ltd. That would be an
 13 ICI person.
 14 So the question I have, if we can
 15 direct -- if you'd look at the first full
 16 paragraph, where it says: For obvious reasons?
 17 A. Mm-hmm.
 18 Q. The letter writer from ICI says: For
 19 obvious reasons we have no direct information on
 20 the toxicity of "Gramoxone" or paraquat to humans,
 21 doesn't it?
 22 A. That's what it says, yes, sir.
 23 Q. All right. Now let's skip to the
 24 bottom of that page.
 25 MR. TILLERY: If you'd pull up

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1 the -- yes, right there.
 2 It's frozen? We're going to take
 3 just a technical break here, because our eDepoze
 4 seems to have frozen up. We don't need to go off
 5 the stenographic or video record.
 6 We're back on. We've had a
 7 technical issue with eDepoze freezing, and it's
 8 fixed now.
 9 Q. (BY MR. TILLERY) Directing your
 10 attention to the last sentence of that first page.
 11 Do you see it?
 12 A. Is it the sentence where it says:
 13 These differences are reflected?
 14 Q. Yeah. And where it says: Whilst
 15 paraquat is not a poison and no protective
 16 clothing is required during spraying.
 17 Do you see that?
 18 A. Yes, sir.
 19 Q. Okay. Do you know how long Syngenta
 20 companies were telling people that paraquat
 21 spraying did not require protective clothing?
 22 MR. WEIR: Object to form.
 23 THE WITNESS: No, sir, I don't
 24 know how long that happened.
 25 Q. (BY MR. TILLERY) Okay. Now we're

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1 going to move to Exhibit No. 2.
 2 (Ouzts Deposition Exhibit 2
 3 marked.)
 4 Q. (BY MR. TILLERY) And this, for the
 5 record, is SYNGENTA_02509837.
 6 It's a one-page letter, so we'll
 7 just display this.
 8 Actually, it's two pages. Sorry,
 9 I didn't see the second page. We'll have you look
 10 at it so you can see both pages.
 11 A. Okay.
 12 [Document review.]
 13 Q. And I think if you can, you may want
 14 to glance at the second page.
 15 A. Okay.
 16 Q. I won't be asking you questions about
 17 the second page, but just so you're familiar with
 18 it.
 19 A. Sure.
 20 [Document review.]
 21 A. Okay. I think I have it --
 22 Q. This is a June --
 23 A. Overall --
 24 No, I just said I think I've
 25 got --

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1 Q. You have the understanding of it?
 2 A. I think so, yes, sir.
 3 Q. So we'll put it on the screen for
 4 everyone to see.
 5 And this is a June 22nd, 1965
 6 letter from Dr. Swan who is -- you understood was
 7 a scientist at Imperial Chemical Industries;
 8 right? ICF?
 9 A. Yes, sir.
 10 Q. And to W.G. Toland at Chevron
 11 concerning the range of effects of paraquat
 12 exposure in operators or workers engaged in
 13 manufacture.
 14 Do you see that?
 15 A. Yes, sir.
 16 Q. And one of the effects that Syngenta
 17 observed was nose bleeds.
 18 Do you see that?
 19 A. Yes, sir; No. 1?
 20 Q. Yes. And Syngenta notes that those
 21 nose bleeds have been, quote, been far and away
 22 the commonest effect and has invariably been the
 23 result of inhaling spraying mist or droplets
 24 arising from the splashing during careless mixing;
 25 correct?

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1 That's what it says?
 2 A. That's what the document says, yes,
 3 sir.
 4 Q. Right. And so Syngenta, as of that
 5 date, in 1965 in June, knew that paraquat could be
 6 inhaled; correct?
 7 MR. WEIR: Object to form,
 8 foundation.
 9 THE WITNESS: So potentially
 10 inhalation, I mean, the piece here was where was
 11 it inhaled. If it was just in the nose, I mean,
 12 that would be the piece there that -- splashing
 13 just during careless mixing, I don't know that
 14 you'd have the potential for respirable fines, but
 15 again, that would be more for a toxicologist and
 16 an expert in that. But based on my understanding,
 17 those are pretty large droplets.
 18 Q. (BY MR. TILLERY) Well, would you agree
 19 with me that a scientist at ICI in 1965 said that
 20 nose bleeds have been far and away the commonest
 21 effect and has invariably been the result of
 22 inhaling spray mist or the droplets arising from
 23 splashing during mixing?
 24 A. Yes.
 25 Q. That's what he said, didn't he?

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1 A. Yes, sir. In that letter.
 2 Q. And do you have any reason to dispute
 3 his findings from that letter in 1965?
 4 MR. WEIR: Object to form.
 5 THE WITNESS: I can't dispute the
 6 language that is written here on the page.
 7 Q. (BY MR. TILLERY) Okay. Do you
 8 understand what his role and responsibility was
 9 with respect to this chemical?
 10 MR. WEIR: Object to foundation.
 11 THE WITNESS: I don't remember his
 12 title on the second page, sir, but I believe he
 13 was --
 14 MR. TILLERY: All right.
 15 THE WITNESS: He was responsible
 16 as far as providing information to Mr. Toland here
 17 in the research and development piece.
 18 Q. (BY MR. TILLERY) And the nasal mucosa
 19 was noted as severely inflamed; correct?
 20 MR. WEIR: Object to form.
 21 THE WITNESS: Yes, but I thought
 22 the nasal mucosa was being related to the
 23 mist-blowers as opposed to the careless splashing.
 24 Q. (BY MR. TILLERY) And it says it's
 25 hard to estimate the frequency of this because

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1 different operators are more or less careful, it
 2 says, doesn't it?
 3 MR. WEIR: Object to form.
 4 MR. TILLERY: Excuse me, Counsel,
 5 what's the form objection?
 6 MR. WEIR: I'm not sure where
 7 you're reading from, and I don't see that.
 8 THE WITNESS: I don't see that,
 9 sir.
 10 MR. WEIR: It appears that you've
 11 misread it.
 12 MR. TILLERY: Okay. Well, okay.
 13 What's the form objection? It's a 2-1102
 14 deposition. We're taking this under 2-1102.
 15 MR. WEIR: So I'm objecting to you
 16 misreading the document.
 17 Q. (BY MR. TILLERY) Okay. Here. Let's
 18 just do this. Let's read into the record what he
 19 says in paragraph 1 of this letter.
 20 Ouzts Exhibit No. 2.
 21 Nose bleeding. And this is the
 22 ICI scientist conveying information to a Chevron
 23 scientist, manager of research and development at
 24 Chevron Corporation; okay?
 25 And he says: Nose bleeding. This

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1 has been far and away the commonest effect and has
 2 invariably been the result of inhaling spray mist
 3 or the droplets arising from splashing during
 4 careless mixing.
 5 In severe exposure, as occurred
 6 two years ago in Malaya when mist-blowers were
 7 used to spray paraquat for a short period in
 8 circumstances outside of our control, the nasal
 9 mucosa was described by local doctor as severely
 10 inflamed. Measures to prevent inhalation
 11 eliminate this effect and the nasal mucosa returns
 12 to normal when exposure stops.
 13 It is difficult to estimate the
 14 frequency of this effect since it depends entirely
 15 on how careful the operators are to avoid inhaling
 16 the spray and, of course, on the type of spray
 17 machinery used.
 18 Is that what it says, sir? Did I
 19 read that correctly?
 20 A. I can't see past the sentence where it
 21 says: Measure to prevent inhalation eliminates
 22 this effect and the nasal mucosa returns to normal
 23 when exposure stops. I don't see anything after
 24 that.
 25 Q. Okay. Are you able to screen down?

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1 Or is he not able to see our display?
 2 A. I can see half of the next sentence
 3 where it says it is difficult, and I'm -- I'm --
 4 the -- it is difficult to estimate the frequency
 5 of this effect since it depends, I think is the
 6 last word, but that's all I see, sir.
 7 Q. Okay. So we have -- we're going to
 8 have to go off, I think, and find out what's wrong
 9 with the eDepoze system, because it's our display
 10 here.
 11 MR. TILLERY: And I'd ask other
 12 counsel on the record, does your display show the
 13 entire first page of the record?
 14 MR. WEIR: I see what Mr. Ouzts
 15 sees. I see down to -- the last sentence I see is
 16 in item 2, and my -- I have the last sentence I
 17 see is the one that starts: ... able exposure in
 18 the first season of use. Our present study is
 19 primarily ...
 20 That's where mine cuts off.
 21 MR. TILLERY: Okay. But Mr. Ouzts
 22 only sees part of paragraph numbered 1; right? Is
 23 that right, Mr. Ouzts?
 24 THE WITNESS: Yeah, that is
 25 correct. I'm wondering if this is in landscape

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1 rather than portrait mode.
 2 THE STENOGRAPHER: Are we going
 3 off the record, then?
 4 MR. TILLERY: Yes, we've got to go
 5 off the record.
 6 THE VIDEOGRAPHER: Going off the
 7 record. The time is 10:10 a.m.
 8 (Recess taken, 10:10 a.m. to
 9 10:33 a.m. EDT)
 10 THE VIDEOGRAPHER: Back on the
 11 record. The time is 10:34 a.m.
 12 Q. (BY MR. TILLERY) And you can confirm
 13 with me, sir, that in this June 22nd, 1965 letter
 14 from the scientists at ICI, Dr. Swan, to the
 15 manager of research and development at Chevron,
 16 Dr. Toland, that under paragraph 1 under nose
 17 bleeding, what I recited was an accurate statement
 18 of that letter; correct?
 19 A. Yes, sir, correct.
 20 Q. All right. Let's move on now to
 21 Exhibit No. 3.
 22 (Ouzts Deposition Exhibit 3
 23 marked.)
 24 Q. (BY MR. TILLERY) And this is
 25 SYNGENTA_00228608.

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1 Mr. Swan again, from ICI. If
 2 you'd take a look at this study, please.
 3 [Document review.]
 4 Q. Have you seen this study before, sir?
 5 A. One second. Yes, sir, I have.
 6 Q. Did you read this in preparation for
 7 your deposition?
 8 A. Yes, sir, I did.
 9 Q. All right. So we can dispense with
 10 having to go through in detail the document
 11 because you've seen this article published in the
 12 Journal of Industrial Medicine in -- British
 13 Journal of Industrial Medicine, 1969; correct?
 14 A. Yes, sir.
 15 Q. And the title is Exposure of spray
 16 operators to paraquat. And it's authored by
 17 Mr. A.A.B. Swan, if we can pull that up and look
 18 at it.
 19 We'll look at the first page and
 20 display so everybody can see it. And this is a
 21 document that -- strike that.
 22 He was at Imperial Chemical
 23 Industries Limited, Industrial Hygiene Research
 24 Laboratories, Alderley Park, Cheshire.
 25 You understand where that is;

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1 right?
 2 A. Yes, sir, my understanding that is in
 3 the UK.
 4 Q. And that's part of a predecessor
 5 company for Syngenta; right?
 6 A. Yes, sir.
 7 Q. All right. Now, Dr. Swan, you
 8 understood, was an ICI/Syngenta employee; right?
 9 A. From this document, yes, sir, that's
 10 what I understand.
 11 Q. And the study discusses two field
 12 trials, one conducted in 1965 and the other
 13 conducted in 1967 in Malaysia with hand-operated
 14 knapsack sprayers; is that correct?
 15 A. Yes, sir.
 16 Q. And Swan notes that the conditions
 17 dictated that the sprayers wore light clothing due
 18 to heat and humidity.
 19 If you'd look at that very first
 20 page, second column, on the sixth line where it
 21 says: ...sprayers for the entire day working,
 22 usually six days a week. The light clothing,
 23 which must be worn because of the prevailing high
 24 temperature and humidity, increases the chances of
 25 skin contamination.

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1 Okay? And then it talks about how
 2 these -- that the -- part of the next several
 3 pages talk about how this study was undertaken;
 4 right?
 5 A. Yes, sir.
 6 Q. So let's go to page 2 of this study.
 7 And you can see, at the top right corner of this
 8 page, one of the sprayers who's wearing no gloves,
 9 wearing no respirator, and he is spraying
 10 paraquat; right?
 11 A. Yes, sir.
 12 Q. Do you see that?
 13 Okay. And if you look over under
 14 Design of investigations, there are two
 15 references. One is to a 1965 investigation, and
 16 then they came back and did this study in 1967.
 17 Do you see that?
 18 If you'll skip a paragraph --
 19 A. Yes, sir.
 20 Q. The design of the investigations for
 21 '65 says this: The 1965 investigation was
 22 conducted as nearly as possible to average
 23 conditions of spraying.
 24 A team of six sprayers -- two
 25 Chinese, two Indians and two Malays -- were formed

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1 to include a range of skin pigmentation and of
 2 differing practice in personal hygiene. Clothing
 3 consisted of shirt, singlet, and long trousers
 4 tucked inside the socks; footwear varied from
 5 canvas or leather shoes to open sandals. This is
 6 the normal dress for such operations on Malaysian
 7 estates, which do not as a rule provide more
 8 elaborate protective clothing.
 9 Do you see that?
 10 A. Yes, sir.
 11 Q. So that's the way people normally
 12 sprayed paraquat.
 13 Do you see that?
 14 MR. WEIR: Object to the form.
 15 Q. (BY MR. TILLERY) That's what he's
 16 saying; right?
 17 A. That's the normal dress for Malaysia,
 18 yes, sir.
 19 Q. Right. Now, let's go down a
 20 paragraph. Two years later they did a follow-up
 21 study. And this time they changed the personal
 22 protective equipment.
 23 And if you look at the next
 24 paragraph referencing '67, it says: The 1967
 25 investigation was designed to show which route of

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1 exposure was the most important in determining
 2 absorption of the traces of paraquat found in the
 3 urine of some operators in the '65 trials.
 4 Operations were carried out by
 5 four teams, one with normal clothing and the
 6 remaining three with the following combinations of
 7 protective equipment; knee-length gum boots and
 8 rubber gloves; face-mask and rubber gloves;
 9 face-mask and gum boots.
 10 Do you see that?
 11 A. Yes, sir.
 12 Q. And then the next paragraph: As
 13 before, the teams were composed of two Chinese,
 14 two Indians and two Malays; correct?
 15 A. Yes, sir.
 16 Q. Now, let's skip over to the bottom of
 17 the next column where it says Results.
 18 Do you see that?
 19 A. I do.
 20 Q. The collected results of urine
 21 analysis and records of the amount of diluted
 22 Gramoxone solution sprayed by individual members
 23 of the six-man team are presented in the table.
 24 Small amounts of paraquat were found in the urine
 25 of all members of the team at some stage during

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1 the 12-week spraying period.
 2 Do you see that?
 3 A. The page just changed, sir, so I'm
 4 catching up.
 5 [Document review.]
 6 A. Okay, yes, sir.
 7 Q. Okay. So every single one of the '65
 8 group recorded paraquat in their urine tested,
 9 didn't they?
 10 A. According to the document, yes, sir.
 11 Q. And now let's skip over, if we can,
 12 and look on page 325, which is the -- skip to the
 13 next one. Next page.
 14 That's correct.
 15 If you'd look at that, about
 16 halfway down the first paragraph, where it starts:
 17 The groups.
 18 A. Okay.
 19 Q. Do you see that?
 20 A. Yes, sir.
 21 Q. This is referencing, if -- we can go
 22 back if you need to -- the 1967 trials. And the
 23 1967 trials were where they were provided
 24 knee-length gum boots with rubber gloves, face
 25 masks, et cetera.

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1 Do you remember?
 2 A. Yes, sir.
 3 Q. All right. Now let's look at what
 4 they found. Even with that equipment -- face
 5 masks, rubber boots, rubber gloves -- they found
 6 the groups on Bahau wearing masks and gloves and
 7 boots and gloves had 14 percent and 10 percent
 8 positive urines.
 9 Do you see that?
 10 A. Yes, sir.
 11 Q. All right.
 12 Now, what that tells us, doesn't
 13 it, Mr. Ouzts, when you test paraquat in your
 14 urine, is that it's getting into your system and
 15 into your bloodstream; correct?
 16 A. From these results, I mean, there was
 17 a route of entry, yes, sir.
 18 Q. There was a route. This doesn't tell
 19 you necessarily how it gets into your body, but it
 20 tells you that the body is excreting it through
 21 the kidneys, and that's through the blood
 22 collection, isn't it?
 23 MR. WEIR: Object, foundation.
 24 MR. TILLERY: Go ahead and answer.
 25 He talked over you.

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1 THE WITNESS: My understanding, in
 2 my simple understanding is that that is how it
 3 works, yes.
 4 MR. TILLERY: All right. Okay.
 5 Let's go now to Exhibit 4.
 6 (Ouzts Deposition Exhibit 4
 7 marked.)
 8 Q. (BY MR. TILLERY) And this is
 9 CUSA-00121077.
 10 And if you would look at that.
 11 It's a three-page document, sir. It's a letter.
 12 I'm only going to reference one part of it.
 13 [Document review.]
 14 You tell me when you're familiar
 15 enough with it to answer a question.
 16 [Document review.]
 17 A. Okay.
 18 Q. All right. This is a letter that was
 19 sent by N. Wright.
 20 Do you see that?
 21 He's at ICI. And this is May 12,
 22 1971. And it references topic Paraquat: Subacute
 23 Human Exposure and was sent to Mr. RD Wessel,
 24 Manager, Research & Development, Chevron Chemical
 25 Company; correct?

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1 A. Yes, sir.
 2 Q. And they have been communicating, as
 3 they did frequently throughout their relationship,
 4 as manufacturer/distributor/formulator
 5 relationship, about certain questions that had
 6 been raised by Chevron; correct?
 7 A. Yes, sir.
 8 Q. And Chevron had sent some letters to
 9 scientists at ICI and asked for questions to be
 10 answered. And this letter came back giving
 11 reassurance to Chevron about the potential
 12 problems not being as serious as they might have
 13 been thought to be by Chevron.
 14 Would you say that's a fair read
 15 about this letter?
 16 A. I don't know that I read it as not as
 17 serious. I just -- I think that they were trying
 18 to, you know, compare apples to apples; and
 19 continuous exposure of the concentrator, diluted
 20 versus what a grower would do, would -- they would
 21 not be continuously exposed to product.
 22 Q. Well, let's just look on the first
 23 page, and if you would look at the middle of the
 24 second paragraph.
 25 And here, Mr. Wright, N. Wright,

1 says to Mr. Wessel at Chevron: One realizes only
2 too well that farmers do not invariably follow
3 label instructions [sic].

4 Do you see that?

5 A. Yes, sir, I do.

6 Q. And Syngenta, its predecessors
7 certainly knew that back into the '60s when they
8 sold the product, didn't they?

9 MR. WEIR: Object to form.

10 THE WITNESS: It appears that
11 there was some knowledge.

12 Q. (BY MR. TILLERY) Okay. Now, if you
13 go to the next paragraph, it says, to Mr. Wessel:
14 Undiluted paraquat -- strike that.

15 Undiluted paraquat, if left on the
16 skin for more than a few minutes, will, as you
17 know, cause severe irritation or in sensitive
18 individuals more serious damage including
19 blistering. Men will not continue to expose
20 themselves to concentrated paraquat once they have
21 experienced its irritating properties and
22 therefore poisoning by systemic absorption through
23 the skin could not reasonably be expected to
24 arise.

25 Is that what it says?

1 Q. (BY MR. TILLERY) Did you know
2 whether -- did you know whether paraquat gets into
3 the brain during normal spray operations,
4 Mr. Ouzts?

5 MR. WEIR: Object to the form,
6 foundation.

7 THE WITNESS: My understanding of
8 this based on the literature that I have read is
9 that paraquat does not penetrate the blood-brain
10 barrier, because --

11 Q. (BY MR. TILLERY) Right. And you
12 got --

13 A. Because of the chemical makeup.

14 MR. TILLERY: I'm sorry, I was
15 talking over you. I'm sorry.

16 Did you get his full answer? I'm
17 sorry about that, sir.

18 Yes, she did. Sorry.

19 Q. (BY MR. TILLERY) And you got that
20 from the Syngenta website in part, right?

21 A. In part, yes.

22 Q. And from talking to other people at
23 Syngenta?

24 A. That and reading some research papers
25 that were available.

1 A. That's what it says, yes, sir.

2 Q. Okay. So they wouldn't do it twice,
3 because the reaction after the first exposure
4 would be so severe, they -- it -- it would prevent
5 them from doing it again.

6 Does that make sense?

7 A. Yes, sir.

8 Q. And then, if you skip over to the next
9 page and to the bottom paragraph where it says:
10 There is a suggestion.

11 Do you see that?

12 A. Yes, sir.

13 Q. Does the letter say: There is a
14 suggestion implicit in both your letter and that
15 of J D Whitehead that spraymen in daily contact
16 with paraquat sprays over a protracted period
17 might build up blood or tissue levels to a point
18 where their systemic effects become apparent.

19 Do you see that?

20 A. Yes, sir.

21 Q. So communications from Chevron were
22 concerns expressed in 1971 that the spray methods
23 over a protracted period might cause build-up of
24 paraquat.

25 MR. WEIR: Object to the form.

1 Q. Which ones?

2 A. I don't remember the names, sir. I'd
3 have to go back and look. It was -- I Googled
4 just to -- I would have to go back and look at my
5 history. It was just to read the document to see.
6 But there was reference also on the paraquat.com
7 member site as you mentioned earlier.

8 Q. And that paraquat.com website
9 indicated it wouldn't pass through the blood/brain
10 barrier; correct?

11 A. Based on their data, yes, sir.

12 Q. So if you continue on here, this is
13 the answer Mr. Wright gives to that question. He
14 says: The rapid rate of excretion of paraquat,
15 which has been studied and discussed on many
16 occasions in the past, the monitoring of urinary
17 levels in long-term feeding experiments and other
18 biochemical studies all point to the fact that
19 paraquat is not stored in the body.

20 Right?

21 A. Correct.

22 Q. And it's your understanding that it
23 certainly wouldn't accumulate in the brain because
24 there is no way for it to get past the blood-brain
25 barrier to even get there in the first place;

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1 right?
 2 A. The information that I've seen, yes,
 3 sir.
 4 Q. Okay. Let's move to the next example
 5 of -- strike that. Let's move to the next
 6 exhibit.
 7 (Ouzts Deposition Exhibit 5
 8 marked.)
 9 Q. (BY MR. TILLERY) And this is
 10 Plaintiffs' Deposition Exhibit No. 5. This is
 11 SYNGENTA_00693891.
 12 If you could take a look at that
 13 study and tell me, first of all, if you recognize
 14 it.
 15 [Document review.]
 16 A. First of all, sir, no, I don't
 17 recognize this document, but I'd like to read
 18 through it.
 19 Q. You take your time, sir.
 20 A. Thank you.
 21 [Document review.]
 22 Q. (BY MR. TILLERY) Are you ready to
 23 talk about this?
 24 A. Yes, sir, I think so. It's a long
 25 document, but I...

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1 Q. All right. It's a study, and we've
 2 referenced, I think, the Bates range on the
 3 document.
 4 This is from the Imperial Chemical
 5 Industries Limited, central toxicological
 6 laboratory; right? Again, another Syngenta study;
 7 right?
 8 A. Yes, sir.
 9 Q. And the first page -- if you can
 10 display that -- is date of issue December 19,
 11 1980; right?
 12 A. Yes, sir.
 13 Q. The study is a report of Occupational
 14 Exposure of Malaysian Plantation Workers to
 15 Paraquat.
 16 A. Yes, sir.
 17 Q. All right. Now, if we go to 3896.
 18 That's actually exactly where I
 19 wanted to be. Yes.
 20 Now, if you look at the last
 21 sentence of the first paragraph -- I'm trying to
 22 get some orientation for you, sir, and for the
 23 Court and ladies and gentlemen of the jury.
 24 Do you see this is referencing the
 25 introduction? What it's trying to show, the

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1 study, that is, is in normal operations the way
 2 people were transacting business by spraying
 3 paraquat on this plantation is the exposure that
 4 the workers were getting, the spray people and the
 5 people who were handling the product.
 6 So if you look at the last
 7 sentence: For these reasons these same
 8 plantations were selected for extensive
 9 investigations of occupational dermal and
 10 respiratory exposure to paraquat in association
 11 with a health survey of spray workers and other
 12 estate workers.
 13 Is that correct?
 14 MR. WEIR: Object to form.
 15 THE WITNESS: Yes, sir, that's
 16 what it says.
 17 Q. (BY MR. TILLERY) All right. And then
 18 skip down to the first sentence of the third
 19 paragraph. And does it say there: The objective
 20 was to examine the potential dermal and
 21 respiratory exposure of knapsack spray operators,
 22 pesticide formulation carriers and rubber tappers
 23 to paraquat during their normal working regimes;
 24 is that right?
 25 A. Yes, sir. May I ask a question?

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1 Q. All right.
 2 At a break, you can. Right now we
 3 need to proceed, if you can. Unless it's going to
 4 interfere with your analysis.
 5 Let's go to the very next page.
 6 And here, do you see this Study
 7 Procedures?
 8 A. Yes, sir.
 9 Q. All right. So there's a list here of
 10 the spray operators. And this is from, in a
 11 coordinated way, the different groups from where
 12 they were taken, on the left column, Regent, Jasin
 13 Lallang, Gomali, Segamat, Regent.
 14 And then it shows you the spray
 15 operators: 4 males, 4 females, 4 females, 4
 16 males, 4 males, 3 males. Correct?
 17 A. Yes, sir.
 18 Q. Next column is the carriers, people
 19 who are moving and carrying this.
 20 And then rubber tappers; correct?
 21 A. Yes, sir.
 22 Q. And that tells you who the test
 23 subjects were, the people that they were looking,
 24 observing, and collecting data from; right?
 25 A. Yes, sir.

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1 Q. All right. Now, if we can, let's skip
 2 to page 3911. This one here, of this Exhibit
 3 No. 5.
 4 Now, here, this page indicates
 5 that Syngenta or ICI had people in the field
 6 actually watching and taking notes and recording
 7 what these people were actually doing, doesn't it?
 8 They were observing them.
 9 A. According to the fourth -- one, two --
 10 the fourth paragraph or so, it appears so, yes,
 11 sir.
 12 Q. It's an observational study, and that
 13 includes taking urine specimens to see whether or
 14 not there was systemic involvement.
 15 So if you can, if you could look
 16 at the second paragraph, it says: Some spray
 17 operators monitored during the first study wore
 18 rubber boots which afforded complete protection to
 19 the lower legs. The appreciable amounts of
 20 clothing worn also gave some degree of dermal
 21 protection during spraying. Most spray operators
 22 and carriers wore two shirts (some with long
 23 sleeves) and all, including females, wore long
 24 trousers.
 25 And then if you skip down into the

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1 third paragraph, about five sentences -- five
 2 lines down, it says: In three of the four surveys
 3 of spray operator exposure in the second study --
 4 sorry -- mean hand exposure exceeded mean leg
 5 exposure and in two of these by considerable
 6 margin.
 7 This incidence of hand exposure is
 8 expected -- is to be expected when work practices
 9 are to be -- are considered. The operators
 10 frequently handled the spray nozzles in an attempt
 11 to align them correctly or to unblock them. One
 12 operator was even observed to wash her hands in
 13 the spray tank of diluted herbicide formulation
 14 following lubrication of the knapsack sprayer
 15 mechanism with oil.
 16 Does it say that?
 17 A. Yes, sir.
 18 Q. Now, if you go to 3933. There's a
 19 record of the urine specimen results; right?
 20 A. Yes, sir.
 21 Q. And it tells you of these, how many of
 22 these people, when their urine was tested, had
 23 paraquat in their urine from spraying this
 24 chemical, doesn't it?
 25 A. Yes, sir.

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1 Q. So it gives you from each of the ones
 2 corresponding with the different spray operators,
 3 the levels of spray showing that many of them had
 4 paraquat in their urine from spraying it.
 5 Now, if you look back to
 6 page 3909.
 7 Do you see paragraph 3.6 there on
 8 the screen, sir?
 9 A. Yes, sir.
 10 Q. It says: Paraquat residues were
 11 detected in the urine of nine of nineteen spray
 12 operators, and one of seven carriers. Two of four
 13 female spray operators on Jasin Lallang Estate
 14 excreted more paraquat than any of the male
 15 operators in spite of a relatively lower total
 16 potential exposure.
 17 That's what it says, doesn't it?
 18 A. Yes, sir.
 19 Q. So about 50 percent, just under
 20 50 percent of the people in this test by Syngenta
 21 or ICI had paraquat in their bloodstream that was
 22 excreted through their kidneys from spraying the
 23 chemical; is that correct, sir?
 24 MR. WEIR: Object to form.
 25 THE WITNESS: Excuse me, sir. You

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1 said 50 percent?
 2 Q. (BY MR. TILLERY) Yes, 9 of 19.
 3 Almost 50 percent.
 4 Well, that's over 50 percent,
 5 isn't it?
 6 No, it's under 50 percent.
 7 A. It's under.
 8 Q. So it's just under 50 percent. Yeah.
 9 I said about 50 percent.
 10 A. Yes, sir.
 11 Q. Okay. Now, finally, before we leave
 12 this, let's go to page 3913.
 13 And look at the last paragraph
 14 where it says: The urinalysis data must be
 15 treated with some caution. It is recognized that
 16 by sampling immediately after cessation of
 17 spraying the urinary paraquat residues determined
 18 were not accurate indications of total urinary
 19 paraquat excretion following a single spraying
 20 session.
 21 The permeability of paraquat
 22 through intact human skin is extremely slow
 23 compared with other groups of pesticides such as
 24 organophosphate insecticides. A more realistic
 25 assessment of paraquat could have been made by

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1 collecting the total volume of urine voided during
 2 the first 24 hours following cessation of
 3 spraying. This proceeding, however, would have
 4 been difficult to achieve without interfering with
 5 their normal work practices.
 6 Do you see that?
 7 A. Yes, sir.
 8 Q. So this scientist who did this study
 9 is saying that had we done it the way you normally
 10 would do it and selected it more, you likely would
 11 have seen a greater influence of the paraquat in
 12 the system if you'd have done a 24-hour collection
 13 which is standard.
 14 Is that a fair statement?
 15 MR. WEIR: Object to form.
 16 THE WITNESS: Well, based on the
 17 comment, but I -- I couldn't answer as far as what
 18 the results would be.
 19 Q. (BY MR. TILLERY) Well, are you saying
 20 that you dispute what he said?
 21 A. No, I don't dispute -- I don't dispute
 22 the text, no, sir.
 23 Q. He's not saying that the results go
 24 down because it detects what's there even though
 25 they did it immediately after spraying; right?

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1 MR. WEIR: Object to form.
 2 Q. (BY MR. TILLERY) Nine of nineteen
 3 were positive immediately after the spraying was
 4 done.
 5 A. Immediately after, yes, sir.
 6 Q. And if they'd done another 24-hour
 7 collection, which is standard, what he's saying is
 8 that number would have gone up.
 9 MR. WEIR: Object to form.
 10 THE WITNESS: Well, I don't know
 11 what the results would have been, sir.
 12 Q. (BY MR. TILLERY) All right.
 13 A. I see what he's saying, but I don't
 14 know what the results would be. Sorry.
 15 Q. You don't have any way to dispute what
 16 I just said, do you?
 17 A. No, sir, I have no data there.
 18 Q. Well, do you have any scientific or
 19 other opinion that would tell you that what I just
 20 said is incorrect?
 21 A. I don't have an answer for that,
 22 because I don't have experience in that, sir.
 23 Q. All right. But you were tendered on
 24 topics that deal directly with the exposure of
 25 people who are working around paraquat.

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1 You understood that; right?
 2 A. Yes, sir.
 3 Q. And you're the -- you are Syngenta for
 4 that purpose today.
 5 A. Yes, sir.
 6 Q. All right. That's what they've
 7 designated you for.
 8 Would you agree with me that this
 9 study tells you that half of the people tested
 10 during that study -- they're working normal spray
 11 operations -- had paraquat in their bloodstream?
 12 MR. WEIR: Object to form.
 13 THE WITNESS: That 9 out of 19
 14 tested positive, yes, sir.
 15 Q. (BY MR. TILLERY) All right. Let's go
 16 to Exhibit 6.
 17 (Ouzts Deposition Exhibit 6
 18 marked.)
 19 Q. (BY MR. TILLERY) If you could take a
 20 look at this document. This is -- No. 6 is
 21 CUSA-00073464.
 22 The portion I'm going to be asking
 23 you questions about is in the second half of the
 24 document, but if you would just at least refresh
 25 yourself so that we can go through generally and

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1 explain who the people are and what this is about.
 2 So if you'd familiarize yourself
 3 with it.
 4 A. Yes, sir.
 5 [Document review.]
 6 MR. TILLERY: While you keep
 7 reading, I'm going to step out and pick something
 8 up here. You keep reading.
 9 THE WITNESS: Yes, sir.
 10 [Document review.]
 11 Q. (BY MR. TILLERY) Just tell me when
 12 you're ready to address it.
 13 [Document review.]
 14 A. Okay, sir.
 15 Q. All right. Let's pull back and
 16 display the document, if we can.
 17 This is a document, Deposition
 18 Exhibit 6, which is entitled Herbicides in the
 19 Americas. It's got Company Secret; right?
 20 A. Yes, sir.
 21 Q. And it's a paraquat seminar, isn't it?
 22 A. Yes, sir.
 23 Q. It's dated September 1983.
 24 A. Yes, sir.
 25 Q. And this document was discussing and

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1 laying out the groundwork for a meeting that it
 2 was having in September of 1983 as part of a
 3 three-meeting group for expanding the sales of
 4 paraquat in the Americas.
 5 Would that be a fair statement?
 6 A. Yes, sir.
 7 Q. And if we go, for example, to the
 8 following pages -- let's just go forward to the
 9 next page. It talks about question and answer
 10 sessions, technical arguments. Then if you go to
 11 the next page, it gives an introduction, who is
 12 going to be speaking. Mr. Slade is going to be
 13 speaking. He's from ICI; correct?
 14 Then there's Toxicity and Handling
 15 of paraquat, Plans For Introduction of Gramoxone
 16 Super.
 17 Do you see that?
 18 A. Yes, sir.
 19 Q. All right. And if you skip to the
 20 next page, it tells you the sections you're
 21 dealing with. The Caribbean meeting was to deal
 22 with business development in Belize, Eastern
 23 Caribbean, Guyana, Jamaica, Suriname, Trinidad.
 24 The Latin American was Bolivia,
 25 Central America, Chile, Colombia, Dominican

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1 Republic, Ecuador, Paraguay, Peru, Venezuela.
 2 And then the major markets would
 3 be Argentina, Brazil, Canada, Central America, and
 4 Mexico; right?
 5 A. Yes, sir.
 6 Q. All right. And then if you skip to
 7 the next page, then you see who is involved, and
 8 it lists the ICI Plant Protection Division-UK.
 9 These are all of these people who
 10 put this organization and this meeting together.
 11 If you'd show the next page.
 12 This includes more of the people.
 13 And then finally, if you'd go, in
 14 terms of the introduction of this, to 13877.
 15 Now, the point I make here is the
 16 ICI panel.
 17 Do you see that?
 18 A. Yes, sir.
 19 Q. At the top?
 20 A. Yes, sir.
 21 Q. It says: A question and answer
 22 session was conducted at each of the three
 23 meetings. In many cases similar queries were
 24 expressed. In these instances the questions and
 25 answers below are a combination from the different

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1 meetings.
 2 The ICI panel answering the
 3 questions were Mike Northcott, Dr. Peter Slade,
 4 Dr. Bernard Hart, and with occasional comments
 5 from other seminar delegates; correct?
 6 A. Yes, sir.
 7 Q. And then from all of those meetings,
 8 you put together a document which is called
 9 Herbicides in Americas, which could be a handout
 10 to the other distributors to help them answer
 11 questions going forward; correct? That was the
 12 purpose of this -- creation of this document.
 13 A. Yes, sir.
 14 Q. All right. Now, if we go forward from
 15 here and look at some of their questions and
 16 answers -- let's go to 13879.
 17 And the questions: You keep
 18 referring to normal use situation. What is normal
 19 use and how does it differ from "recommended use"?
 20 And ICI-Syngenta gave this answer:
 21 We have a responsibility to ensure that our
 22 recommendations for safe use are clearly put over
 23 on our product labels and literature. However, we
 24 have to acknowledge that users will not always
 25 follow our recommendations. Misuse is a problem

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1 for all producers.
 2 Is that a fair statement?
 3 MR. WEIR: Object. I think that
 4 it's products, not producers.
 5 MR. TILLERY: Did I misspeak? Let
 6 me restate it.
 7 Q. (BY MR. TILLERY) The question was:
 8 You keep referring to normal use situation. What
 9 is normal use and how does it differ from
 10 recommended use?
 11 Is that the question that was
 12 asked, sir?
 13 A. Yes, sir, that was the question that
 14 was asked.
 15 Q. And then the first paragraph answer
 16 they gave was: We have a responsibility to ensure
 17 that our recommendations for safe use are clearly
 18 put over on our product labels and literature.
 19 However, we have to acknowledge that users will
 20 not always follow our recommendations. Misuse is
 21 a problem for all products.
 22 Is that what it says?
 23 A. Yes, sir.
 24 Q. All right. So as of the date of this
 25 certainly, 1983 -- okay? -- Syngenta knew that

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1 there was a difference between recommended use and
 2 normal use, and they put it in their question and
 3 answer document, didn't they?
 4 MR. WEIR: Object to form.
 5 THE WITNESS: Yes, they recognized
 6 that some may not follow the recommended label,
 7 the recommendations.
 8 Q. (BY MR. TILLERY) If we now go to
 9 13882. And it says Paraquat toxicity in use under
 10 No. 3.
 11 Do you see that?
 12 A. Yes, sir.
 13 Q. The question is: What is normal
 14 exposure?
 15 And would you read the first five
 16 lines, and then the word that spills over into the
 17 next line? For the record.
 18 A. From the Malaysian study where
 19 paraquat was applied very intensively over long
 20 periods, in parenthesis, up to 13 years, closed
 21 parenthesis, spraymen did not wear anything like
 22 full protective clothing: In some cases they wore
 23 virtually no clothing at all. These people did
 24 not come to any harm and their health was
 25 perfectly normal.

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1 Q. So the message being sent out to the
 2 distributors throughout the Americas in all these
 3 countries and everyone else and all of the people
 4 who received it was that you can dress like these
 5 spraymen and you probably face no health effects
 6 at all.
 7 Is that a fair characterization of
 8 that sentence, sir?
 9 MR. WEIR: Object to form.
 10 THE WITNESS: I can't speak as far
 11 as future. I mean, that's -- I mean, the
 12 statement here said that they didn't come to any
 13 harm and their health was normal.
 14 Q. (BY MR. TILLERY) Well, if you're
 15 answering your question what is normal exposure,
 16 and you're telling them that, you're telling them
 17 that normal exposure can mean wearing no
 18 protective clothing at all, aren't you?
 19 MR. WEIR: Object to form.
 20 THE WITNESS: They're saying those
 21 who wore no clothing or practically no clothing at
 22 all.
 23 Q. (BY MR. TILLERY) That's right. Now
 24 let's go to the next page. It's 1983, right? At
 25 this moment?

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1 The document is marked 1983;
 2 right?
 3 I'll represent to you that it is.
 4 A. Yeah.
 5 Q. All right. Now let's go to the next
 6 page. Look at the bottom of that one where it
 7 says Question.
 8 I'm sorry, we've lost it.
 9 There it is.
 10 Do you see that page?
 11 A. Page 52, sir?
 12 Q. It's 13883. And it's -- the top of it
 13 says Paraquat deaths.
 14 Do you see that?
 15 A. Yes, sir.
 16 Q. And then go down to the question where
 17 it says: What has been the result of including
 18 the emetic in terms of reducing deaths from
 19 paraquat poisoning?
 20 Do you see that?
 21 A. Yes, sir.
 22 Q. And then it says: After the
 23 introduction of the emetic formulation in the UK,
 24 the number of cases of suicides has not changed.
 25 The tendency we are seeing is a shorter time to

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1 death indicating that people are taking larger
 2 amounts of the paraquat, and this type of suicide
 3 is increasing.
 4 So the emetic was causing more
 5 deaths; right?
 6 MR. WEIR: Object to form.
 7 THE WITNESS: No, I don't take it
 8 as the emetic causing more deaths. The way that I
 9 understood that, they're taking larger amounts of
 10 paraquat, so their dosage level or the volume that
 11 they're consuming appears to be higher.
 12 Q. (BY MR. TILLERY) It also says that it
 13 corresponds with the introduction of the emetic,
 14 doesn't it?
 15 MR. WEIR: Object to form.
 16 THE WITNESS: I don't know that I
 17 can correlate that, sir, sorry.
 18 Q. (BY MR. TILLERY) Well, let's go over
 19 the question again, and the answer.
 20 What has been the result of
 21 including the emetic in terms of reducing deaths
 22 from paraquat poisoning?
 23 Answer: After the introduction of
 24 the emetic formulation in the UK, the number of
 25 cases of suicides has not changed.

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1 So the emetic hasn't helped;
 2 right?
 3 MR. WEIR: Object to form.
 4 Q. (BY MR. TILLERY) Do you know any
 5 other way to read that?
 6 MR. WEIR: Same objection.
 7 THE WITNESS: No, I mean, that's
 8 what the text says.
 9 MR. TILLERY: All right.
 10 MR. WEIR: If you're done with
 11 that document, do you mind if we take a break?
 12 MR. TILLERY: We can sure take a
 13 break. No problem at all. Thank you.
 14 MR. WEIR: Jose, can you put us
 15 into the breakout?
 16 THE VIDEOGRAPHER: Going off the
 17 record. The time is --
 18 MR. TILLERY: Can we say five or
 19 ten minutes? Not very long.
 20 MR. WEIR: Fine.
 21 THE VIDEOGRAPHER: Going off the
 22 record. The time is 11:39 a.m.
 23 (Recess taken, 11:39 a.m. to
 24 11:50 a.m. EDT)
 25 THE VIDEOGRAPHER: Going back on

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1 the record. The time is 11:50 a.m.
 2 MR. TILLERY: I want to correct
 3 something on the record for a reference point.
 4 The last document that I referenced had been
 5 assigned and produced apparently by two
 6 different -- in two different formats. And the
 7 correct Bates number on the document entitled
 8 Herbicides in the Americas, which is the Sheraton
 9 Royal Biscayne Hotel, Key Biscayne, Florida,
 10 September 1983 document that Mr. Ouzts has already
 11 been through is CUSA-00073464. And I believe the
 12 last is 00073536.
 13 Just make that change for the
 14 record.
 15 Is this No. 7? So let's direct
 16 ourselves to Plaintiffs' Exhibit No. 7.
 17 (Ouzts Deposition Exhibit 7
 18 marked.)
 19 Q. (BY MR. TILLERY) I assume this is a
 20 document that you read in anticipation of
 21 questions.
 22 This is SYNGENTA_01806986.
 23 While Mr. Ouzts is familiarizing
 24 himself with this, I'll point out for the record,
 25 it's a report entitled Paraquat Worker Exposure

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1 During Mixing, Loading, and Application of
 2 Gramoxone Extra to Pecans Using Vehicle-Mounted,
 3 Ground Boom Equipment, and the author is
 4 Deborah Meier, and the study completion date is
 5 April 28, 1995.
 6 [Document review.]
 7 A. Okay, sir.
 8 Q. Okay. Have you seen this document
 9 before?
 10 A. Yes, sir, I have.
 11 Q. You read this in anticipation of the
 12 deposition, didn't you?
 13 A. Yes, sir.
 14 Q. And this was material you've been over
 15 in the last few weeks to get ready for this
 16 deposition, and gone over with your counsel too,
 17 as well? Right?
 18 A. Correct.
 19 Q. All right. And just for the record,
 20 this is a 1995 Syngenta study conducted with those
 21 who work in pecan orchards; right?
 22 A. Yes, sir.
 23 Q. So it's a report and study
 24 commissioned and carried out by ICI, predecessor
 25 of Syngenta Company; right?

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1 A. Well, actually, it's Zeneca Ag
 2 Products, not ICI.
 3 Q. Zeneca, you're right. You're correct.
 4 Zeneca. Correct. Sorry.
 5 And it was commissioned by Zeneca;
 6 correct?
 7 A. Yes, sir.
 8 Q. It was created, the protocols, by
 9 Zeneca, to find out how workers are actually
 10 handling paraquat in the fields; right?
 11 MR. WEIR: Object to form.
 12 THE WITNESS: Sir, my
 13 understanding was to understand the exposure of
 14 applicators and understand what that looked like,
 15 as far as based on their application methods.
 16 Q. (BY MR. TILLERY) And you actually
 17 know, though, from the study that they went over
 18 and looked and recorded all of the personal
 19 protective equipment measures taken by the
 20 applicators, didn't they?
 21 A. They documented, yes, sir.
 22 Q. Yeah, they documented all of those, so
 23 they could tell what people on the ground were
 24 actually doing with their product, whether they
 25 were following the labels, precautions or

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1 warnings. They were actually recording this;
 2 correct?
 3 MR. WEIR: Object to the form,
 4 foundation.
 5 THE WITNESS: They did document
 6 that, yes, sir.
 7 Q. (BY MR. TILLERY) And as a matter of
 8 fact, they recorded whether they were wearing long
 9 pants, long-sleeved shirts, short-sleeved shirts,
 10 caps, boots, among other things; correct?
 11 A. Yes, sir.
 12 Q. They recorded whether they wore
 13 protective gloves; right?
 14 A. In that, I believe -- I can't speak
 15 specifically, but I think, yeah, it does that. I
 16 mean, that -- the way that I remember the document
 17 essentially said ask them to wear their normal
 18 attire, what they would use for their application
 19 methods.
 20 Q. Right, their normal activities -- this
 21 is what you would do, and they want to know -- by
 22 sitting back, again, and observing them, and then
 23 taking notes and recording exactly what those
 24 people did; right? During the day.
 25 A. Yes, sir.

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1 Q. And the purpose of this is to acquaint
 2 the company who is selling the product to know how
 3 the product is being handled and used; correct?
 4 MR. WEIR: Object to form.
 5 THE WITNESS: Well, my
 6 understanding of this report was to understand
 7 exposure levels from that. Not so much as far as
 8 a documentation of handling methods.
 9 Q. (BY MR. TILLERY) But it also told the
 10 company exactly what these people did because they
 11 recorded it, didn't they?
 12 A. Yes, sir.
 13 Q. All right. For example, okay? Let's
 14 go to 07006.
 15 Do you see this page?
 16 A. Yes, sir, Table 6?
 17 Q. Table 6. See it?
 18 A. Yes, sir.
 19 Q. And over here on the left corner
 20 column there's a Trial No., and that's a number
 21 assigned to an individual farmer applicator, isn't
 22 it?
 23 A. My understanding, yes, sir.
 24 Q. So instead of using a name, instead of
 25 using the name Freeman Schmidt, they put in a

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1 number like 4201, and that was the same. So they
 2 assigned that number to correspond with all of the
 3 things they saw Mr. Schmidt do; right?
 4 MR. WEIR: Object to form.
 5 Q. (BY MR. TILLERY) I'm just trying to
 6 explain it to the jury.
 7 A. 4201 was assigned to a person, yes.
 8 Q. Right.
 9 A. I don't know if it was Mr. Schmidt,
 10 but...
 11 Q. I'm using that as an example.
 12 A. Okay. I understand. Yes, sir.
 13 Q. All right. So 4201 is, he -- the
 14 clothing worn during application for 4201. He's
 15 wearing long pants (jeans) short-sleeved T-shirt,
 16 cap & boots.
 17 Additional clothing worn is in the
 18 next column. And that's Additional Clothing Worn
 19 During Mixing and Loading. For Mr. Schmidt, let's
 20 say hypothetically, or for Mr. 4201, nothing. No
 21 additional protective clothing; right?
 22 A. Correct.
 23 Q. So I'm just trying to make sure we're
 24 reading this correctly. So if you go down, 4202,
 25 no additional protective clothing; 4203, none;

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1 4204, none; 4205, he wore protective gloves.
 2 4206, none; 4207, none; 4208,
 3 none; and then 4209, wore protective gloves when
 4 mixing; 4210, none. And then, 4211, wore a half
 5 face respirator, face shield, goggles, apron,
 6 protective gloves; right?
 7 A. Yes, sir.
 8 Q. So we're reading it correctly. Most
 9 of those noted were not wearing even gloves, were
 10 they? If you do the math.
 11 MR. WEIR: Object to form.
 12 THE WITNESS: Yes, sir, just
 13 slightly more than half wore no --
 14 Q. (BY MR. TILLERY) Weren't even wearing
 15 gloves. And only a couple of them were wearing
 16 face shields; correct?
 17 MR. WEIR: Object to form.
 18 Q. (BY MR. TILLERY) Three, I think, or
 19 four.
 20 A. Correct.
 21 Q. Okay. And workers were observed
 22 failing to follow warnings and the -- and failing
 23 to use proper personal protective equipment at
 24 least according to the label in several instances;
 25 correct?

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1 MR. WEIR: Object to form.
 2 Q. (BY MR. TILLERY) Would that be fair?
 3 MR. WEIR: Same objection.
 4 THE WITNESS: According to this,
 5 they were not following recommended PPE.
 6 Q. (BY MR. TILLERY) Okay. Let's just go
 7 to, if we can, to 72 -- I'm sorry, 7020.
 8 Do you see this? Can you see the
 9 picture, sir?
 10 A. Yes, sir.
 11 Q. These pictures were taken during the
 12 observational study and placed into the actual
 13 study report, weren't they?
 14 A. Yes, sir.
 15 Q. And here, you see people mixing
 16 paraquat with no mask on; right?
 17 A. Yes, sir. I'm assuming it's paraquat.
 18 It looks like the jugs, they say -- it looks like
 19 Gramoxone there, sir.
 20 Q. Right. And you know the study was
 21 about paraquat. It wasn't about some other
 22 chemical. You understood that; right?
 23 A. Yes, sir.
 24 Q. And here, you see them mixing the
 25 product without wearing gloves; right?

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1 A. Yes, sir.
 2 Q. None of them had a mask on, did they?
 3 A. I can't say one way or the other, sir.
 4 Q. Okay. Well, let's go to 7023.
 5 And you see here another picture
 6 that was incorporated into this, and it says
 7 Mixing - Foam Overflow.
 8 Do you see that?
 9 A. Yes, sir.
 10 Q. No Gloves Worn When Securing Lid.
 11 Right?
 12 A. Yes, sir.
 13 Q. And then the next one on the other
 14 side says: Spraying - Boom Position Under the
 15 Tractor.
 16 A. Yes, sir.
 17 Q. Right? And then you see Rinsing
 18 Containers.
 19 The way they saw it; right?
 20 A. Yes, sir.
 21 Q. This is recording what farmers
 22 actually do, how they use this chemical.
 23 MR. WEIR: Object to the form.
 24 Q. (BY MR. TILLERY) Right?
 25 A. This was documenting the test, as far

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1 as how they were handling the mixing procedures in
 2 an application, yes, sir.
 3 Q. Do you have any understanding or
 4 evidence that these farmers, from this state and
 5 in these orchards were applying this chemical any
 6 differently than people would apply it in
 7 Illinois?
 8 A. Sir, I can't speak to that. I mean,
 9 based on these pictures here, this depicts the
 10 application process there in Georgia or Alabama.
 11 There are very -- there's variability as far as
 12 the adherence to the labels based on what the data
 13 showed on the previous pages. There's
 14 variability. So I -- I don't know that I could
 15 speak to Illinois or any other state.
 16 MR. TILLERY: I move to strike
 17 your answer as unresponsive. I remind you when
 18 I'm asking you these, you're speaking on behalf of
 19 the corporation.
 20 THE WITNESS: Yes, sir.
 21 MR. TILLERY: Let me rephrase my
 22 question.
 23 Q. (BY MR. TILLERY) Do you have any
 24 information that would indicate to you that the
 25 techniques for spraying, that the use of personal

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1 protective equipment is any more or less in
 2 Illinois or California than it would be as
 3 depicted in these photographs and in this report
 4 that we're referencing now?
 5 MR. WEIR: Object to form.
 6 THE WITNESS: I do not have any
 7 documentation that would say one way or the other.
 8 I don't have any tallying or any information
 9 there.
 10 Q. (BY MR. TILLERY) I mean, does
 11 Syngenta have any evidence that one state applies
 12 this differently in terms of the use of personal
 13 protective equipment than another state? That's
 14 what I'm asking you.
 15 A. No, sir.
 16 MR. WEIR: Object to form.
 17 Q. (BY MR. TILLERY) Is it your best
 18 belief at Syngenta that the study that's reported
 19 here is reflective of a general application
 20 procedure used by farmers in the application spray
 21 of paraquat?
 22 MR. WEIR: Object to form,
 23 foundation.
 24 THE WITNESS: I don't -- I don't
 25 know that this depicts standard practice.

1 Q. (BY MR. TILLERY) That's not what I
 2 asked you, was it, sir?
 3 I said: Is it your best belief at
 4 Syngenta that the study that's reported here is
 5 reflective of the general application procedures
 6 used by farmers in other states in the application
 7 and handling of paraquat?

8 MR. WEIR: Same objections.

9 THE WITNESS: I would say that
 10 this was reflective of this area, sir, and I can't
 11 speak holistically across others. It's a lot of
 12 variability there, sir.

13 Q. (BY MR. TILLERY) Well, what's
 14 variable about Illinois versus what they do here
 15 in this study?

16 A. I don't know. I just have the --

17 Q. Well --

18 A. I just -- yeah.

19 Q. With respect to how this study shows
 20 and reports, a study that your company did, and
 21 how it reflects exactly how these farmers handled,
 22 sprayed, what personal protective equipment they
 23 used, how does that differ from southwestern
 24 Illinois, St. Clair, and Madison and Monroe and
 25 Clinton Counties? How does it differ?

1 MR. WEIR: Object to form.

2 THE WITNESS: I don't know, sir.
 3 I don't know the application methods there that --
 4 as far as individuals, how they would handle their
 5 mixing.

6 Q. (BY MR. TILLERY) So are you able to
 7 tell me that there's any difference in terms of
 8 the use of safety precautions and personal
 9 protective equipment or the methodology for
 10 application of paraquat in any other state than
 11 what you found when you did this study that's --
 12 that we're discussing, which is Plaintiffs'
 13 Exhibit No. 7?

14 MR. WEIR: Object to form.

15 THE WITNESS: Sorry, sir, could
 16 you restate that? I'm a bit confused.

17 MR. TILLERY: Absolutely.

18 Q. (BY MR. TILLERY) Are you able to tell
 19 me that there's any difference in terms of the use
 20 of safety precautions and personal protective
 21 equipment or the methodology for application of
 22 paraquat in any other state than what you found in
 23 this study marked as Plaintiffs' Deposition
 24 Exhibit No. 7?

25 MR. WEIR: Object to form.

1 THE WITNESS: I can go on my
 2 experience as far as seeing how my brother handles
 3 and his mixers actually mix, and they use PPEs to
 4 minimize their exposure.

5 Q. (BY MR. TILLERY) So other than your
 6 brother; is Syngenta relying upon Mr. Ouzts'
 7 brother as a source for your knowledge about
 8 California and -- the Central Valley of California
 9 and all of Illinois? Is that our reference point?

10 A. I don't know that I can answer that,
 11 sir.

12 Q. Well, I'm ask -- you're here on behalf
 13 of Syngenta. It's time to speak. I need you to
 14 answer my question.

15 You did a study, a very
 16 comprehensive study, and you had people recording
 17 exactly what the farmers in -- what was it? --
 18 Arkansas and Georgia, sir?

19 A. Georgia and Alabama.

20 Q. Georgia and Alabama, and the methods
 21 they used, the personal protective equipment they
 22 used, and how they handled and cared for and
 23 applied this product.

24 Now my question is, do you have
 25 any information that farmers do it differently in

1 terms of the care or the equipment that they used
 2 to protect themselves in other states than what
 3 you found when you did this study marked as
 4 Exhibit 7?

5 MR. WEIR: Object to form.

6 THE WITNESS: No, sir, I don't.
 7 That's not our intent to --

8 Q. (BY MR. TILLERY) All right. The
 9 answer is no; correct? On the record?

10 A. Correct.

11 Q. Thank you. Now let's go forward, if
 12 we can. We were looking at some photographs of
 13 these people who were applying it. Now let's
 14 look, if we can, at some of the observed
 15 activities, and let's go to 7010.

16 Do you see that one, sir?

17 A. Table 10, sir?

18 Q. Yes, sir.

19 A. Mm-hmm. I do.

20 Q. I'm not going to go through all of
 21 these, because the record speaks for itself, but I
 22 was going to direct your attention to a few of
 23 them.

24 Under 4201, that gentleman that we
 25 talked about before, the Observations and

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1 Incidents', it says at the top; right?
 2 A. Yes, sir.
 3 Q. Hands get contaminated during mixing
 4 procedure. Hands are not washed during exposure
 5 period.
 6 Stops operation for seven minutes
 7 to make a phone call.
 8 These are just observations;
 9 right?
 10 If you go to 4202.
 11 4202, Smokes several cigarettes
 12 during exposure period; right?
 13 A. Yes, sir.
 14 Q. 4203, Calibrates tractor with no
 15 gloves on and nozzles are clogged; right?
 16 A. Yes, sir.
 17 Q. During -- the next one: During mixing
 18 of first load, lots of foam in tank when topping
 19 off with water, foam gets on subject's hands.
 20 Do you see that?
 21 A. Yes, sir.
 22 Q. That's what your people recorded for
 23 these farmers; correct? As their normal behavior.
 24 Is that a fair statement?
 25 A. Yes, sir.

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1 Q. All right. And then 4204: Some of
 2 the rinse from second mixing splashes onto shirt.
 3 4204: Some overflow of foam onto
 4 outside of spray tank during each mixing.
 5 Do you see all of that?
 6 A. Yes, sir.
 7 Q. All right. And 4205:
 8 Foam overflows on outside of spray
 9 tank. Subject gets foam on bare hands when
 10 replacing the lid on the tank. Right?
 11 A. Yes, sir.
 12 Q. Let's go to the next page, continued.
 13 And this is 4208 that we're going
 14 to start with. And if you look at 3, during the
 15 mixing and loading operations -- and they
 16 reference Numbers 3, 4, 6, 7, 11, and 12. There
 17 was some foam and water which flowed over on top
 18 of the spray tank. Some foam gets on subject's
 19 hands.
 20 Do you see that?
 21 A. Yes, sir.
 22 Q. And so we're clear, when we're talking
 23 about foam, we're talking about foam materials
 24 from the mix of paraquat in water, that would
 25 include paraquat that's getting on their direct

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1 skin and their hands; correct?
 2 A. I would assume so, yes, sir.
 3 Q. All right. Now, let's go down to 7:
 4 Subject removes long-sleeved
 5 shirt.
 6 8: Subject checks some spray
 7 nozzles, removes them with the wrench and blew
 8 into them.
 9 Do you see that?
 10 A. Yes, sir.
 11 Q. No gloves were worn. Right?
 12 A. Yes, sir.
 13 Q. Next, No. 9: Subject drops spray tank
 14 lid in standing water at pump.
 15 Picks up the lid with bare hand
 16 and washes off lid before replacing.
 17 Do you see that?
 18 A. Yes, sir.
 19 Q. No. 11: Subject adjusts spray boom
 20 with bare hands three times during the exposure
 21 day. Right?
 22 A. Yes, sir.
 23 Q. And you would understand the spray
 24 boom would be where the spray or the paraquat is
 25 coming from, which means it has paraquat spray all

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1 over it; right? In the likely situation.
 2 MR. WEIR: Object to form.
 3 THE WITNESS: The boom could be
 4 contaminated, yes, sir.
 5 Q. (BY MR. TILLERY) Right. Next one on
 6 4208: Subject eats lunch while on the tractor
 7 spraying; right?
 8 A. Which -- yes, sir, No. 12.
 9 Q. Now, let's go to 4210.
 10 Spray mix splashes out of spray
 11 tank during first mixing and loading operation.
 12 Subject replaces spray tank with lid. It blew off
 13 because it was not securely fastened.
 14 And then 6: Some foam overflows
 15 from spray tank during third mixing and loading.
 16 Subject rinses hands after replacing the lid.
 17 Do you see these sorts of things?
 18 I'm not going to read them all.
 19 A. Sure.
 20 Q. These were recorded in these
 21 observational studies as part of the way in which
 22 these farmers day-to-day handled your product;
 23 right, paraquat?
 24 A. Yes, sir.
 25 Q. Now let's go to 07021.

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1 Actually, sorry, pull that -- pull
 2 that. Let's go -- I meant 022.
 3 It's not coming up?
 4 Bear with us, sir.
 5 There we go. That worked.
 6 Now, the first one says:
 7 Broadcast Spray; Rear Mounted Spray Tank.
 8 Do you see the mist of the spray
 9 that's on the farm?
 10 A. Yes, sir.
 11 Q. And then let's look at the bottom one.
 12 Side Mounted Boom in Front of Driver; Rear Mounted
 13 Spray Tank.
 14 And do you see the mist all around
 15 behind the head of the driver?
 16 MR. WEIR: Object to form.
 17 Q. (BY MR. TILLERY) And on the side, to
 18 the right side of the equipment?
 19 A. I see the side, yes, sir. I can't see
 20 the boom behind, but I see --
 21 Q. You see the mist there?
 22 A. Yes, sir.
 23 Q. All right.
 24 MR. TILLERY: Excuse me one
 25 second, sir. I'm going to go -- we're not going

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1 off the record, just pausing for a second.
 2 (Pause)
 3 MR. TILLERY: We're going to move
 4 forward to Plaintiffs' Deposition Exhibit No. 8.
 5 And this is SYNGENTA_0086183.
 6 (Ouzts Deposition Exhibit 8
 7 marked.)
 8 Q. (BY MR. TILLERY) Have you seen this
 9 exhibit before, sir?
 10 A. No, sir, this one does not look
 11 familiar.
 12 MR. TILLERY: For the record, this
 13 is Van Wendel De Joode, De Graaf, Wesseling,
 14 Kromhout. Paraquat Exposure of Knapsack Spray
 15 Operators on Banana Plantations in Costa Rica.
 16 It's International Journal of Occupational
 17 Environmental Health 1996.
 18 And I point this out to you
 19 because this was provided to us by Syngenta as a
 20 document in their files.
 21 My references are very limited, so
 22 if you would just orient yourself very briefly. I
 23 just have one minor area to go over with you.
 24 THE WITNESS: Yes, sir.
 25 [Document review.]

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1 THE WITNESS: Okay, sir. I think
 2 I have a basic understanding of the document.
 3 Q. (BY MR. TILLERY) All right. Yeah,
 4 it's -- again, the title is -- this is Plaintiffs'
 5 Deposition Exhibit 8, and the title is Paraquat
 6 Exposure of Knapsack Spray Operators in Banana
 7 Plantations in Costa Rica.
 8 And the only thing I wanted to
 9 point you to was to 6187, please.
 10 And while she's pulling that
 11 document up, this was another observational study,
 12 and it was done to study and assess occupational
 13 exposure to paraquat among knapsack sprayers in
 14 banana plantations in Costa Rica. External and
 15 internal exposures were quantified, and they made,
 16 again, observations to show the exposure in the
 17 normal routine way in which the plantation workers
 18 used the chemical; correct?
 19 MR. WEIR: Object to the form.
 20 THE WITNESS: That's my
 21 understanding, a comparison of --
 22 MR. TILLERY: All right.
 23 [Cross-talk]
 24 THE WITNESS: -- provided.
 25 MR. TILLERY: Now, if you'd look

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1 at this that's pulled up on the screen.
 2 For the record, this is
 3 SYNGENTA_0086187, a page of that study.
 4 And if you look at the bottom of
 5 the first paragraph -- first page, or first
 6 column, rather, where it says: The operators?
 7 THE WITNESS: Yes, sir.
 8 Q. (BY MR. TILLERY) The operators often
 9 fumbled with the equipment with their bare hands
 10 to repair small defects. Occasionally, blockage
 11 in the spray nozzle was cleared by blowing it out.
 12 In their responses to the questionnaire, seven
 13 workers reported eating, drinking, or smoking
 14 during working time without washing their hands or
 15 biting their nails during work. Most of the
 16 operators did not shower immediately after work.
 17 Do you see that?
 18 A. Yes, sir.
 19 Q. Now, to the extent this document was
 20 in Syngenta's files, which we've been told by
 21 Dr. Botham was standard practice in terms of
 22 maintaining any publication in the database that
 23 impacted paraquat, then Syngenta was aware that
 24 this was what was going on in banana plantations
 25 in the application of paraquat; correct?

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1 MR. WEIR: Object to form.
 2 THE WITNESS: That's what the
 3 document states, sir.
 4 Q. (BY MR. TILLERY) All right. Let's
 5 move on to -- is it No. 9?
 6 Plaintiffs' Exhibit No. 9.
 7 (Ouzts Deposition Exhibit 9
 8 marked.)
 9 Q. (BY MR. TILLERY) Around the same
 10 time -- and we're moving to 1997 -- Syngenta
 11 removed the respirator requirement at that time.
 12 Were you aware of that?
 13 A. Yes, sir.
 14 Q. Okay. But it continued to conduct
 15 worker exposure studies.
 16 Did you know that?
 17 A. I didn't know it specifically, no,
 18 sir.
 19 Q. All right. Well, let's look at No. 9.
 20 And this is SYNGENTA_02086519.
 21 [Document review.]
 22 Q. (BY MR. TILLERY) If you'd familiarize
 23 yourself with that document.
 24 A. Yes, sir. Thank you.
 25 Q. Do you know this document?

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1 A. No, sir, I haven't seen this one.
 2 Okay, sir.
 3 [Document review.]
 4 Q. So let's just introduce this exhibit.
 5 There's a lot of questions to go over here.
 6 MR. TILLERY: Let's go off the
 7 record for just a second, please.
 8 (Discussion off the record.)
 9 THE VIDEOGRAPHER: Going off the
 10 record. The time is 12:34 p.m.
 11 (Recess taken, 12:34 p.m. to
 12 1:14 p.m. EDT)
 13 THE VIDEOGRAPHER: We are going
 14 back on the record. The time is 1:14 p.m.
 15 Q. (BY MR. TILLERY) Mr. Ouzts, before we
 16 broke, I referenced the Zeneca Agrochemical
 17 Report, WER004, and that's SYNGENTA-PQ-0286519,
 18 Plaintiffs' Deposition Exhibit No. 9.
 19 Are you familiar with this study?
 20 A. That particular one -- I just want to
 21 open it back up.
 22 So this particular one, no, sir,
 23 I'm not familiar with this one.
 24 Q. Okay. Well, let's go to the summary
 25 and the purpose of this study, and that would be

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1 on 6525.
 2 Do you see under the summary, it
 3 says: The purpose of the study was to determine
 4 the absorbed dose of paraquat in workers who
 5 mixed, loaded and applied 'Gramoxone' with hand
 6 held knapsack sprayers for weed control in a
 7 citrus orchard in Spain during November 1997.
 8 Do you see that?
 9 A. Yes, sir.
 10 Q. All right. And let's go to the next
 11 page.
 12 And under Introduction, there's
 13 three paragraphs. If you go midway down the
 14 second paragraph. Follow along with me.
 15 This study was designed to obtain
 16 these data for workers wearing work clothing
 17 consisting of a single layer of cotton clothing,
 18 socks and rubber boots, with the addition of
 19 'nitrile' protective gloves and a face-shield for
 20 use during mixing and loading, and then it said, a
 21 product label recommendation.
 22 The study was carried out in
 23 accordance with the principles stated in the OECD
 24 Guidance Document for the Conduct of Studies.
 25 Do you see that?

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1 A. Yes, sir.
 2 Q. And then let's go to the next page.
 3 And I just refer you to 3.2, the test chemical was
 4 dimethyl-4,4 bipyridinium. And that's paraquat,
 5 chemical name.
 6 Do you see that?
 7 A. Yes, sir.
 8 Q. And let's go to the next page, please.
 9 And if you look under Biological Monitoring, and
 10 it says: Urine specimens -- sample -- urine
 11 samples were collected from all the workers over a
 12 7-day period. The collection comprised full
 13 24-hour samples and started on the morning of
 14 pre-exposure day and finished on the first void in
 15 the morning of the seventh day.
 16 Do you see that?
 17 MR. WEIR: Objection.
 18 Q. (BY MR. TILLERY) Do you see that
 19 reference?
 20 A. I do see: The morning of the sixth
 21 day after exposure.
 22 Q. The morning of the sixth day after
 23 exposure, seven days in total.
 24 A. Yes, sir.
 25 Q. All right. So this was designed to

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1 use an accurate means of testing whether or not
 2 there was evidence of paraquat in the urine
 3 specimens of the people who applied it; right?
 4 You understood that as well?
 5 A. Yes, sir.
 6 Q. All right. And they noted individual
 7 observations of the workers. There were 20 of the
 8 workers, weren't there, in the study?
 9 A. Is that on this document here, sir?
 10 Q. Actually, why don't we go to 6540 and
 11 I'll show you the references.
 12 A. Sure.
 13 Q. We'll go to that.
 14 A. Okay.
 15 Q. And they noted the worker numbers on
 16 the left column, and they assigned numbers 01
 17 through 20 for the 20 people who were in the
 18 study.
 19 Do you see that?
 20 A. Yes, sir.
 21 Q. And they noted observations of what
 22 those people did and how they handled the
 23 equipment, what they did in terms of activities
 24 with handling the sprayer, similar results to what
 25 we've seen in other studies that we've talked

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1 about, if you look at this; correct?
 2 MR. WEIR: Object to form.
 3 THE WITNESS: I see the
 4 information, yes, sir.
 5 Q. (BY MR. TILLERY) Now, the point that
 6 I want to make, if we go back to 6529.
 7 And if you look at the bottom of
 8 that page under Results and Observations, it says:
 9 There were minor deviations from the label
 10 recommendations, mainly workers forgetting to wear
 11 their gloves or face shields for the mixing and
 12 loading. Some of the workers were observed to
 13 have splashes of spray on their back due to not
 14 closing the lid of the sprayer properly. However,
 15 there were no major product spillages.
 16 So, in other words, you see -- do
 17 you see that reference?
 18 A. Yes, sir.
 19 Q. All right. So, in other words, this
 20 would be consistent with what Syngenta had seen in
 21 terms of the usual ordinary type of handling and
 22 application of the chemical protocol, wouldn't it?
 23 A. It's similar to the previous document,
 24 yes, sir.
 25 Q. And with one exception, of course, and

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1 that is that here, Syngenta made sure that it
 2 required that they use face shields. Okay?
 3 A. Mm-hmm.
 4 Q. They wore nitrile gloves and a face
 5 shield for use during mixing and loading. That
 6 was a requirement of this particular study.
 7 Remember that?
 8 A. Yes, sir.
 9 Q. All right. Now let's go back to 6525,
 10 which is the Summary page.
 11 This one here.
 12 Do you see that?
 13 A. Yes, sir.
 14 Q. The second paragraph says: The
 15 absorbed dose was determined by use of a
 16 biological monitoring method. This involved
 17 collection of workers' urine for a 7-day period
 18 from the day prior to application (baseline day)
 19 until 5 days after the application and analysis
 20 for unchanged paraquat.
 21 And then look at the next
 22 paragraph, please.
 23 Paraquat was detected in the urine
 24 of 18 of the 20 workers using a highly sensitive
 25 radioimmunoassay method ...

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1 Do you see that?
 2 A. Yes, sir.
 3 Q. And that was despite the fact that
 4 they had been given face shields to use during
 5 mixing and loading of the product; correct?
 6 Is that right?
 7 A. Well, I mean, in spite of? I mean,
 8 it's representative that there were 18 that had
 9 paraquat in their urine even though not all wore a
 10 face shield, but yes, sir.
 11 Q. They were given those? They were
 12 asked to wear face shields? They mentioned that
 13 one of them was late wearing it, and one of them
 14 forgot one. But the test showed 18 out of 20 had
 15 paraquat in their blood stream and in their urine;
 16 correct?
 17 MR. WEIR: Object to form.
 18 THE WITNESS: The document shows
 19 18 out of 20, yes, sir.
 20 Q. (BY MR. TILLERY) All right. Now,
 21 let's move to Exhibit No. 10.
 22 (Ouzts Deposition Exhibit 10
 23 marked.)
 24 Q. (BY MR. TILLERY) This is a one-paged
 25 document.

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<p>1 Can you see it?</p> <p>2 A. No, sir, not yet.</p> <p>3 Q. Not yet? Okay.</p> <p>4 And this is SYNGENTA_03943700.</p> <p>5 And I will represent to you it was presented to us</p> <p>6 in this context, with nothing more, among a bunch</p> <p>7 of other documents.</p> <p>8 And it references A2.1.4, Operator</p> <p>9 Risk Assessment.</p> <p>10 Do you see that?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Do you know who --</p> <p>13 MR. WEIR: I'm sorry to interrupt.</p> <p>14 Your representation was that it was produced as a</p> <p>15 single page and not as part of a larger document.</p> <p>16 MR. TILLERY: Yeah. We've tried</p> <p>17 multiple ways to put this in some context to be</p> <p>18 able to use it.</p> <p>19 MR. WEIR: I understand.</p> <p>20 MR. TILLERY: And this is the best</p> <p>21 we could do. And I wanted to ask about that.</p> <p>22 MR. WEIR: Understood.</p> <p>23 Q. (BY MR. TILLERY) Who is</p> <p>24 Caroline Willetts that's mentioned?</p> <p>25 Who do you know that person to be</p>	<p>1 by operators during occupational mixing, loading</p> <p>2 and application of GRAMOXONE with either knapsack</p> <p>3 or tractor-mounted spray equipment are</p> <p>4 significantly less than the acceptable level of</p> <p>5 absorption as defined by the relevant toxicology</p> <p>6 study.</p> <p>7 The only information I could find</p> <p>8 in the monograph appeared to indicate that</p> <p>9 operators exceed the AOEL unless they are kitted</p> <p>10 up to the nth degree, so I'm not sure what to</p> <p>11 write here. CJW.</p> <p>12 And then it finishes by saying:</p> <p>13 If required, further details may be obtained from</p> <p>14 the Global Regulatory Focus.</p> <p>15 Can you give us some context for</p> <p>16 what this document is saying?</p> <p>17 A. No, sir, I can't. I think this is</p> <p>18 outside of my experience level as far as when it</p> <p>19 comes to actual operator exposure. I'm happy to</p> <p>20 see if I could find more information related to</p> <p>21 Ms. Willis or Mr. Willis, but this is outside of</p> <p>22 my expert --</p> <p>23 Q. It's actually Caroline Willetts,</p> <p>24 W-I-L-L-E-T-T-S, sir.</p> <p>25 But you don't know what this</p>
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<p>1 at Syngenta?</p> <p>2 A. I don't see her name. I see initials.</p> <p>3 Q. Do you see CJW?</p> <p>4 A. I do see the CJW, yes, sir.</p> <p>5 Q. Do you know what an operator risk</p> <p>6 assessment is?</p> <p>7 A. I know the general. Essentially, it's</p> <p>8 looking at -- understanding potential risks</p> <p>9 associated with, you know, handlers/operators, as</p> <p>10 far as in this. But I'm making the assumption</p> <p>11 that's what this document is, but I would refer to</p> <p>12 our tox and environmental people for more detail.</p> <p>13 I don't know Ms. Willis or Mr. Willis.</p> <p>14 Q. Well, let's read it into the record</p> <p>15 because of the difficulty of reading the clouded</p> <p>16 gray area, which I will represent to you is the</p> <p>17 way it came to us. Okay?</p> <p>18 We're showing you the document as</p> <p>19 it appeared when it came to us in discovery.</p> <p>20 And it says: Operator Risk</p> <p>21 Assessment. The most important parameter for risk</p> <p>22 assessment is the absorbed dose (bodyweight per</p> <p>23 day), and then it says, See A2.1.3 Operator</p> <p>24 Exposure and A2.3.2 Acute Toxicity.</p> <p>25 The amounts of paraquat absorbed</p>	<p>1 references; correct?</p> <p>2 A. No, sir, I do not.</p> <p>3 Q. All right. We'll move on and we'll go</p> <p>4 to Exhibit 11.</p> <p>5 (Ouzts Deposition Exhibit 11</p> <p>6 marked.)</p> <p>7 Q. (BY MR. TILLERY) Exhibit 11 is</p> <p>8 SYNGENTA_20885977. This is a two-page document,</p> <p>9 sir.</p> <p>10 The only part with text is on the</p> <p>11 front page, and the second page is References.</p> <p>12 A. Okay. Thank you.</p> <p>13 Q. All right. Tell me when you're ready</p> <p>14 to talk.</p> <p>15 [Document review.]</p> <p>16 A. I'm through, sir.</p> <p>17 Q. All right. Now, first of all, who is</p> <p>18 David Scott?</p> <p>19 A. David Scott?</p> <p>20 Q. Yes.</p> <p>21 A. I don't know him, sir.</p> <p>22 Q. Well, I'll represent to you this was</p> <p>23 another document presented to us by Syngenta,</p> <p>24 20885977. It's entitled Operator Exposure to</p> <p>25 Paraquat. The second page is signed David Scott,</p>

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1 29 August 2002.
 2 You don't know him?
 3 A. No, sir. That -- he may be someone
 4 who's actually in a global role or in the UK,
 5 which would be outside of my context.
 6 Q. All right. And the title of this
 7 document is Operator Exposure to Paraquat, isn't
 8 it?
 9 A. Yes, sir.
 10 Q. And if you go to the fourth paragraph
 11 of this document, it says, quote: So when
 12 spraying paraquat, Syngenta recommended the
 13 operator does not need 'protective clothing' --
 14 normal clothing, for example, a long sleeved
 15 shirt, long trousers and waterproof shoes are
 16 generally advised for spraying all pesticides
 17 including paraquat.
 18 Do you see that?
 19 A. Yes, sir.
 20 Q. Was that the recommendation in 2002
 21 for Syngenta?
 22 A. Not according to our label, no, sir.
 23 Q. Well, whether it was according to your
 24 label, was that what was being discussed and
 25 disseminated to others who asked questions?

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1 MR. WEIR: Object to form,
 2 foundation.
 3 THE WITNESS: Sir, I don't know.
 4 I don't know the knowledge. That would -- the
 5 recommendation that we would normally give would
 6 be follow the PPE requirements on the label.
 7 Q. (BY MR. TILLERY) So you don't know --
 8 strike that.
 9 Were you aware of the fact that
 10 this information in the operator exposure to
 11 paraquat on Exhibit 11 was disseminated to others?
 12 MR. WEIR: Objection to form,
 13 foundation.
 14 THE WITNESS: No, sir, I was not
 15 aware of this document.
 16 Q. (BY MR. TILLERY) Okay. So let's go
 17 to the next exhibit, No. 12.
 18 (Ouzts Deposition Exhibit 12
 19 marked.)
 20 Q. (BY MR. TILLERY) This is
 21 SYNGENTA_20885 -- strike that. 20885976.
 22 This appears to be an e-mail,
 23 doesn't it, sir?
 24 A. Yes, sir.
 25 Q. And it's from the same guy,

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1 David Scott, and it says CHBS. What is that?
 2 A. That would be based on where he is
 3 located, I believe.
 4 Q. And where would that be?
 5 A. I believe that would be in Basel,
 6 Switzerland.
 7 Q. So he's in the headquarters in Basel;
 8 right?
 9 A. Yes, sir, I believe that's correct.
 10 Q. All right. And he is responding to a
 11 Dr. Bala, B-A-L-A; right?
 12 A. Yes, sir.
 13 Q. And he copies documents to respond to
 14 the document -- to the questions from the doctor,
 15 doesn't he?
 16 A. Yes, sir.
 17 Q. And one of those is -- the very first
 18 one. Look at that. What is that, for the record?
 19 A. It says Operator Exposure to Paraquat
 20 document.
 21 Q. And it -- preceding exhibit, Operator
 22 Exposure to Paraquat; correct?
 23 A. That's what this icon says.
 24 Q. That's what it says. We can only --
 25 MR. WEIR: Steven, is it your

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1 representation that these are the same -- these
 2 are the same family of documents?
 3 MR. TILLERY: It's my
 4 representation that exactly what happened I said
 5 happened looks to have occurred. And that we have
 6 a David Scott 29 August 2002; and then an e-mail,
 7 what appears to be six days later, 9-24-2002, to a
 8 Dr. Bala enclosing it.
 9 Q. (BY MR. TILLERY) Now, what I'm
 10 wanting to know from you, sir, is, in behalf of
 11 Syngenta is, how widely distributed was this
 12 Operator Exposure to Paraquat document?
 13 A. I do not know, sir.
 14 Q. All right. Let's move to
 15 Exhibit 12 -- 13, sorry.
 16 MR. WEIR: Sorry to interrupt your
 17 flow. So it wasn't clear to me. Is it your
 18 representation that Exhibit 11 is the exact
 19 document that was attached to Exhibit 12?
 20 MR. TILLERY: All I can tell you
 21 is what I saw. You're the one that holds the
 22 documents, not me. You tell me.
 23 MR. WEIR: What's --
 24 MR. TILLERY: Whoa, whoa, whoa.
 25 Why don't you tell me? Was that document the one

1 that was attached? Because we don't have it. We
 2 can't figure it out.
 3 MR. WEIR: So the --
 4 MR. TILLERY: All we know is
 5 that -- excuse me, Counsel. All what we know is
 6 that Operator Exposure to Paraquat is referenced.
 7 And -- right there, and it's from the same
 8 David Scott, and it includes the same document.
 9 Now, if we would have it, I'll
 10 guarantee you I would have produced it along with
 11 it, with the same Bates range. So I was trying to
 12 find out if he could answer that for us. And if
 13 you have that document, we're asking you to
 14 produce it right now.
 15 So let's move on.
 16 What's next, 13?
 17 MR. WEIR: Just to be clear for
 18 the record, Exhibit 12, no attachments were
 19 produced with it. Is that correct?
 20 MR. TILLERY: Not that I know of.
 21 MR. WEIR: Okay.
 22 MR. TILLERY: But I will -- I will
 23 do this. At the next deposition, at break, I will
 24 ask him if that's the same document in that
 25 attachment if they got one. But it references it

1 Q. This is -- our records show this is of
 2 somebody named B-R-O-U-W-E-R, D.H., and it was
 3 sponsored -- it was a study done by him, sponsored
 4 by Syngenta France.
 5 A. Yes, sir.
 6 Q. Okay. And the title is as I've
 7 indicated: Measurement of excreted paraquat in
 8 workers following a single day's habitual use in
 9 luzerne. Okay?
 10 And date of publication is
 11 June 2007; is that correct?
 12 A. Yes, sir.
 13 Q. Purpose was: To provide
 14 representative data on exposure of agricultural
 15 workers to paraquat resulting from mixing, loading
 16 and application of paraquat, wasn't it?
 17 That's -- if you want to see that
 18 to verify it --
 19 A. Yes.
 20 Q. -- that's on 2023.
 21 If you could pull that up for him,
 22 please.
 23 And if you look at the first
 24 sentence: A field study was conducted to provide
 25 representative data on exposure of agricultural

1 at exactly the same name and title.
 2 MR. WEIR: I'll take a look.
 3 MR. TILLERY: Same document title.
 4 And it's five days later after he created it.
 5 MR. WEIR: That much, I
 6 understand. I just wanted to know if there was an
 7 actual connection between the two apart from, you
 8 know, the dates.
 9 MR. TILLERY: But it would seem to
 10 me, since you're the one that has the documents,
 11 that you could be the one that could verify that.
 12 MR. WEIR: I'm happy to check. I
 13 will check for you, just like I said.
 14 MR. TILLERY: Thank you.
 15 (Ouzts Deposition Exhibit 13
 16 marked.)
 17 Q. (BY MR. TILLERY) So let's go to
 18 Exhibit 13. Exhibit 13 is SYNGENTA_00022018.
 19 This is: Measurement of excreted
 20 paraquat in workers following a single day's
 21 habitual use in luzerne, okay?
 22 A. Yes, sir.
 23 Q. All right. And this is another
 24 Syngenta study; right?
 25 A. I don't --

1 workers to paraquat resulting from mixing, loading
 2 and application of the test product.
 3 A. Yes, sir.
 4 Q. Okay. According to their habitual or
 5 typical work practices. Okay?
 6 A. Mm-hmm.
 7 Q. And if you --
 8 A. Yes, sir.
 9 Q. -- go down the line just a little bit,
 10 there's another paragraph, and it says: All
 11 operators wore clothing, either coverall or
 12 trousers and jacket, that covered legs and arms.
 13 Only two operators did not use (protective) gloves
 14 during mixing. Okay?
 15 A. Yes, sir.
 16 Q. And it says --
 17 Okay. Now let's move on to --
 18 hold on -- 223. This is what's referred to as an
 19 as-is scenario, which means it represents typical
 20 farmers wearing their typical protective
 21 equipment.
 22 Is that what you understand that
 23 to mean, sir?
 24 A. Based on your definition, as-is would
 25 be -- I could agree with that.

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1 MR. TILLERY: Let's go to 2029 for
 2 him to verify that.
 3 THE WITNESS: I see it now, sir.
 4 It just came up.
 5 MR. TILLERY: All right. Thank
 6 you.
 7 Q. (BY MR. TILLERY) An 'as-is' scenario
 8 is defined as habitual conditions of use by the
 9 operators, using their own spray equipment and
 10 wearing their own work clothing and personal
 11 protective equipment (if any) for a typical (crop
 12 and location related) working day. All
 13 observations and activities were recorded by study
 14 personnel; is that correct?
 15 A. That's correct.
 16 Q. All right. Syngenta observed in the
 17 study that some of the workers didn't wear gloves
 18 during mixing; right?
 19 I can give you the direction --
 20 A. Yes.
 21 Q. -- that's 2034, if you'd give that to
 22 him.
 23 And if you look under 5.2, the
 24 range of duration of application -- okay --
 25 lasted -- four operators loaded their spray tank,

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1 and eight operators loaded, three operators, that
 2 tells you.
 3 And then if you go down to the
 4 bottom under the clothing worn, one operator --
 5 that's 102 -- wore a disposal type of protective
 6 coverall on top of that. Operator 113 wore a
 7 disposal type of coverall, but no further details
 8 were collected.
 9 The four remaining operators wore
 10 long trousers and a coat or jacket, so legs and
 11 arms of all operators were covered by clothing.
 12 Only two operators did not use (protective) gloves
 13 during mixing, and six operators did not use
 14 respiratory protection during these tasks.
 15 Two operators wore neither gloves
 16 nor respirators.
 17 Okay? Does that sum it up?
 18 A. Yes, sir.
 19 Q. And if we go to page 2039.
 20 You see a summary of clothing
 21 configurations during application.
 22 Do you see that?
 23 A. Yes, sir.
 24 Q. So we see Syngenta observed that
 25 worker 110 didn't wear a respirator; right?

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1 See -- go down to 110.
 2 A. Right.
 3 Q. Protective gloves. Okay, you see
 4 that.
 5 Same is true for 111; right?
 6 A. Yes.
 7 Q. Do you see that?
 8 A. Yes, sir.
 9 Q. And go to 102.
 10 102 wore a mask, right?
 11 Respirator? Protective gloves and Tyvek-type
 12 coverall; right?
 13 A. Yes, sir.
 14 Q. What's that mean, "Tyvek"?
 15 A. It's -- Tyvek would be like a
 16 chemical-resistant suit, or it's a
 17 tight-weave-like material.
 18 Q. It's what the farmers -- so the
 19 farmers sometimes refer to it as like a spacesuit,
 20 isn't it?
 21 A. Could be called that, yes, sir.
 22 Q. Yes. And he wore the Tyvek-type
 23 clothing. Let's keep his number in mind. 102.
 24 Now let's to go 109.
 25 He wore the mask. He wore the

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1 protective gloves, and he wore a working coverall
 2 as well; right?
 3 Do you see that?
 4 A. Yes, sir.
 5 Q. So 102 and 109.
 6 Different times they made
 7 observations. If you look on page 43, which would
 8 be 2060.
 9 Actually, let's go back to the
 10 preceding page. And that's 2059. All right?
 11 At the bottom under Surface
 12 treated, there's a reference to splashes observed
 13 on the plastic overalls. Some splashes on sprayer
 14 and operator shoes as well.
 15 Do you see that?
 16 A. I don't think we're on the same page,
 17 sir. I'm on Surfaces treated: Total sprayed in
 18 two loads. 29.36 hectare.
 19 Q. Okay. Can you move that up just a
 20 little bit on the page. Up at the top.
 21 That is the right one. There it
 22 is, stop right there.
 23 Okay. If you'd go down under --
 24 just look under Mixing and Loading.
 25 Do you see?

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1 A. Oh, yes, sir. Uh-huh.
 2 Q. Operator got on the sprayer without
 3 gloves to replace screw top. Could not find it.
 4 Decided to drive without top.
 5 Okay. Mixture spillage was
 6 observed along the spray.
 7 Do you see that?
 8 A. Yes, sir, I do.
 9 Q. And then down below, Possible
 10 contamination or particular events: Mask is
 11 usually used for insecticides. Then it said:
 12 When pouring R BIX directly through the tank
 13 orifice, splashes were observed on the plastic
 14 overall. Some splashes on the sprayer and
 15 operator shoes as well.
 16 Do you see that?
 17 A. Yes, sir.
 18 Q. All right. Now let's go to the next
 19 page. Under Possible contaminations at the
 20 bottom?
 21 A. Okay.
 22 Q. During the application, the rear
 23 window of the tractor for this person -- and these
 24 numbers are coordinated with the people at the
 25 top.

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1 Do you see up in that upper
 2 right-hand corner? This is No. 103.
 3 A. Oh, okay.
 4 Q. Do you see that?
 5 A. Yes, sir.
 6 Q. Okay. All right.
 7 During the application, the rear
 8 window of the tractor's left open. Heavy smell
 9 noticed inside the cab. Plastic markers used to
 10 indicate passes in the field. This marker was
 11 removed with bare hands after being covered by
 12 spray. Operator walked into the treated plot.
 13 During spraying, the PPE (half mask and gloves)
 14 were stored in the tractor cab.
 15 Okay. Are you seeing that?
 16 A. Yes, sir.
 17 Q. All right. Then let's go to 2066.
 18 If you look at the bottom under
 19 Possible contaminations with respect to No. 109.
 20 Operations on nozzles were made without gloves.
 21 R BIX containers were manipulated with bare hands.
 22 Touched contaminated tank without
 23 gloves on.
 24 Walked in treated area. Okay?
 25 A. Yes.

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1 Q. And then under that, under Cleaning
 2 procedure for 109: Boom and nozzles rinse was
 3 made once with 300 L. Control panel was
 4 manipulated with bare hands.
 5 Do you see that?
 6 A. Yes, sir.
 7 Q. And it just goes on. I mean, we can
 8 continue on throughout this document. But you get
 9 the picture. If we go to the next page. This is
 10 2067. And this is Test Subject 110. At the
 11 beginning of the application, under Possible
 12 contaminations, particular events at the bottom.
 13 At the beginning of application,
 14 nozzles are checked and touched with bare hands.
 15 Rear window remained open during
 16 application.
 17 Operator walked in treated area.
 18 He walked in excess mixture poured in the
 19 courtyard at the end of exposure.
 20 Next page, with respect to test
 21 subject 111.
 22 At the very bottom, Possible
 23 contaminations: Nozzles were manipulated with
 24 bare hands for cleaning.
 25 Do you see that?

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1 A. Yes, sir.
 2 Q. Is this a consistent pattern we're
 3 seeing in all of the studies that were being done
 4 from how the application is being done, whether
 5 it's in Spain or France or Arkansas or Alabama or
 6 Illinois? Would you say these are consistent
 7 things we're seeing in terms of how the farmer
 8 applicators use paraquat?
 9 MR. WEIR: Object to form.
 10 THE WITNESS: I would say there's
 11 similar trends based on these documents. I don't
 12 know that I could speak for Illinois or others as
 13 far as overall say that this would be exactly the
 14 same, sir.
 15 Q. (BY MR. TILLERY) Well, whether it's
 16 exactly the same, do you have any reason to
 17 believe that it's any way significantly different
 18 no matter where the farmer applicators are
 19 applying this? Whether it's in Malaysia; whether
 20 it's in El Salvador. Whether it's in Illinois;
 21 whether it's in Spain, France; you see the same
 22 recurring theme with respect to the use of PPE and
 23 operator conduct in the application of paraquat,
 24 don't you, sir?
 25 MR. WEIR: Object to form.

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1 THE WITNESS: Again, sir, based on
 2 these studies, I see similar trends, but overall
 3 I'm -- there's variations that I can't speak to as
 4 far as this would be everywhere.
 5 MR. TILLERY: I move to strike
 6 your answer as nonresponsive.
 7 Can you read back my question to
 8 him?
 9 (Whereupon, the following
 10 testimony was read by the court reporter.)
 11 "QUESTION: Well, whether it's
 12 exactly the same, do you have any reason to
 13 believe that it's any way significantly different
 14 no matter where the farmer applicators are
 15 applying this? Whether it's in Malaysia; whether
 16 it's in El Salvador. Whether it's in Illinois;
 17 whether it's in Spain, France; you see the same
 18 recurring theme with respect to the use of PPE and
 19 operator conduct in the application of paraquat,
 20 don't you, sir?"
 21 (End of readback.)
 22 MR. WEIR: Same objections.
 23 THE WITNESS: Are you waiting on
 24 an answer, sir?
 25 MR. TILLERY: Yes.

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1 THE WITNESS: Okay. Sorry.
 2 Again, the trends are very similar
 3 here. I can't speak to entirely would these be
 4 exactly the same all over the United States or the
 5 world, sir.
 6 Q. (BY MR. TILLERY) That's not what I
 7 asked you. Is -- did I have the word "exactly" in
 8 my question?
 9 You know I didn't ask you that
 10 question.
 11 A. No, sir.
 12 Q. Now, I'm asking you this: Do you know
 13 of any reason why the method of application and
 14 the use of personal protective equipment would
 15 vary in any significant way in any part of the
 16 United States from what you've seen in these
 17 studies?
 18 MR. WEIR: Object to form.
 19 THE WITNESS: Sir, I think it
 20 could vary based on each individual and how they
 21 interpret the labels and whether or not they
 22 perceive a risk, or -- you know, it's -- it's one
 23 that they have to follow. Or should follow.
 24 MR. TILLERY: It's unresponsive
 25 and move to strike it.

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1 Q. (BY MR. TILLERY) Are you aware of any
 2 place in the United States where they apply
 3 paraquat differently than what you've seen in
 4 these studies? As a general rule, as a general
 5 practice.
 6 MR. WEIR: Object to form.
 7 THE WITNESS: Sir, I don't have
 8 answers as far as the document that fully -- other
 9 than the reference I gave using my brother.
 10 But --
 11 Q. (BY MR. TILLERY) Yeah, other than
 12 your brother -- other than your brother, do you
 13 know of a region, of a part of a state or a state
 14 where they do things significantly different than
 15 what's reflected in these studies?
 16 Can you answer that directly, sir?
 17 MR. WEIR: Object to form.
 18 THE WITNESS: I do not, sir.
 19 MR. TILLERY: All right.
 20 Thank you.
 21 Q. (BY MR. TILLERY) Now, let's go and
 22 take a look at Exhibit -- the table at 5.6. And
 23 that's 2040.
 24 Now, this table that we're looking
 25 at right now shows data from urine samples taken

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1 from the workers, doesn't it?
 2 A. Yes, sir.
 3 Q. And paraquat detected in the urine of
 4 a worker confirms the worker was exposed to
 5 paraquat, right?
 6 MR. WEIR: Object to the form,
 7 foundation.
 8 THE WITNESS: The document would
 9 be a detection, yes, sir. I mean, as far as
 10 exposure, this would be related to the document.
 11 Q. (BY MR. TILLERY) And it confirms that
 12 exposure was systemic too, right, if it's detected
 13 in the urine, because that had to come from the
 14 blood; right?
 15 MR. WEIR: Object to form,
 16 foundation.
 17 THE WITNESS: It would be my
 18 understanding, sir.
 19 Q. (BY MR. TILLERY) All right. And two
 20 workers had detectable levels of paraquat in their
 21 urine; right?
 22 A. I see -- it looks like I have 102.
 23 Q. And 109?
 24 A. Yes, sir, on 2B, yes, sir.
 25 Q. 109.

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1 And Worker 102 had detectable
 2 levels. You can see that from Table 55.
 3 I'm trying to look at --
 4 I think we already looked at that.
 5 Let's go back to Table 5.5 which is -- just
 6 quickly. That's 2039.
 7 Q. (BY MR. TILLERY) Do you see 102 and
 8 109?
 9 A. Yes, sir.
 10 Q. And Table 55 shows Worker 102 had
 11 protective equipment, respiratory equipment;
 12 right?
 13 A. Yes, sir.
 14 Q. Respiratory protective equipment
 15 refers to a respirator; right?
 16 A. Could you clarify one thing for me,
 17 sir? Where do you see respirator? I see RPE
 18 (half face). Is that what you're referring to
 19 respirator on that?
 20 Q. Yes, respirator equipment, half face,
 21 yes.
 22 A. Thank you.
 23 Q. And Worker 102 wore protective gloves;
 24 right?
 25 A. Correct.

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1 Q. And the note under the table reports
 2 that Worker 102 wore protective gloves throughout
 3 the whole period of mixing: loading and
 4 application. If you look at the reference.
 5 A. Yes, sir.
 6 Q. And the Remarks column reports
 7 Worker 102 wore a Tyvek type coverall; right?
 8 A. Yes, sir.
 9 Q. That's a waterproof coverall. And he
 10 wore the Tyvek-type coverall throughout the entire
 11 period mixing, loading, and application; right?
 12 A. Yes, sir.
 13 Q. So he wore the mask, the more
 14 protective gloves through the whole period, and
 15 the Tyvek covered his body; correct?
 16 A. Yes, sir.
 17 Q. And despite all of that personal
 18 protective equipment for Worker 102, he still had
 19 detectable levels of paraquat in his urine, didn't
 20 he, sir?
 21 MR. WEIR: Object to form.
 22 THE WITNESS: Based on those data,
 23 yes, sir.
 24 Q. (BY MR. TILLERY) Worker 109 also had
 25 detectable levels of paraquat in his urine, you

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1 told me; right?
 2 A. Yes, sir.
 3 Q. And if we keep looking at Table 5.5,
 4 you can see that Worker 109 wore a respirator;
 5 right? Or a cover? Half face?
 6 A. Yes, sir.
 7 Q. Wore a working coverall.
 8 A. Yes, sir.
 9 Q. He wore the working coverall
 10 throughout the whole period of mixing, loading,
 11 and application; right?
 12 A. Yes, sir.
 13 Q. Despite wearing a respirator, working
 14 coveralls, there was a detectable level of
 15 paraquat in Worker 109's urine, wasn't there?
 16 MR. WEIR: Object to form.
 17 THE WITNESS: Yes, sir, there was
 18 a detect.
 19 Q. (BY MR. TILLERY) And that means he
 20 was exposed to paraquat, and that paraquat made
 21 its way into its bloodstream and was excreted in
 22 his urine.
 23 Is that a fair statement, sir?
 24 MR. WEIR: Object to form,
 25 foundation. Scope as well.

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1 THE WITNESS: Based on these data
 2 presented, he did test positive, sir.
 3 MR. TILLERY: Yes. The answer
 4 would be yes. All right.
 5 What's our next exhibit? Let's
 6 move to Exhibit 14, please.
 7 (Ouzts Deposition Exhibit 14
 8 marked.)
 9 Q. (BY MR. TILLERY) This is another one
 10 by the same investigator, D.H. Brouwer. Another
 11 study sponsored by Syngenta France. This is
 12 SYNGENTA-PQ-00125211.
 13 And if you look at 5219 --
 14 MR. WEIR: Mr. Ouzts, do you have
 15 the document yet? It hasn't come across here.
 16 MR. TILLERY: I'm sorry.
 17 Actually, let me give you a minute to look at this
 18 study, please.
 19 THE WITNESS: Okay. Thank you.
 20 [Document review.]
 21 MR. TILLERY: And tell me when
 22 you're ready to discuss it.
 23 THE WITNESS: Sure. Just scroll
 24 through.
 25 [Document review.]

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1 A. Okay, sir.
 2 Q. (BY MR. TILLERY) Okay.
 3 And this is SYNGENTA_0125211,
 4 Plaintiffs' Deposition Exhibit No. 14.
 5 And it's entitled Formulation
 6 R-BIX, and then it's got the code sequence
 7 numbers. Measurement of excreted paraquat in
 8 workers following a single-day habitual use in
 9 vines.
 10 Do you see that?
 11 A. Yes, sir.
 12 Q. Okay. What is your understanding
 13 about this study and what they were doing?
 14 A. Just in the data, looking through the
 15 document, it looks to be the same, a very similar
 16 experimental design as the previous one, with
 17 differences in spray type, location, as well as
 18 just in the overall clothing.
 19 Q. They were trying to determine whether
 20 people -- how they worked and how they handled the
 21 chemical, weren't they?
 22 A. Yes, sir.
 23 Q. And they were basically out observing
 24 them, taking note of what they did and showing
 25 their exposure to the chemical as well, weren't

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1 they?
 2 MR. WEIR: Object to the form,
 3 foundation.
 4 THE WITNESS: They took notes
 5 based on how they were based on this document,
 6 yes, sir.
 7 Q. (BY MR. TILLERY) Okay. And you
 8 understand the objective of the study was: To
 9 provide representative data on exposure of
 10 experienced agricultural workers to paraquat
 11 resulting from mixing, loading, and application of
 12 paraquat according to their habitual or typical
 13 working practices. Exposure was determined on a
 14 24-hour composite urine samples for paraquat;
 15 correct?
 16 MR. WEIR: Object to the form.
 17 Are you reading from somewhere or are we going to
 18 a page in here?
 19 If you want to look at it, we'll
 20 show it to you. 5219. I was trying to speed
 21 things up, but we're happy to do it.
 22 THE WITNESS: Yes, I see that
 23 under 2.1 of the objective.
 24 Q. (BY MR. TILLERY) 2.1, read it into the
 25 record if you want, just to confirm.

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1 A. That's -- I agree with what you said.
 2 That's -- you spoke to that on the objective.
 3 Q. It's word-for-word what I told you,
 4 isn't it, sir?
 5 A. Yes, sir.
 6 Q. And then -- yeah. And then if we look
 7 at the as-is scenario on personal protective
 8 equipment. Let's go to 5223.
 9 And they define Study design
 10 there, don't they?
 11 A. Yes, sir.
 12 Q. Can you read that well enough -- or
 13 strike that.
 14 Can you see that well enough to be
 15 able to read those two paragraphs into the record
 16 so everybody can see them and hear them?
 17 A. Yes, sir, I can do that.
 18 Starting in the -- under Study
 19 design 4.2; correct?
 20 Q. Yes, sir?
 21 A. Okay. In a single-day exposure for an
 22 'as is' (habitual use) scenario, the excretion of
 23 paraquat resulting from exposure during
 24 mixing/loading and backpack application (spot
 25 spraying) of R-BIX (A9409AL) in vines during one

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1 typical working day was measured by collection of
 2 complete 24 urine samples 1 day pre-application,
 3 during the application day (1 to 2 samples), and
 4 for 5 days following the day of application. The
 5 study involved fifteen subjects.
 6 An 'as-is' scenario is defined as
 7 habitual conditions of use by the operators, using
 8 their own spray equipment and wearing their own
 9 work clothing and personal protective equipment
 10 (PPE) (if any) for a typical (crop and location
 11 related) working day. All observations and
 12 activities were recorded by study personnel.
 13 Q. Okay. If we go to 5228. If you look
 14 under Results. Halfway down it says: The
 15 clothing worn during application and the use of
 16 PPE -- which stands for personal protective
 17 equipment, doesn't it, sir?
 18 A. Yes, sir.
 19 Q. During mixing & loading is summarized
 20 in Table 5.5. Six of the 15 operators wore boots,
 21 whereas the others wore heavy work shoes and two
 22 wore sports shoes.
 23 Most operators wore shorts and
 24 T-shirt, so lower legs and forearms were
 25 uncovered. Only four operators wore a hat or cap.

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1 During mixing & loading six operators wore gloves,
 2 and two of them wore gloves throughout the whole
 3 mixing/loading and application period. Only one
 4 operator used a respirator during mixing and
 5 loading.
 6 Do you see that?
 7 A. Yes, sir.
 8 Q. Okay. And if you go to Table 5.5,
 9 that's 5233.
 10 And this shows the personal
 11 equipment -- personal protective equipment which
 12 was either used or not used by the workers;
 13 correct?
 14 A. Yes, sir.
 15 Q. So we see that only one of the 15
 16 workers that they were watching wore a respirator;
 17 right?
 18 A. No. 4, yes.
 19 Q. Only six of the 15 wore gloves; right?
 20 A. Correct.
 21 Q. And if we look at the monitor reports
 22 in Annex 1 -- that's 5255 -- we see Worker 21 --
 23 if you see that -- wiping out the sprayers with
 24 bare hands.
 25 A. That would be under the possible

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1 contamination?
 2 Q. It would, sir.
 3 A. Okay.
 4 Q. If you see at the top under Operator
 5 PIN, and then it has reference 21 at the top?
 6 A. Yes, sir, I do.
 7 Q. And then down under Possible
 8 contaminations or particular events, it says:
 9 Wiped out sprayers with bare hands; with towel,
 10 wearing gloves, three times. Okay?
 11 A. Yes, sir.
 12 Q. All right. And if we look at 5259.
 13 And that's Subject 26.
 14 Under Possible contaminations and
 15 particular events, do you see: At loading (3
 16 times during exposure), spatters occurred on the
 17 outer part of the sprayer that were then wiped out
 18 with gloves. Whenever the spatters reached him,
 19 the operator scrubbed his face or skin with the
 20 upper side of his glove. Held his cap with
 21 contaminated hands [sic].
 22 Boots were wet and operator walked
 23 into the treated weeds on eight occasions.
 24 Drank water directly from the
 25 bottle handled with gloved hand (3 times).

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1 Okay. Do you see that?
 2 A. Yes, sir.
 3 Q. And if we go to 5263, this is
 4 Subject 31. Possible contaminations or particular
 5 events.
 6 Do you see that?
 7 A. Yes, sir.
 8 Q. Some problems occurred with the nozzle
 9 during first and third load. When it was checked,
 10 the nozzle was manipulated with bare hands. He
 11 blew into the nozzle (two times in total). After
 12 fixing the sprayer at third load, he washed his
 13 hands under clear water.
 14 Answered a phone call while
 15 spraying, during a rest.
 16 Do you see that?
 17 A. Yes, sir.
 18 Q. Now, do you see anything in that
 19 study, as we have reviewed the observations, which
 20 is any way significantly different than the
 21 studies -- the other studies that Syngenta or its
 22 corporate predecessors have either done themselves
 23 or have had done for them?
 24 MR. WEIR: Object to form.
 25 THE WITNESS: The trend in these

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1 studies is, as you -- they're following as-is
 2 handling of the pesticides to document, yes.
 3 Q. (BY MR. TILLERY) What I'm saying to
 4 you is the trend is consistent, isn't it?
 5 MR. WEIR: Object to form.
 6 THE WITNESS: The trend is
 7 consistent with the documentation of as-is, yes,
 8 sir.
 9 Q. (BY MR. TILLERY) Yeah. And what I
 10 was saying to you is, whether we're looking at
 11 Malaysian plantations in one study, whether we're
 12 looking at South America or Europe or studies in
 13 Alabama, Georgia, the general practices with
 14 respect to the application and the equipment that
 15 are used to protect the applicators is a
 16 consistent one, isn't it, sir?
 17 MR. WEIR: Object to form.
 18 THE WITNESS: Per these test
 19 protocol, yes, sir.
 20 MR. WEIR: If you're going to go
 21 on to another document, do you mind if we take
 22 another break?
 23 MR. TILLERY: Not at all. Let's
 24 make this one just a little longer because I'm
 25 going to have to get on a call, okay?

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1 MR. WEIR: Okay. How long do you
 2 need?
 3 MR. TILLERY: Say, it's 10 -- or
 4 20 after, let's make it a 20-minute break. Okay?
 5 MR. WEIR: Sounds good.
 6 MR. TILLERY: Thank you.
 7 THE VIDEOGRAPHER: We are going
 8 off the record. The time is 2:19 p.m.
 9 (Recess taken, 2:19 p.m. to
 10 2:42 p.m. EDT)
 11 THE VIDEOGRAPHER: Back on the
 12 record. The time is 2:43 p.m.
 13 Q. (BY MR. TILLERY) Mr. Ouzts, we're
 14 going to look at Plaintiffs' Exhibit No. 15 now.
 15 (Ouzts Deposition Exhibit 15
 16 marked.)
 17 Q. (BY MR. TILLERY) This is another
 18 Brouwer study sponsored by Syngenta France. This
 19 is SYNGENTA_00124055.
 20 If you could familiarize yourself
 21 briefly with this study. Let me know if you've
 22 looked at it before in preparation for the
 23 deposition.
 24 A. No, sir, I haven't seen this one.
 25 Q. All right. Take your time, then, in

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1 looking at it.
 2 A. Thank you.
 3 Q. I'll have a few questions.
 4 [Document review.]
 5 A. Okay, sir.
 6 Q. The title, if you could just read that
 7 into the record of this particular study.
 8 A. Sure. I need to move back to the
 9 first page.
 10 Q. We will.
 11 A. Okay.
 12 Are you going to project or would
 13 you like for me to read it just from the document
 14 I have?
 15 Q. You can read it. You read better than
 16 I do.
 17 A. Thank you.
 18 Formulation R-BIX (A9409AL):
 19 Measurement of excreted paraquat in workers
 20 following three consecutive days habitual use in
 21 bananas.
 22 Q. And that included observing the
 23 personal protective equipment that they wore in
 24 this study as well, didn't it?
 25 In other words, the study purpose

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1 was not only to measure exposure, but also to
 2 observe the personal protective equipment.
 3 Did you see that?
 4 MR. WEIR: Object to form.
 5 MR. TILLERY: If not, let's just
 6 go ahead to the next page.
 7 Q. (BY MR. TILLERY) Actually, it's
 8 page 4060. Sorry.
 9 The first paragraph is a summary
 10 of the field study purpose, isn't it?
 11 A. Yes, sir.
 12 Q. Do you see that?
 13 A. I do.
 14 Q. All right.
 15 Field study was conducted to
 16 provide representative data on exposure of
 17 agricultural workers to paraquat resulting from
 18 mixing, loading and application of the test
 19 product, R-BIX, according to their habitual work
 20 practices.
 21 Right?
 22 A. Yes, sir.
 23 Q. And if you skip down to where it says
 24 Three operators, that paragraph says: Three
 25 operators wore RPE -- what is that?

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1 A. I'm not sure, sir. That might be,
 2 actually, a typographical error.
 3 Q. It could be personal protective
 4 equipment, probably, right?
 5 A. I would think that would be what it
 6 should be.
 7 Q. Yeah, I would think so too.
 8 So three operators wore RPE,
 9 meaning likely PPE, and protective gloves during
 10 all mixing/loading activities. All operators wore
 11 long trousers and eleven of them wore long rubber
 12 boots all the time, whereas one operator wore
 13 heavy leather working shoes. Seven operators wore
 14 a shirt that covered their forearms during all
 15 days of application. A hat or cap was worn by six
 16 operators throughout the period of application.
 17 Is that a fair statement?
 18 A. Yes, sir.
 19 Q. Now, if we look at 4067. You'll see
 20 this is an 'as-is' under Study design, 4.2?
 21 A. Yes.
 22 Q. The as-is scenario is defined as
 23 habitual conditions of use by the operators, using
 24 their own spray equipment and wearing their own
 25 work clothing and personal protective equipment

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1 (if any) for a typical (crop and location related)
 2 working day. All observations and activities were
 3 recorded by study personnel.
 4 Is that a fair statement?
 5 A. Yes, sir.
 6 Q. All right. If we go to 4072.
 7 Can you see these are the Results
 8 section. Are you able to see this at the bottom?
 9 A. Yes.
 10 Q. Next-to-the-last paragraph: The
 11 actual use of PPE during mixing, loading and
 12 application is summarized in Table 5.5. Three
 13 operators wore -- again, I think that's PPE -- PPE
 14 and protective gloves during all mixing/loading
 15 activities. None of these types of PPE were used
 16 by 11 operators. Eleven operators wore long
 17 rubber boots throughout the entire period of
 18 application. All operators wore long trousers.
 19 Seven operators wore a shirt that covered their
 20 forearms during all days of application. All
 21 others wore a T-shirt during one or all days. A
 22 hat or cap was worn by six operators throughout
 23 the period of application.
 24 Okay?
 25 A. Yes, sir.

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1 Q. Do you see that?
 2 And then at the bottom, it says --
 3 for PIN 225, and that is referencing that
 4 particular individual. The field monitors'
 5 "observations" gave clear evidence that there was
 6 exposure resulting from bare hand manipulation of
 7 the nozzle and leakages from the sprayer on days 2
 8 and 3. On day 4 it was noted that operator PIN
 9 228 manipulated the sprayers' nozzle with bare
 10 hands.
 11 Do you see that?
 12 A. Yes, sir.
 13 Q. In virtually every one of these
 14 studies, would it be fair to say that at one time
 15 or another in the observations, the study
 16 scientist observed that people were handling or
 17 manipulating spray nozzles with their bare hands?
 18 MR. WEIR: Object to form.
 19 THE WITNESS: In these studies,
 20 yes, sir.
 21 Q. (BY MR. TILLERY) That would seem to
 22 be a common characteristic, would you agree?
 23 MR. WEIR: Same objection.
 24 THE WITNESS: It was a common --
 25 in these studies, it was a common trend.

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1 MR. TILLERY: Right. Thank you.
 2 Q. (BY MR. TILLERY) And if we go to
 3 Table 5.5. It's on 4082.
 4 Can you read that okay or is there
 5 something you can do to enlarge it? Are you able
 6 to read it --
 7 There we go.
 8 A. Yeah, I can do the enlargement myself,
 9 so I was good.
 10 Q. All right. We'll leave it to you to
 11 enlarge it and do what you want to do. We'll take
 12 it back.
 13 A. Thank you.
 14 Q. All right. All right.
 15 This is a summary of the personal
 16 protective equipment that was worn by the test
 17 subjects; correct?
 18 A. Yes, sir.
 19 Q. All right. So we see here that
 20 Worker 216. Again, it's clear for the folks who
 21 are watching this and going along with us that we
 22 have a PIN at the top left which corresponds with
 23 a number. And that number is 216 through 230.
 24 And those are the test subjects,
 25 aren't they?

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1 A. Yes, sir.
 2 Q. And then the next is whether -- the
 3 category is Details PPE during mixing/loading and
 4 application; correct?
 5 A. Correct.
 6 Q. And it's got half face mask,
 7 protective gloves, shoes, boots, trousers, shorts,
 8 shirt, T-shirt, hat/cap, and then Remarks section;
 9 is that right?
 10 A. Yes, sir.
 11 Q. All right. So we see the Workers 216,
 12 217, 218, 222, 223, 224, 225, 226, 228, 229, and
 13 230 did not wear gloves or a respirator; correct?
 14 A. Correct.
 15 Q. Worker 221 was observed on
 16 March 2nd [sic] rinsing and cleaning his equipment
 17 without gloves.
 18 We can do that. That's moving on
 19 to 4116.
 20 If you look back, look at the
 21 bottom of that page, 10:34. That must be the time
 22 in which the observation was made. He rinses his
 23 equipment without gloves, puts his hand in the
 24 bottom of the sprayer, cleans the lance, nozzle,
 25 and filter.

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<p>1 Do you see that?</p> <p>2 A. Yes, sir.</p> <p>3 Q. All right. And on the next one, it's</p> <p>4 24117. If we look at that. And that's the date</p> <p>5 of August 3rd, 2007, when they were doing this</p> <p>6 test.</p> <p>7 It shows Worker 221 was observed</p> <p>8 loading and mixing without a respirator or gloves.</p> <p>9 And that's at the bottom.</p> <p>10 A. Okay.</p> <p>11 Q. And if we move on to the next page,</p> <p>12 which is 2000 -- I'm sorry, it's 24118.</p> <p>13 Do you see the reference to this</p> <p>14 particular individual?</p> <p>15 A. I don't think I do. I'm looking at</p> <p>16 page -- the top right page number says page 16 of</p> <p>17 41.</p> <p>18 Q. That's what mine shows too.</p> <p>19 I can't see the particular subject</p> <p>20 number. They've left that out, apparently.</p> <p>21 A. Okay.</p> <p>22 Q. This must be under the subject matter</p> <p>23 221, Operator 221. And it just says on that page:</p> <p>24 Starts spraying the same plot as previous day.</p> <p>25 Gloves and mask stay in his pocket. Nibbling at a</p>	<p>1 top of that page. That's page 35 of the 41-page</p> <p>2 report, if you see it.</p> <p>3 Do you see it okay?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Where it says: Application procedure:</p> <p>6 Operator sprays in front of him. He walks in his</p> <p>7 treated area. He often walks in treated area by</p> <p>8 PIN 229.</p> <p>9 Okay? Bottom of the page, 12:04:</p> <p>10 He rinses his sprayer which overflows. He rubs</p> <p>11 the rim and then wipes his face. He wipes his</p> <p>12 lance with his shirt. The lance was on the ground</p> <p>13 where mixture was spilled. He previously took the</p> <p>14 lance in his hand.</p> <p>15 Do you see that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. The very next page is 4138. This is</p> <p>18 the same Test Subject 228. Monitoring date is</p> <p>19 different. 7:54. Fills 2nd load. Dismantles PIN</p> <p>20 229 nozzle to unblock it (he manipulates it with</p> <p>21 bare hands) with water.</p> <p>22 The bottom of the page at 10:36.</p> <p>23 He rinses the drum and his sprayer with his bare</p> <p>24 hands.</p> <p>25 Next page. Operator 229, and this</p>
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<p>1 toothpick, holds it with his contaminated hands.</p> <p>2 Then later on down at 9:40: Fills</p> <p>3 6th load. Mixture spills. Takes off and replaces</p> <p>4 regularly with the toothpick in his mouth.</p> <p>5 If we go to 4126.</p> <p>6 And this is subject 224. At the</p> <p>7 bottom of the page 10:15. He notices a problem on</p> <p>8 his nozzle. He resets it with his fingers. He</p> <p>9 has mixture on his hands. He shakes them before</p> <p>10 wiping them with a tissue at his pocket. He wipes</p> <p>11 the lance as well and keeps the tissue in his left</p> <p>12 hand.</p> <p>13 Do you see that?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And then if we move to 4129. This is</p> <p>16 Subject 225. And it's at time 6:13.</p> <p>17 Do you see that? Monitoring date?</p> <p>18 A. Yes, sir.</p> <p>19 Q. He says: He tries the sprayer,</p> <p>20 problem with the nozzle. He manipulates it with</p> <p>21 his hands without gloves; uses his T-shirt to</p> <p>22 unscrew the nozzle. After several attempts, the</p> <p>23 problem is still here.</p> <p>24 If we move to 4137. This is test</p> <p>25 Subject 228, Application procedure section at the</p>	<p>1 is Bates 4139.</p> <p>2 Under Mixing/loading procedures:</p> <p>3 Mixtures are prepared by PIN 228. He is only</p> <p>4 loading his sprayer. He uses a bucket, plunges it</p> <p>5 in the mixture (without gloves) and fills the</p> <p>6 sprayer with it. He spills mixture on his sprayer</p> <p>7 at almost each load.</p> <p>8 Operator sprays in front of him</p> <p>9 and walks in treated area. He often crosses</p> <p>10 PIN 228. He has a very small output and works</p> <p>11 very slowly. He has many problems with a blocked</p> <p>12 nozzle during Day 4. His sprayer has no filter.</p> <p>13 And it goes on.</p> <p>14 When we go to the next page for</p> <p>15 one more reference point, and this is under 229,</p> <p>16 the subject, but the number is 4140 for the</p> <p>17 Bates number.</p> <p>18 And if you look under 9:48, at the</p> <p>19 bottom of that page: He stops to unblock his</p> <p>20 nozzle, dismantles it with his T-shirt. Knocks</p> <p>21 the nozzle against his sprayer with bare hand.</p> <p>22 Replaces it and starts spraying again. He coughs</p> <p>23 again.</p> <p>24 Again, do you see those that I'm</p> <p>25 referencing?</p>

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1 A. Yes, sir.
 2 Q. Now, again, this is consistent with
 3 what we've seen from the other studies, isn't it,
 4 sir?
 5 MR. WEIR: Objection, form.
 6 THE WITNESS: The trends are
 7 similar, yes, sir.
 8 Q. (BY MR. TILLERY) All right. So let's
 9 go back to Table 5.5, which is at 4082.
 10 Can you see that okay?
 11 A. Yes, sir.
 12 Q. All right. Some of the workers --
 13 strike that.
 14 Some workers wore more extensive
 15 personal protective equipment than others, didn't
 16 they?
 17 A. Yes, sir, based on the data here.
 18 Q. Workers 219, 220, 221, and 227 wore
 19 respiratory protective equipment, didn't they?
 20 A. Yes, sir.
 21 Q. Again, that's 219, '20, '21, and '27?
 22 A. Yes, sir.
 23 Q. Does that look fair?
 24 All right. And but one of them,
 25 Worker 219, wore a gas mask with A2 protection

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1 levels, didn't he?
 2 A. In the remarks, yes, sir.
 3 Q. What is a gas mask with A2 protection
 4 levels?
 5 A. I don't know the A2 designation. I
 6 would have to reference that in a document. But
 7 I'm -- I don't know if that depicts full face.
 8 Obviously it looks like half face. I'm assuming
 9 it has some sort of cartridge mechanism in it.
 10 Q. As a canister or cartridge as a filter
 11 to keep particles out; right? That's your
 12 understanding?
 13 A. Correct.
 14 Q. All right. Worker 221 wore a
 15 respirator for days 2 and 3, but he didn't wear it
 16 for day 4; right?
 17 A. Is there a reference? I don't see a
 18 reference. I'm assuming that might be with the
 19 No. 3?
 20 Q. Oh, with the other page?
 21 A. Yeah, I -- I don't see --
 22 Q. Yes, I'm sorry. It's the reference on
 23 the following page. It was the index that
 24 says that -- it's sort of the footnote that tells
 25 you that.

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1 A. Correct. Yeah.
 2 Q. I can pull that if you want to see it.
 3 But in any event, let's go to 5.6.
 4 And that would be at 4084.
 5 A. Okay.
 6 Q. Let's look at the level of paraquat in
 7 the urine of the four workers who wore respiratory
 8 protective equipment.
 9 219. What's his level? Positive;
 10 right?
 11 A. It's positive, yep. 2B is .55.
 12 Q. 220, positive.
 13 A. Yes, sir.
 14 Q. 221.
 15 A. The same.
 16 Q. Positive.
 17 A. Positive.
 18 Q. 227. Positive; right?
 19 A. I don't see a 227 on this page, sir.
 20 Q. Oh, I'm sorry. Could you pull up 4085
 21 for him?
 22 A. There we go. You said 227?
 23 Q. Yes, sir.
 24 A. 227 does not show a detect.
 25 Q. 227, urine volume?

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1 A. There is a urine volume which is
 2 actually a volumetric of what they collected, but
 3 the concentration level appears to be below the
 4 LLOQ.
 5 Q. Okay. Workers 219, 221 have
 6 detectable levels of paraquat in their urine?
 7 A. I believe that is correct, yes, sir.
 8 Q. So two of the four workers who wore
 9 respiratory equipment had detectable levels of
 10 paraquat in their urine?
 11 A. Yes, sir.
 12 Q. Worker 219 even wore a gas mask with
 13 A2 protection level, and he still had detectable
 14 levels of paraquat in his urine, didn't he?
 15 MR. WEIR: Object to form.
 16 THE WITNESS: The data, yes. I
 17 don't remember what other PPE he had, sir.
 18 Q. (BY MR. TILLERY) Well, let's go back
 19 and show you if you want to look at it.
 20 A. No, it's fine. I just --
 21 Q. My question to you is, he wore a --
 22 you can feel free to look at all of this if you
 23 want to, or I can read it to you.
 24 219, protective gloves, boots, A2
 25 gas mask, trousers, shirt.

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1 A. Sure.
 2 Q. So what I'm asking you is, he had an
 3 A2 gas mask protection, and he still had
 4 detectable levels of paraquat in his bloodstream
 5 and urine, didn't he?
 6 MR. WEIR: Object to form.
 7 THE WITNESS: His urine detect was
 8 positive, yes, sir.
 9 Q. (BY MR. TILLERY) All right. That
 10 means his exposure to paraquat was systemic,
 11 because it got in his bloodstream and then in
 12 through -- into his urine through his kidneys;
 13 correct?
 14 MR. WEIR: Objection to form,
 15 foundation, scope.
 16 THE WITNESS: He did get it some
 17 way, yes, sir.
 18 Q. (BY MR. TILLERY) Worker 221 had
 19 detectable levels of paraquat in his urine, didn't
 20 he?
 21 A. Yes, sir.
 22 Q. And he wore respiratory equipment for
 23 two days of this period, days 2 and 3; right?
 24 A. Correct.
 25 Q. And yet on both days 2 and 3,

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1 Worker 221 had detectable levels of paraquat in
 2 his urine.
 3 A. Can you put the other page back up?
 4 Please.
 5 Q. 5.6. 5.6. And that's 4084.
 6 A. Okay.
 7 Q. We're looking at 221.
 8 You agree with that?
 9 A. Yes, sir, there was a detect.
 10 Q. All right. Which means his exposure
 11 to paraquat was systemic; correct?
 12 MR. WEIR: Objection, form,
 13 foundation, scope.
 14 THE WITNESS: There was a detect.
 15 He had it in his system, yes, sir.
 16 Q. (BY MR. TILLERY) And in order to get
 17 to his urine, it has to get into his bloodstream,
 18 it has to get in his system, and then it's cleared
 19 through his kidneys in the form of urine.
 20 Is that your understanding, sir,
 21 through your training?
 22 MR. WEIR: Objection to form,
 23 foundation, scope.
 24 THE WITNESS: That is my
 25 understanding, sir.

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1 MR. TILLERY: All right.
 2 MR. WEIR: Did you get my
 3 objection?
 4 Q. (BY MR. TILLERY) Let's go to the next
 5 one.
 6 We're going to look at Plaintiffs'
 7 Exhibit 16.
 8 (Ouzts Deposition Exhibit 16
 9 marked.)
 10 MR. WEIR: Sorry, Steve, before
 11 you start. Debbie, can you just -- I had form,
 12 foundation, and scope objections to that, that
 13 last question. I just want to make sure to make
 14 it on the record.
 15 MR. TILLERY: It's fine, and I'll
 16 stipulate with the reporter that that can be
 17 included.
 18 MR. WEIR: Thank you, Steve.
 19 MR. TILLERY: You're welcome.
 20 We're handing over the document to
 21 you now, sir.
 22 [Document review.]
 23 THE WITNESS: Okay, sir, this
 24 looks like a similar document from the previous
 25 studies.

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1 Q. (BY MR. TILLERY) Right. It's a
 2 similar type of study sponsored by Syngenta
 3 France; correct?
 4 A. Yes, sir.
 5 Q. And it bears Bates
 6 No. SYNGENTA_00125329. It's May 2007 date;
 7 correct?
 8 A. Correct.
 9 Q. And we can look at the purpose on 5377
 10 [sic] if we pull up -- well, first of all, let's
 11 get the beginning information in off the record.
 12 The title of the study is Formulation R-BIX --
 13 we're dealing with paraquat again, aren't we, sir?
 14 A. Yes, sir.
 15 Q. And Measurement of excreted paraquat
 16 in workers following repeated day's habitual use
 17 in vines.
 18 Is that right?
 19 A. Yes, sir.
 20 Q. Dated May 2007?
 21 A. Correct.
 22 Q. Okay. And if we go to the page 5337
 23 we'll get the study objective in the record.
 24 And the study objective was to
 25 provide representative data on exposure of

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1 experienced agricultural workers to paraquat
 2 resulting from two consecutive days of mixing,
 3 loading and application of R-BIX according to
 4 their habitual, or typical working practices
 5 ('as-is' scenario). Exposure was determined by
 6 analysis of 24-hour composite urine samples for
 7 paraquat.
 8 Is that right?
 9 A. Yes, sir.
 10 Q. Now, like the other studies, there
 11 were many examples of deviations from label
 12 warnings and personal protective equipment
 13 requirements in the study, aren't they? I can go
 14 with you again.
 15 A. I would appreciate that, sir. I mean,
 16 I read it quickly, so...
 17 Q. I'll do that.
 18 A. Make sure I didn't miss anything.
 19 Q. Let's go to 5346.
 20 And then under Results, it
 21 references the paragraph two-thirds of the way
 22 down the page, starting, The clothing.
 23 And it says: The clothing worn
 24 during application and the use of PPE during
 25 mixing and loading is summarized in Table 5.5.

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1 Four out of the 15 operators wore boots, whereas 7
 2 wore (heavy type of) shoes and 4 wore sports
 3 shoes. Eight operators wore shorts and T-shirt,
 4 so lower legs and forearms were uncovered. Nine
 5 operators wore a hat or cap. During mixing &
 6 loading 5 operators wore gloves, two of them wore
 7 gloves throughout the whole mixing/loading and
 8 application period. Only one operator uses a
 9 respirator during mixing and loading.
 10 Do you see that?
 11 A. Yes, sir.
 12 Q. All right.
 13 And if we go to the table on 5.5,
 14 it gives us a summary of the personal protective
 15 equipment. That's on 5353.
 16 Do you see that table?
 17 A. Yes, sir.
 18 Q. And here we go with PIN numbers on the
 19 left again, indicating the study subjects'
 20 assigned numbers, and they go through 03, 05, 08,
 21 09, 11, 12, 14, 15, 16, 17, 18, 19, 20, 23, and
 22 30.
 23 Those are test subjects; right?
 24 A. Yes, sir.
 25 Q. And the rest of this is

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1 self-explanatory. We don't need to go over it
 2 again. It just lays out the categories, the type
 3 of equipment. There's a key to the bottom that
 4 tells you more details about how this equipment
 5 was worn. And then it gives you an indication of
 6 which test subject wore what during the study;
 7 correct?
 8 A. Correct.
 9 Q. Only one of 15 workers wore a
 10 respirator.
 11 Do you see that?
 12 A. Yes, sir, No. 9.
 13 Q. Only five of the 15 wore gloves.
 14 A. Yes, sir.
 15 Q. If we go a little deeper into detail
 16 in this study, we go to 5371. This is what's
 17 called the Monitor report section.
 18 Do you see?
 19 Again, these are the personal
 20 observations; right?
 21 A. Yes, sir.
 22 Q. And again, this is used by the company
 23 to understand exactly how their product is being
 24 used, what's happening in the field. It's not
 25 just Syngenta that does this, but other companies

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1 do it as a matter of normal course, don't they?
 2 MR. WEIR: Objection to form,
 3 foundation. Scope.
 4 THE WITNESS: I can't speak to
 5 other companies, sir.
 6 Q. (BY MR. TILLERY) That's okay. If you
 7 don't know, that's fine. He's right. It's beyond
 8 the scope, but I thought that I -- I didn't know
 9 if you understood that.
 10 Let's go to this page 5371, Annex
 11 1 - Monitor reports in front of you.
 12 Do you see that?
 13 Now let's go to the bottom under
 14 Possible contaminations or particular events. And
 15 it says: At first mixture preparation, Operator
 16 left the bottom tap opened when he poured the
 17 R-BIX -- the paraquat -- in the tank. This
 18 mixture poured onto the lorry.
 19 What does that mean?
 20 A. I don't know. A lorry is a -- I don't
 21 know what a lorry is, sir; a trailer or some piece
 22 of equipment, I'm not sure.
 23 Q. Operator took his rubber pipe with his
 24 hands (without gloves). His hands were heavily
 25 coloured by the product. He rinsed his hands

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1 lightly without taking care. Pictures were taken
 2 of hands after working session. The sprayer used
 3 during the day was heavily contaminated (straps,
 4 outer parts and tap).
 5 His sprayer content was 15 liters.
 6 He always filled it to its maximum (above the
 7 upper graduation) since he filled in average up to
 8 16.67 liters.
 9 Do you see that?
 10 A. Yes, sir.
 11 Q. And the operator walked on weeds quite
 12 often and sprayed his rubber boots many times.
 13 Is that a fair recitation?
 14 A. Yes, sir.
 15 Q. All right. Let's go to 5373. And
 16 this is a new subject; this is Subject 05. 05.
 17 And under Possible contamination:
 18 Operator used a rag to clean the sprayer with his
 19 hands. Rinsed his hands during the work (10
 20 occurrences) (usually after loading or after
 21 intervention on the sprayer). Dried them with
 22 contaminated rag. Used his mobile phone while
 23 spraying (with hands contaminated as such). Often
 24 walked into high weeds. His calves were touched
 25 by treated weeds. Stamped on weeds before

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1 applying them with mixture. Sometimes sprayed his
 2 own shoe.
 3 Bent the weeds with bare hands,
 4 sometimes after spraying them.
 5 During day 3, significant drops
 6 were assessed on hands during mixing.
 7 When operation was required on the
 8 nozzle, it was done with bare hands, even if the
 9 hose was obviously leaking.
 10 Is that a fair read of what
 11 happened there to that person?
 12 A. Yes, sir.
 13 Q. Okay. If we go to page 5378. We're
 14 talking about Subject 12 now. Gloves worn during
 15 mixture, down at -- strike that.
 16 Down here at Possible
 17 contaminations.
 18 Do you see?
 19 A. Yes, sir.
 20 Q. Gloves worn during mixing were
 21 forgotten about 1 time out of 3. In case of
 22 spillage, the sprayer was carefully wiped off with
 23 a cloth before being placed in his shoulders.
 24 Nozzle fixing was done with bare hands.
 25 Is that what it says?

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1 A. Yes, sir.
 2 Q. And if we go to Subject 17 on 5383.
 3 Under Possible contaminations or particular
 4 events.
 5 Do you see that one?
 6 A. I do.
 7 Q. All right, what's the very first line
 8 say?
 9 A. Operator handled nozzle with bare
 10 hands, blew in it with his mouth.
 11 Q. Right. And we've seen this blowing in
 12 it with his mouth, operating -- handling it with
 13 their bare hands many, many times, over and over,
 14 haven't we?
 15 MR. WEIR: Objection, form.
 16 THE WITNESS: In these documents,
 17 it has specified that, yes.
 18 Q. (BY MR. TILLERY) And these are
 19 Syngenta documents, aren't they? That we've been
 20 looking at?
 21 MR. WEIR: Objection to form.
 22 THE WITNESS: They're documents
 23 that we hired the company to conduct, yes.
 24 Q. (BY MR. TILLERY) You hired
 25 professionals to go do studies for you, and this

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1 is the report they gave back after they conducted
 2 the study; is that correct?
 3 A. Correct.
 4 Q. All right. Now, here, after he was
 5 noted to have handled it with his bare hands and
 6 blew in it with his mouth, it says he: Pulled off
 7 or touched treated weeds with bare hands about 20
 8 times.
 9 When R-BIX, paraquat, or mixture
 10 spilled on the sprayer, it was not always cleaned.
 11 Cleaning of the sprayer was done with a dirty rag.
 12 Two times he saw that.
 13 Sprayed his shoes (4 times),
 14 walked in treated weeds many times.
 15 Laced up his shoes when laces were
 16 soaked with spray mixture (once during day 3).
 17 Okay?
 18 A. Yes, sir.
 19 Q. And then let's go to subject 20 on
 20 page 5386. And this is Possible contaminations or
 21 particular events.
 22 At six occasions: Put a lid on
 23 one nozzle or changed tips with bare hand or
 24 removed the lid.
 25 Spillage could be observed on his

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1 hands. Spillage was not washed but wiped on hips
 2 of the coverall.
 3 Day 3, splashing during sprayer
 4 filling (two times). Drops were wiped with a
 5 piece of cloth. Changed the tips and placed lid,
 6 4 times in total. During this operation, spillage
 7 was not always assessed on hands but there was a
 8 clear contact with contaminated equipment.
 9 Do you see that?
 10 A. Yes, sir.
 11 Q. And then on the next page, very next
 12 page is 5387.
 13 And this is Test Subject 23. And
 14 if you go to the bottom under Possible
 15 contamination, can you read that?
 16 A. Yes, sir. He handled contaminated
 17 hose (even with foam evidence) with bare hands
 18 many times.
 19 At many mixture loads into the
 20 backpack sprayer, liquid was spilled along the
 21 sprayer (never wiped out). T-shirt was clearly
 22 blue at the end of the day 3.
 23 At the end of day 2, operator even
 24 received spray liquid directly on him after a
 25 wrong operation (very short spray).

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1 Nozzle was fixed four times in
 2 total (with bare hands). Since the nozzle was
 3 heavily stuck, he blew into the nozzle once before
 4 finding a piece of wire and solve the problem!
 5 Walked in treated weeds, even felt in treated
 6 weeds once. I think that might be fell.
 7 Q. Yes.
 8 A. Operator had many occasions to be in
 9 contact with the product through weeds, despite he
 10 obviously tried to avoid applying on the upper
 11 part of the weeds.
 12 Q. And then lastly, let's look at 5389.
 13 And this is Test Subject 30. And
 14 under the same topic, if you could read that into
 15 the record.
 16 A. Operator wiped the contaminated
 17 sprayers with bare hands or spilled R BIX on his
 18 hands. Green spots were assessed on his hands.
 19 Many other possible contaminations
 20 with hands contacts: Held contaminated water hose
 21 or measuring jug with hands. Held the nozzles
 22 with hands to fix or move them. Walked into tall
 23 treated weeds, touched treated vine or weeds with
 24 hands.
 25 Washed his hands with clean water

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1 (5 times). Drank water (4 times in total).
 2 Urinated two times in Urisafe (one per day) using
 3 gloves given by the monitor.
 4 Q. Okay. Let's look at Table 5.5 again.
 5 And that's 5353.
 6 Can you see that okay?
 7 A. Yes, sir.
 8 Q. Worker No. 9 wore respiratory
 9 protective equipment, didn't he?
 10 Can you see?
 11 A. Yes, sir.
 12 Q. He also wore gloves during all
 13 activities; right?
 14 A. Yes, sir.
 15 Q. He wore boots?
 16 A. Correct.
 17 Q. Wore trousers?
 18 A. Yes.
 19 Q. Wore a shirt?
 20 A. Yes.
 21 Q. And he wore a Tyvek overall, this
 22 Tyvek again.
 23 A. Yes, sir.
 24 Q. Do you see that?
 25 A. I do.

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1 Q. All right. Now, let's look at 5.6.
 2 Which is 5354, the very next page.
 3 You have it up there.
 4 Do you see No. 9?
 5 A. Yes, sir.
 6 Q. No. 9 had detectable levels of
 7 paraquat in his urine, didn't he?
 8 A. Yes, sir, at 3B and 4.
 9 Q. So despite wearing a respirator,
 10 boots, clothes, a Tyvek overall, he still was
 11 exposed to paraquat, wasn't he?
 12 MR. WEIR: Object to form.
 13 THE WITNESS: The data here speaks
 14 that he did have some sort of exposure.
 15 Q. (BY MR. TILLERY) And the exposure got
 16 into his system such that it was systemic and got
 17 into his bloodstream; would you agree?
 18 MR. WEIR: Object to form,
 19 foundation, scope.
 20 THE WITNESS: Based on the
 21 urinalysis report, yes, sir.
 22 MR. TILLERY: Okay.
 23 Q. (BY MR. TILLERY) This is Exhibit --
 24 Plaintiffs' Deposition Exhibit No. 17.
 25 (Ouzts Deposition Exhibit 17

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1 marked.)
 2 Q. (BY MR. TILLERY) And I know you're
 3 going to be happy to hear that this is the last of
 4 the Brouwer studies that I have, but in any event,
 5 we have this one to go through. Okay?
 6 A. Yes, sir.
 7 Q. So would you mind taking your time and
 8 taking a look at this one?
 9 A. Okay.
 10 [Document review.]
 11 MR. TILLERY: While you're doing
 12 that, I'll note this is Plaintiffs' deposition
 13 Exhibit 00124616 entitled -- Brouwer D.H.,
 14 Evaluation of occupational exposure to paraquat,
 15 the Formulation R-BIX in workers following three
 16 consecutive days' use in bananas with PPE
 17 according to label recommendations.
 18 [Document review.]
 19 THE WITNESS: Okay, sir.
 20 Q. (BY MR. TILLERY) All right. Just for
 21 the record, one more time, we're dealing with
 22 Plaintiffs' Deposition Exhibit 17, another one by
 23 Brouwer. Entitled evaluation of occupational
 24 exposure to paraquat Formulation R-BIX, with the
 25 number, in workers following three consecutive

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1 days use of bananas with PPE according to label
 2 recommendations.
 3 This is a September 2007 report,
 4 isn't it?
 5 A. Yes, sir.
 6 Q. And another one sponsored by Syngenta
 7 France; correct?
 8 A. Correct.
 9 Q. The objective of the study, if you
 10 want to look at this, is on 4624 at the top. And
 11 we're dealing with a completely different approach
 12 this time. I want to go over this objective
 13 carefully.
 14 The objective is: To provide
 15 representative data on exposure of experienced
 16 agricultural workers to paraquat resulting from
 17 mixing, loading and application of R-BIX (A9409AL)
 18 during three days according to their habitual work
 19 patterns, but in compliance with proposed label
 20 recommended PPE. Exposure was determined by
 21 analysis of 24-hour composite urine samples for
 22 paraquat.
 23 That's what it says the study was;
 24 right?
 25 A. Yes, sir.

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1 MR. WEIR: Object to form.
 2 Q. (BY MR. TILLERY) Were there any
 3 videos taken of any of these studies, or pictures,
 4 other than what's contained in the actual reports
 5 to your knowledge?
 6 A. I'm not aware of any, sir.
 7 Q. Okay. And are you of the belief that
 8 Tyvek is waterproof? That's one of its protective
 9 features.
 10 A. I think that it has a barrier. I
 11 don't know 100 percent if it's waterproof, sir.
 12 Q. And looking through my notes -- and I
 13 wanted to clear this with you. You and I both
 14 corrected the language of some of the reports when
 15 it said RPE. And my notes indicate that there is
 16 an acronym for respiratory protective equipment.
 17 Were you aware of that too?
 18 I think both you and I made the
 19 same mistake when we talked about it.
 20 A. I made an error, but after looking at
 21 that, it was apparent that was speaking to
 22 respiratory components there, sir.
 23 Q. So when we both said that, and
 24 corrected it when we were reading, we thought what
 25 was a clerical error was actually referring to

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1 respiratory protective equipment; Correct?
 2 A. Yes, sir. That's --
 3 Q. Go ahead and finish your answer. Were
 4 you finished?
 5 A. Yes, sir, I was done.
 6 Q. Now, the purpose of this study was to
 7 test exposure, according to their habitual work
 8 practices, but with the use of additional PPE,
 9 personal protective equipment, that was -- that
 10 was required on the label; correct?
 11 MR. WEIR: Object to the form.
 12 THE WITNESS: It was proposed
 13 label-recommended PPE.
 14 Q. (BY MR. TILLERY) Right. So what I'm
 15 saying is, Syngenta created this study by making
 16 sure that what the workers who applied paraquat
 17 did was consistent with what was on the label of
 18 the container; correct?
 19 A. That's my understanding, yes, sir.
 20 Q. Okay. And this additional PPE was
 21 actually provided by Syngenta, wasn't it?
 22 MR. WEIR: Objection, form.
 23 THE WITNESS: Based on this data,
 24 yes, sir.
 25 Q. (BY MR. TILLERY) And it was supplied

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1 in compliance with those additional personal
 2 protective equipment requirements on the label, as
 3 far as you know, for the study?
 4 MR. WEIR: Same objection.
 5 THE WITNESS: Yes, sir.
 6 Q. (BY MR. TILLERY) All right. If we go
 7 to 4645, and that's Table 5.5, I think this is
 8 borne out, if you direct your attention to this
 9 table, sir.
 10 A. 4645.
 11 Q. Can you see that okay?
 12 A. Yes, sir.
 13 Q. And it says: Table 5.5 Summary of
 14 clothing configurations during application,
 15 doesn't it?
 16 A. Yes, sir.
 17 Q. And then below that, it says that:
 18 The prescribed PPE is a final prototype of a
 19 specifically designed PPE and comprised: 1 pair
 20 of long trousers with PVC coating from knee to
 21 ankle, 1 long sleeved shirt, 1 PVC poncho (double
 22 apron with front and back parts), 1 hat with PVC
 23 protective neck guard, (protective) gloves and
 24 rubber boots, mask worn during application.
 25 For respiratory protection during

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1 application, a half face "P3" disposable mask was
 2 worn. A face shield during mixing and loading was
 3 also supplied.
 4 Correct?
 5 A. Correct.
 6 Q. Would this, to your knowledge, satisfy
 7 the requirements of any restrictions in the
 8 United States?
 9 MR. WEIR: Object to form.
 10 THE WITNESS: I can't speak for
 11 other companies, other labels, but I think, you
 12 know, based on these PPEs, that it would meet
 13 specifications for the label for paraquat.
 14 Q. (BY MR. TILLERY) Okay. And it not
 15 only supplied this, but it -- Syngenta monitored
 16 and enforced the use. And I think that's a key
 17 point. In this study, there was an effort to
 18 enforce the use. That's different than the as-is
 19 prior studies, isn't it?
 20 MR. WEIR: Object to the form.
 21 THE WITNESS: The "enforce"
 22 essentially means that they would ensure that
 23 there was compliance.
 24 Q. (BY MR. TILLERY) Yes --
 25 A. Is the way I understand it.

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1 Q. Yeah, did you understand that as well?
 2 A. That's my understanding of this test.
 3 Q. Yeah. There was an effort to make
 4 sure that the workers who were set out in the
 5 study actually not only did their job, but did it
 6 according to what they were told to do by
 7 Syngenta, and wear all the equipment at the
 8 appropriate times.
 9 You understood that?
 10 MR. WEIR: Objection, form.
 11 THE WITNESS: Yes, sir.
 12 Q. (BY MR. TILLERY) All right. Now,
 13 let's take a look at one other thing here before
 14 we -- excuse me.
 15 If you look at page 4634.
 16 MR. WEIR: Before you put that
 17 page up, we have 4646. There you go.
 18 MR. TILLERY: Would you go to
 19 4634? Page number would be 19.
 20 Q. (BY MR. TILLERY) And this is under
 21 the Results section of the study, isn't it?
 22 A. Yes, sir.
 23 Q. Now, if you go down to the page -- to
 24 the paragraph where it says: The actual use of
 25 PPE.

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1 Do you see that?
 2 A. Yes, sir.
 3 Q. It says: The actual use of PPE during
 4 mixing, loading and application is summarized in
 5 Table 5.5. In general, most operators complied
 6 with the instructions of use. All operators wore
 7 boots, trousers, shirts, gloves during
 8 mixing/loading and application. In addition, all
 9 operators wore the poncho and the hat during the
 10 application; however, these garments were not worn
 11 constantly during mixing and loading.
 12 The same holds for the respirator
 13 (P3 mask). In addition to the special clothing
 14 and the respirator a face shield was used during
 15 handling the concentrate (mixing), except for
 16 Operator 235 during day 4.
 17 So they had extreme compliance
 18 compared to the other studies that were as-is,
 19 didn't they?
 20 Would you agree with that?
 21 MR. WEIR: Objection, form.
 22 THE WITNESS: They had compliance.
 23 I don't know that I would call it extreme.
 24 Q. (BY MR. TILLERY) Well, would you say
 25 that that's significantly different than taking --

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1 spraying nozzles out with your hands and blowing
 2 them out with your mouth and chewing on
 3 contaminated toothpicks and walking through wet
 4 grass?
 5 It's a different story, because
 6 they were being enforced; correct?
 7 MR. WEIR: Objection, form.
 8 THE WITNESS: That was the
 9 requirement of this study, yes, sir.
 10 Q. (BY MR. TILLERY) Right. Now, if we
 11 can go to Table 5.6, which is 4616. And I can't
 12 tell you what page.
 13 That's it.
 14 Can you look at that table? This
 15 is a table showing paraquat detections in the
 16 urine of the workers that were covered up. I
 17 think the word that was used in the prior
 18 discussion was kitted? Kitted up?
 19 Is this a table of paraquat
 20 findings in the urine specimens of the workers,
 21 sir, 5.6?
 22 MR. WEIR: Objection to form. To
 23 the prefatory statement.
 24 Q. (BY MR. TILLERY) I'll start over.
 25 Is 5.6 a summary of the paraquat

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1 levels that were detected in the urine of the
 2 workers?
 3 A. Yes, sir, for this test, correct.
 4 Q. Okay. And can you tell me whether 10
 5 out of 15 showed urinary concentrations of
 6 paraquat?
 7 Look at them; do the math for me,
 8 if you wouldn't mind.
 9 MR. WEIR: Objection, form.
 10 THE WITNESS: I only see ten on
 11 this page, sir.
 12 Q. (BY MR. TILLERY) Ten out of 15?
 13 A. I see ten total. I see ten total.
 14 Q. Oh, okay. We'll go to the next --
 15 A. Yeah. I only see --
 16 Q. I'm sorry, sir.
 17 A. I think it was only seven on that
 18 page.
 19 Q. Seven. So let's look at the next
 20 page.
 21 Actually, before we go, let's look
 22 at this.
 23 Does Test Subject 231 show
 24 positive?
 25 A. Yes, sir.

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1 Q. All right. That's one. Test
 2 Subject 232?
 3 A. Yes, sir.
 4 Q. All right. 233?
 5 A. Yes, sir.
 6 Q. 234?
 7 A. Yes, sir.
 8 Q. 235?
 9 A. Yes, sir.
 10 Q. 236?
 11 A. Yes, sir.
 12 Q. 238?
 13 A. Yes, sir.
 14 Q. 240?
 15 A. Yes, sir.
 16 Q. So I count that as a total of one,
 17 two, three, four, five, six, seven, eight out of
 18 ten there. Okay?
 19 A. Yes, sir.
 20 Q. Is that yours? Is that your count?
 21 A. Yes, sir.
 22 Q. Right?
 23 A. Yes, sir, I missed one earlier.
 24 Q. Let's go to the next one, next page.
 25 Very next page.

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1 Do you see that?
 2 A. Yes, sir.
 3 Q. Is Test Subject 241 positive for
 4 paraquat in the urine of the worker?
 5 A. In one sample, yes, sir.
 6 Q. All right. Is 242 positive?
 7 A. Yes, sir, one sample.
 8 Q. So now we're at 10 out of the 15 total
 9 people in this study; correct?
 10 A. Correct.
 11 Q. So there were two-thirds of the people
 12 who were label compliant in every way, PPE
 13 provided by Syngenta, got paraquat in their
 14 bloodstream and in their system when they applied
 15 it; correct?
 16 MR. WEIR: Objection to form.
 17 THE WITNESS: The data on this
 18 supports that.
 19 MR. TILLERY: Okay. Let's take a
 20 break at this point in time, and when we go off
 21 time, I'd like to talk with you. Okay?
 22 MR. WEIR: Sounds good.
 23 THE VIDEOGRAPHER: Going off the
 24 record. The time is 3:59.
 25 (Recess taken, 4:00 p.m. to

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1 4:10 p.m. EDT)
 2 THE VIDEOGRAPHER: Back on the
 3 record. The time is 4:11 p.m.
 4 MR. WEIR: All right. So for the
 5 record, this is Tom Weir, on behalf of Syngenta.
 6 Counsel have conferred off the
 7 record, and we have agreed to adjourn the
 8 deposition for now, and we will reconvene for
 9 additional questioning in the future.
 10 Just one more note for the record,
 11 I do anticipate having some redirect at some point
 12 for this witness, and I will wait to do my
 13 redirect until the conclusion of the questioning.
 14 And I would object to any use of the transcript
 15 until I've had my opportunity to redirect the
 16 witness.
 17 MR. TILLERY: We will probably, to
 18 the extent that experts are required to complete
 19 their reports before the deadline of the -- I'm
 20 sorry, before the completion of this deposition.
 21 I will give you fair warning that they may well
 22 rely on portions of it.
 23 But I'll just tell you that, but
 24 we'll work with you about scheduling a date for a
 25 resumption of the deposition so we can go from

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1 there. Thank you very much.
 2 And for -- I'll wait until we're
 3 off the record.
 4 THE VIDEOGRAPHER: This concludes
 5 the media deposition of Ouzts, Volume 1. Today's
 6 date is June 22nd, 2020. We are going off the
 7 record. The time is 4:12 p.m. Thank you.
 8 MR. TILLERY: Yes, a rough draft.
 9 THE REPORTER: Copy in standard
 10 delivery?
 11 MR. TILLERY: What is expedited
 12 delivery? I think what we'll do is go with
 13 standard delivery with a rough draft.
 14 MR. WEIR: We'll take a rough and
 15 then standard delivery as well.
 16 MS. SCHEIDERER: I am not sure
 17 that I do. I'll shoot you an e-mail if that's
 18 okay.
 19 MR. SMITH: Yeah, I don't need
 20 one.
 21 MR. LEVIN: I do not need a copy,
 22 thank you.
 23 MS. KIMBALL: No, I don't need a
 24 copy.
 25 (Time noted: 4:15 p.m. EDT)

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1 CERTIFICATE
 2
 3 I, DEBRA A. DIBBLE, RDR, CRR, Notary
 4 Public, do hereby certify:
 5 That CLARK OUZTS, the witness
 6 whose deposition is hereinbefore set forth, was
 7 duly sworn by me and that such deposition is a
 8 true record of the testimony given by such
 9 witness;
 10 That pursuant to FRCP Rule 30, signature of
 11 the witness was requested by the witness or other
 12 party before the conclusion of the deposition;
 13 I further certify that I am not related to
 14 any of the parties to this action by blood or
 15 marriage, and that I am in no way interested in
 16 the outcome of this matter.
 17 IN WITNESS WHEREOF, I have hereunto set my
 18 hand on 7-1-2020.
 19
 20
 21
 22 _____
 23 Debra A. Dibble
 24 Registered Diplomate Reporter
 25 Certified Realtime Reporter
 Notary Public
 My Commission Expires 5/3/2023

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1 I HEREBY CERTIFY that I have read
 2 this transcript of my deposition, and that
 3 this transcript accurately states the testimony
 4 given by me, with the changes or corrections, if
 5 any, as noted.
 6
 7
 8
 9
 10 X _____
 11 CLARK OUZTS
 12
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1 ERRATA SHEET FOR THE TRANSCRIPT OF:
2 CASE NAME: Hoffmann v. Syngenta
3 DEP DATE: June 22, 2020
4 DEPONENT: CLARK OUZTS

5	Pg. Ln.	Now Reads	Should Read	Reason
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23
24 X _____
25 CLARK OUZTS

04725
Sept
2020

EXHIBIT 14

FILED UNDER SEAL

CLARK OUZTS 9/28/2020

Page 1	Page 3
<p>1 IN THE CIRCUIT COURT 2 TWENTIETH JUDICIAL CIRCUIT 3 ST. CLAIR COUNTY, ILLINOIS 4 --oOo-- 5 DIANA HOFFMANN,) Individually and as) 6 Independent Administrator) of the Estate of THOMAS) 7 R. HOFFMANN, Deceased, et) al.,) 8) Plaintiffs,) 9) vs.) No. 17-L-517 10) SYNGENTA CROP) 11 PROTECTION, LLC, et al.,)) 12 Defendants.) _____) 13 14 VIDEOTAPED VIDEOCONFERENCE EVIDENCE DEPOSITION OF 15 CLARK OUZTS 16 CORPORATE REPRESENTATIVE OF SYNGENTA CROP 17 PROTECTION, LLC 18 19 September 28, 2020 20 21 22 (Beginning at 8:09 a.m.) 23 24</p>	<p>1 IN THE CIRCUIT COURT 2 TWENTIETH JUDICIAL CIRCUIT 3 ST. CLAIR COUNTY, ILLINOIS 4 --oOo-- 5 DIANA HOFFMANN,) Individually and as) 6 Independent Administrator) of the Estate of THOMAS) 7 R. HOFFMANN, Deceased, et) al.,) 8) Plaintiffs,) 9) vs.) No. 17-L-517 10) SYNGENTA CROP) 11 PROTECTION, LLC, et al.,)) 12 Defendants.) _____) 13 14 --oOo-- 15 VIDEOTAPED VIDEOCONFERENCE EVIDENCE 16 DEPOSITION OF CLARK OUZTS, CORPORATE REPRESENTATIVE 17 OF SYNGENTA CROP PROTECTION, LLC, produced, sworn, 18 and examined on Monday, September 28, 2020, between 19 the hours of 8:09 in the forenoon and 3:03 in the 20 afternoon, taken on behalf of the Plaintiffs, with 21 the witness appearing from Greensboro, North 22 Carolina, before RENEE COMBS QUINBY, a Certified 23 Court Reporter (MO) #1291, Certified Shorthand 24 Reporter (IL) #084-004867, Certified Shorthand</p>
Page 2	Page 4
<p>1 INDEX 2 PAGE 3 4 EXAMINATION BY MR. TILLERY10 5 EXAMINATION BY MR. WEIR202 6 FURTHER EXAMINATION BY MR. TILLERY248 7 EXHIBITS 8 Exhibit 18 Video clip 92 9 Exhibit 19 Video clip 93 10 Exhibit 20 Video clip 95 11 Exhibit 21 2017 archived page from 169 12 Syngenta's website 13 Exhibit 22 Two-page document Bates stamped 174 14 Syngenta-PQ-02122207 through 08 15 Exhibit 23 Email exchange between Lewis 195 16 Smith and Jonathan Sullivan and 17 Aruffo Sandoz 18 Exhibit 3 Previously marked exhibit 223 19 (The original exhibits were provided to the court 20 reporter electronically to be attached to the 21 original and copies of the transcript.) 22 23 24</p>	<p>1 Reporter (CA) #11867, Certified Shorthand Reporter 2 (AR) #821, Registered Diplomate Reporter, and a 3 Certified Realtime Reporter. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

Page 9

1 Counsel acknowledge their understanding
 2 that I am not physically present with the witness
 3 and that I will be reporting this proceeding
 4 remotely. Counsel further acknowledge that I will
 5 not be administering the oath in person but am doing
 6 so remotely.
 7 The parties and counsel consent to this
 8 arrangement and waive any objections to this manner
 9 of proceeding.
 10 Counsel, please indicate your agreement
 11 verbally on the record by stating your name and that
 12 you stipulate to these terms, after which I will
 13 swear in the witness and we may begin.
 14 MR. TILLERY: This is Steve Tillery on
 15 the behalf of the plaintiffs. We agree and
 16 stipulate to this procedure.
 17 MR. WEIR: This is Tom Weir. We agree
 18 and stipulate to the procedure.
 19 MR. TILLERY: Any objection from
 20 Chevron or Growmark?
 21 MS. CECIL: No objection.
 22 CLARK OUZTS,
 23 of lawful age, having been first duly sworn to
 24 testify to the truth, the whole truth, and nothing

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1 but the truth in the case aforesaid, deposes and
 2 says in reply to oral Interrogatories propounded as
 3 follows, to-wit:
 4 -oOo-
 5 EXAMINATION
 6 BY MR. TILLERY:
 7 Q. Would you once again state your name
 8 for this record, please.
 9 A. My name is Clark Ouzts.
 10 Q. And you understand this is a
 11 continuation of a deposition, not a new deposition.
 12 It's a continuation of one that was started on
 13 Monday, June 22nd, 2020, correct?
 14 A. Yes, sir.
 15 Q. All right. We didn't finish all of the
 16 questions. So we agreed with your counsel to come
 17 back to this date to continue that deposition,
 18 right?
 19 A. Yes, sir.
 20 Q. Has your job or assignment or
 21 responsibility at Syngenta changed since June 22nd?
 22 A. No, sir, it has not.
 23 Q. What additional work have you done
 24 since June 22nd in connection with this deposition?

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1 A. I've had meetings with Mr. Weir just to
 2 talk through some of the process. I've reviewed
 3 documents associated with the case just to refresh
 4 myself looking at exhibits.
 5 I've spent probably somewhere in the
 6 neighborhood of 25 to 35 hours as far as preparation
 7 time. I've -- for this day today.
 8 Q. And you said you looked at documents.
 9 Which documents did you look at?
 10 A. Several documents. A lot of the
 11 documents associated with -- with the case, some of
 12 the exhibits related to the testing, the Swan case,
 13 the Meyer documents. There was also looking at just
 14 information related to PPE, alternative products
 15 related to, you know, uses as far as paraquat,
 16 the -- just many documents.
 17 I can't -- there was PowerPoint
 18 presentations related to, you know, paraquat.com
 19 site. So just a -- just a myriad of documents, sir.
 20 Q. Okay. Are these documents that are all
 21 contained within your reliance set?
 22 A. I'm sorry? Could you -- I couldn't
 23 understand.
 24 Q. You understand there were documents

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1 given to you to us by your counsel earlier this year
 2 that were indicated to be the documents you relied
 3 upon in forming your answers to questions on the
 4 topics from which you were designated?
 5 A. Yes, sir.
 6 Q. Are these additional to those of the
 7 documents you reviewed --
 8 A. No, sir.
 9 Q. -- additional to the reliance set?
 10 A. No, sir, they weren't. They were
 11 just -- these were just refreshers of reviewing the
 12 same documents.
 13 Q. These were the same documents that were
 14 included in your reliance set, correct?
 15 A. Yes, sir.
 16 Q. And/or documents that we marked as
 17 exhibits in your first part of your deposition on
 18 June 22nd if they weren't in your reliance set,
 19 correct?
 20 A. That's correct, yes.
 21 Q. Okay. Now, you indicated you looked at
 22 PowerPoints. What were the PowerPoints for?
 23 A. Well, they were actually the
 24 information that was provided. It was a paper copy

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1 of PowerPoint presentations; so it was not actual
 2 computer documents. It was just -- that was in the
 3 documents.
 4 **Q. Understood.**
 5 **A. Yes.**
 6 **Q. Was that -- strike that.**
 7 **What was the subject matter of the**
 8 **paper PowerPoint presentation you reviewed?**
 9 **A.** That was just related to the
 10 paraquat.com and some -- some of the information
 11 associated with the beginning of that -- putting
 12 that document together.
 13 **Q. For the jury's purposes, what is**
 14 **paraquat.com?**
 15 **A.** Paraquat.com is a website or a source
 16 that you can find related to information that
 17 provides factual information associated with
 18 paraquat, whether it is for how to use the product,
 19 any health safety information, as well as
 20 environmental information with that product.
 21 **Q. Okay. Would you say that paraquat.com**
 22 **is Syngenta's way of communicating information, at**
 23 **least in part, to the consumers of Syngenta's**
 24 **products?**

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1 **A.** It is -- it is a nonbranded --
 2 essentially, it's a nonbranded site. It is put
 3 together by Syngenta, but the intent is to provide
 4 unbiased information to people looking for
 5 information related to paraquat, whether it's in the
 6 human safety or if it's environmental or, you know,
 7 essentially, what -- what uses it has related to
 8 agriculture.
 9 **Q. You actually, in some iterations of**
 10 **paraquat.com, list all of the Syngenta products for**
 11 **sale, right?**
 12 **A.** Not on that document, no, sir. I mean,
 13 it's just talking about paraquat. The intent of
 14 this is not an inducement to purchase.
 15 **Q. I'm sorry. All of the paraquat-related**
 16 **products. You've listed those at times on that**
 17 **paraquat.com site, haven't you?**
 18 **A.** I can't speak to that. I have seen
 19 that, sir, but it -- I would have to check to find
 20 out.
 21 **Q. Okay. And you said you looked at**
 22 **exhibits. Which exhibits did you look at? I'm just**
 23 **trying to go through what you did in preparation for**
 24 **this --**

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1 **A.** Sure. Yeah. Some of the --
 2 Exhibits 5, Exhibit 3, Exhibit 7. There was
 3 interrogatories -- I think interrogatory 18. And
 4 then just essentially reviewing information related
 5 to, you know, other parts associated with use of
 6 paraquat, selecting paraquat as a product versus
 7 other products that might be, you know, considered
 8 an alternate to paraquat.
 9 **Q. Okay. And what I -- what products --**
 10 **strike that.**
 11 **What products did you identify as**
 12 **potential alternatives to paraquat?**
 13 **A.** Well, it was more looking at the
 14 holistic list that was provided related to
 15 exhibit -- the Appendix C document. So I was --
 16 just really perused that document just to look to
 17 see what items were listed on that to understand
 18 if -- you know, the comparison of the products, you
 19 know, versus -- versus paraquat.
 20 So there were many hundred that were
 21 listed on the -- on the document from Appendix C.
 22 **Q. And what information did**
 23 **interrogatory 18 and the answers to it provide you**
 24 **by way of support from your statements in this**

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1 **deposition?**
 2 **A.** The -- the Interrogatories, I mean,
 3 essentially, that was a question that was asked
 4 related to was there -- well, basically to start
 5 off, there's -- there's many products that are
 6 available for use as far as -- for growers when
 7 they're considering what type of weed control they
 8 need. And in essence, I mean, there's many tools in
 9 the toolbox.
 10 So when you look at that as -- as
 11 paraquat being one of those tools, you know, the
 12 question was essentially asked was it considered
 13 nothing that would be equal to replacing paraquat?
 14 And that's a very difficult question and a difficult
 15 answer because there's so many moving parts to that,
 16 sir.
 17 **Q. You know you're designated on that**
 18 **topic, right?**
 19 **A.** Yes, sir, I do.
 20 **Q. Okay. Good. Now, you looked**
 21 **specifically at Exhibits 5, 3, and 7, you said,**
 22 **right?**
 23 **A.** Yes, sir.
 24 **Q. Okay. And you said you prepared in**

Page 17

1 connection with PPE. That's personal protective
2 equipment, right?
3 A. Yes, sir.
4 Q. And what did you look at to prepare for
5 questions concerning personal protective equipment?
6 A. Well, I looked at documents really -- I
7 mean, just really I looked at our labels just to try
8 to review where our current PPE is and then tried to
9 do just -- you know, look at the information related
10 to the exhibits in the trials -- or, excuse me, in
11 the research that was done just to find the
12 relationships between -- between those and the
13 PPA -- the PPE information from the testing as well
14 as what our label states.
15 Q. Did you review your deposition?
16 A. I did, sir. Yes, sir.
17 Q. Did you review any other depositions?
18 A. Any other depositions? No, sir. The
19 only one I reviewed was the one that I was -- that I
20 had.
21 Q. Is -- strike that.
22 Have you reviewed any other depositions
23 taken in this case at any time?
24 A. No, sir.

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1 Q. Okay. Now, when you report to work
2 every day, what is your general responsibility
3 throughout the day? What is it that you do for
4 Syngenta?
5 A. My current role now is I'm the
6 marketing lead for -- for Syngenta in the herbicides
7 group, the herbicide marketing group. So my daily
8 routine is to look at where our current sales are,
9 work on, you know, communication or -- and/or
10 information related to our -- to the products that I
11 support. And from that, you know, just manage, you
12 know, instances that occur on a day-to-day basis.
13 From that also, plan -- looking at marketing plans,
14 five-year plans as far as what we think the
15 potential for future sales would be. Many different
16 things, sir.
17 Q. Where -- what is the geography
18 limitation of your role at the company?
19 A. The U.S.
20 Q. Okay. So you don't sell to other
21 countries?
22 A. No, sir, I do not.
23 Q. So how do you work through marketing
24 to -- strike that.

Page 19

1 Who do you contact or who are you in
2 contact with regarding marketing of Syngenta
3 products?
4 A. So most of my relationships would be
5 with, you know, my internal colleagues as far as on
6 the herbicide team that I work with here in
7 Greensboro.
8 I would also interact with our
9 marketing -- you know, our commercial marketing
10 managers who would be located in our regional
11 offices, and out of that having communications with
12 them as well as some crop managers and -- and
13 potentially sales reps just to -- in -- in given
14 geographies just to understand market dynamics, to
15 understand competition, and from that to develop
16 plans to continue to market and sell our products
17 and, hopefully, you know, be able to provide good
18 solutions for growers to, you know, manage weeds
19 that they have in their crop.
20 Q. Do you serve in any capacity of talking
21 to them or answering their questions about the
22 safety of paraquat?
23 A. Directly to growers or to retailers?
24 Q. No. Anybody in your job. Do you have

Page 20

1 any discussions with people who may have questions
2 about product safety?
3 A. Some, but probably not very often
4 because that would be more so going through the
5 technical side of -- of the company.
6 Q. Don't you have people whose job it is
7 to answer questions of applicator form and
8 applicators?
9 A. Yes, sir, we do.
10 Q. Okay. Who are those people?
11 A. It could be many. They could be our
12 agronomics team, which are in the field supporting
13 our sales rep. It could be sales reps that are
14 providing that information. And then if it's
15 additional information needed, it could be related
16 to our technical product lead team or technical
17 support team. There's many different avenues
18 potentially that -- it could be also our research
19 and development colleagues that we work with.
20 Q. Well, if a farmer calls up and asks a
21 specific question about the safety of paraquat, how
22 is his call routed from the switchboard at Syngenta?
23 How does that happen?
24 A. Sure. Typically we provide that --

Page 21

1 that customer, we would – most likely it would be
 2 routed to our technical support team. And that
 3 technical support team would field the question,
 4 from that try to understand what – what the
 5 customer's concerns are. And in that, either we'd
 6 have the ability to provide him information related
 7 to the label associated with proper PPE. Or if it
 8 has more in-depth question or more in-depth
 9 information needed that is beyond that group's
 10 scope, they would advance that question to the
 11 expertise within the company. So it could go to our
 12 health and safety group for -- for additional
 13 information.

14 **Q. Okay. Are you -- strike that.**
 15 **In your role in your job, do you stay**
 16 **abreast of safety concerns, product safety concerns,**
 17 **of the products that you sell?**

18 MR. WEIR: Object to form.

19 THE WITNESS: I try to, sir, but some
 20 of that is above my level of understanding. But I
 21 do work with our regulatory people who also work
 22 with human -- our human safety or human risk health
 23 and safety personnel. And so I rely on them to
 24 provide guidance.

Page 22

1 BY MR. TILLERY:
 2 **Q. But you would agree that you try to**
 3 **stay abreast of the safety concerns of the products,**
 4 **right?**

5 A. Yes, sir. In a broad way, yes, sir.

6 **Q. So if a product you're selling could**
 7 **cause some human health concern or danger, you'd**
 8 **want to know, wouldn't you?**

9 A. Of course.

10 **Q. Okay. And part of the reason you'd**
 11 **want to know about that would be so you could answer**
 12 **questions of people with whom you're communicating**
 13 **about sales, right?**

14 A. Yes, sir.

15 **Q. Okay. Have you done that as best you**
 16 **can with respect to paraquat?**

17 A. As far as communication to customers
 18 talking specifically about health and safety or
 19 what? I don't understand.

20 **Q. No. Finding out to the best you can**
 21 **answers about product safety concerns with respect**
 22 **to paraquat.**

23 A. I've had conversations with our
 24 regulatory team in and around the related potential

Page 23

1 health effects and tried to understand the
 2 information. And I think to the best of my ability,
 3 I hope that I have an understanding.

4 **Q. Okay. You say "the regulatory team."**
 5 **Who are those people that you've had this contact**
 6 **with?**

7 A. Well, the regulatory person would be
 8 the -- Monty Dixon, who I know you're familiar with.
 9 He is the regulatory representative for paraquat.
 10 And then also his -- his manager, Charlie Pearson.

11 And then had conversations, you know,
 12 as far as I was on call as to when they were doing,
 13 you know, just the overall discussions around EPA
 14 documents, EPA health and safety testing that has
 15 been done.

16 **Q. So you know you've been designated to**
 17 **speak here today on certain topics, right?**

18 A. Yes, sir.

19 **Q. Do you have your reliance materials**
 20 **with you?**

21 A. I'm sorry. Do I have what with me?
 22 I'm sorry.

23 **Q. Do you have your reliance materials**
 24 **with you? The materials that are listed as**

Page 24

1 documents you relied upon to answer my questions.
 2 A. I -- they're over on the shelf over on
 3 the -- on the floor, yes, sir. Why?

4 **Q. What do you -- what do you have there**
 5 **in front of you that you're relying on?**

6 A. I don't have anything in front of me,
 7 sir.

8 **Q. Okay. Good.**

9 **Now, let's go over the topic list and**
 10 **discuss what it is that you are designated to speak**
 11 **about today. Okay?**

12 A. Yes, sir.

13 **Q. All right. You understood one of those**
 14 **topics was number 50, correct?**

15 A. That number is familiar, yes, sir.

16 **Q. All right. Did you understand what**
 17 **number 50 said as a topic?**

18 A. I can't quote it, no, sir. I don't --
 19 I mean, there are so many numbers, I don't know that
 20 I remember exactly what number 50 was.

21 **Q. Actually, you're only designated on**
 22 **topics 31, 50, 51, two, and 68. That's as my**
 23 **records show. Did you understand that?**

24 A. That -- that sounds familiar, yes, sir.

1 Q. All right. Well, let's read into the
 2 record number 50 and talk about the topic that
 3 you're going to speak to, at least the first one
 4 today. Okay?
 5 And it says, "Syngenta's knowledge, if
 6 any, including when and how that knowledge was
 7 obtained about whether with what frequency and to
 8 what extent," below that, "A, mixers, loaders, and
 9 applicators of paraquat products and others nearby
 10 take the precautions specified and otherwise comply
 11 with the instructions, cautionary statements, and
 12 warnings on paraquat product labels; B, mixers,
 13 loaders, and applicators of paraquat products and
 14 others nearby wear respirators during the mixing,
 15 loading, and application of paraquat; C, persons
 16 other than the applicator are present and/or near
 17 farm fields during or shortly after the application
 18 of paraquat."
 19 Do you understand that to be number 50,
 20 sir?
 21 A. Yes, sir.
 22 Q. Okay. How did you learn of the actual
 23 practices of mixers, loaders, and applicators of
 24 paraquat products excluding watching your brother?

1 A. How did I learn? Essentially, I mean,
 2 from observation as far as what I've seen in the
 3 field; from reading the labels as far as making sure
 4 that, you know, complies with that; phone
 5 conversations. I mean, numerous different --
 6 numerous different ways as far as for informational
 7 input.
 8 Q. Well, labels wouldn't tell you how --
 9 how farmers are actually applying it, would they?
 10 That isn't what a label would do. It would tell you
 11 something that's on the canister of the product,
 12 correct?
 13 MR. WEIR: I'm going to object to form.
 14 THE WITNESS: Correct.
 15 BY MR. TILLERY:
 16 Q. So we're down to observations and phone
 17 calls, right?
 18 A. Yes, sir.
 19 Q. All right. Is there anything else
 20 besides observations and phone calls?
 21 A. Well, I mean, there's -- there's been
 22 training videos and -- that have been put together
 23 to show proper methods of application, mixing,
 24 et cetera. I mean, those would be some others of

1 which Syngenta has been involved in as far as to --
 2 to train people the proper and safe handling of
 3 pesticides.
 4 Q. But, again, those treatment videos
 5 don't show how the applicators, mixers, and loaders
 6 were actually doing this, do they?
 7 MR. WEIR: Object to form.
 8 THE WITNESS: They -- the videos show
 9 the correct method of -- of mixing, handling, and
 10 applying.
 11 BY MR. TILLERY:
 12 Q. I move -- I move to strike your answer
 13 as unresponsive. If you can't understand my
 14 questions today, you let me know.
 15 I asked you a simple question, and that
 16 is the videos that Syngenta made don't tell you how
 17 mixers, loaders, and applicators of paraquat
 18 products actually take specified precautions, do
 19 they?
 20 MR. WEIR: Same objection.
 21 MR. TILLERY: And before we go forward,
 22 what's the objection, Counsel?
 23 MR. WEIR: I think you're -- I think
 24 you're assuming a premise in your question, and I'm

1 objecting to that premise.
 2 MR. TILLERY: Which premise am I
 3 assuming? Just so we're clear, this is a 211.02
 4 deposition, and I want to make sure we're clear for
 5 the court.
 6 I have no idea what these objections --
 7 a straight objection to form because under Illinois
 8 law under 211.02, they wouldn't be allowed. So it
 9 sounds to me like it's just interfering with the
 10 depo.
 11 MR. WEIR: I'm not interfering with the
 12 deposition.
 13 MR. TILLERY: Then state your basis as --
 14 to what's wrong with the form.
 15 MR. WEIR: If you let me speak, I can
 16 tell you what my basis is, Steve. Like I
 17 told you --
 18 MR. TILLERY: So --
 19 MR. WEIR: I object to the premise
 20 that -- that you are assuming in your question that
 21 what is in the videos is different from what is in
 22 the -- in the fields.
 23 BY MR. TILLERY:
 24 Q. Do you understand the question,

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1 Mr. Ouzts, or do you want me to restate it?
 2 A. You may restate it. I think I
 3 understand the question.
 4 Q. All right. So you told me -- you
 5 looked at some videos Syngenta made, and that told
 6 you how people actually put paraquat on their
 7 fields, how they mix and load it. We know that
 8 that's not true, don't we?
 9 A. No, sir, I did not say that. I said I
 10 looked at the videos of which showed the proper use
 11 and handling of how you should apply.
 12 Q. That's not my question --
 13 A. I did not say --
 14 Q. But that's not what I asked you.
 15 MR. WEIR: Please let him -- let him
 16 finish his answer, Steve.
 17 BY MR. TILLERY:
 18 Q. That's not what I asked you at all. I
 19 asked you -- the question is number 50, we're
 20 talking about what you know people actually do in
 21 the field. That's the topic, not something that
 22 Syngenta puts together in their marketing
 23 department.
 24 I'm asking you and you told me you had

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1 three ways: One was by reading labels. One was by
 2 observation, and the other was by phone calls.
 3 Now, what I'm trying to ferret out from
 4 you is how you knew and how you developed your
 5 knowledge to answer number 50 of the topics. How
 6 did you do that?
 7 A. I just told -- I mean, it's basically
 8 by observation, by study of the labels, by looking
 9 and talking with customers as far as answering
 10 questions associated with that to tell you
 11 emphatically that I can tell you how everyone in
 12 the -- the application industry applies that. I
 13 don't have that ability because I don't see
 14 everything.
 15 Q. So let's make sure before we march
 16 forward in this deposition that we have a good,
 17 solid understanding of where you got your knowledge.
 18 Okay?
 19 And, again, so we're answering the same
 20 question, I'm asking you your knowledge about how
 21 farmers, applicators, mixers, loaders actually
 22 handle paraquat. Do you understand that?
 23 A. Yes, sir.
 24 Q. All right. That's number 50. That's

Page 31

1 the topic. You said you observed farmers. Now,
 2 let's talk about that.
 3 When, where did you observe farmers
 4 apply paraquat?
 5 A. When and where? In my home state of
 6 Mississippi, I've seen it done. I have seen it done
 7 in other states, Missouri. I've seen it in
 8 Illinois. I've seen it in Texas.
 9 I mean, those are a few that are just
 10 top of mine, sir. I mean, those are actual physical
 11 observations of seeing the product being mixed and
 12 applied.
 13 Q. Okay. And where in Illinois did you
 14 see it applied?
 15 A. Sir, it's been some 15 years ago. I
 16 think it was somewhere in western Illinois around --
 17 is it Jacksonville? Jackson? Somewhere close to
 18 the river. It's central Illinois. I don't remember
 19 the --
 20 Q. And who was -- who was applying it?
 21 A. It was at a -- it was a co-op, sir. I
 22 don't remember the name exactly.
 23 Q. Was it a farmer on his fields?
 24 A. It was a commercial applicator.

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1 Q. And he was applying it to fields --
 2 A. He was --
 3 Q. -- at the co-op?
 4 A. He was -- he was applying it for a
 5 customer. I was with the -- with the rep, and
 6 just we were seeing it applied.
 7 Q. Okay. Were there any times in Illinois
 8 that you saw the actual farmer, not a commercial
 9 applicator, apply paraquat on his farm fields?
 10 A. No, sir, I did not.
 11 Q. Okay. Now let's go back to Missouri.
 12 Have you seen or -- any farmer there apply it to his
 13 farm fields?
 14 A. Yes, sir. That was an actual grower,
 15 or it was a -- an employee of a grower.
 16 Q. Where was the grower located?
 17 A. That was in the Bootheel of Missouri in
 18 and around Sikeston, Missouri, area.
 19 Q. And what was the farmer using to spray
 20 the paraquat?
 21 A. He was using a tractor with a planter
 22 with the applications made behind the planter for
 23 burn-down as well as putting down his pre-emergent
 24 herbicide.

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1 **Q. And did you see him use an open-air**
 2 **tractor or closed tractor?**
 3 A. No, sir. It was closed cabin.
 4 **Q. All right. Did you ever make any**
 5 **observations at the Belleville Research Center?**
 6 A. At the which research center, sir?
 7 **Q. Belleville, Illinois, Research Center.**
 8 A. No, sir, I don't think so.
 9 **Q. Have you ever visited it?**
 10 A. The Syngenta research center in --
 11 **Q. Yes. In --**
 12 A. -- In Champaign?
 13 **Q. No. Near Scott Air Force Base,**
 14 **Illinois.**
 15 A. No, sir, I have not.
 16 **Q. Okay. Now, the ones you saw -- strike**
 17 **that.**
 18 **The application that you observed in**
 19 **Texas, explain that to me.**
 20 A. That was an aerial application. So
 21 that was being applied by an aerial applicator for
 22 cotton harvesting. And then just they were
 23 looking -- I was with a sales rep, and that was
 24 where they were making applications to the field.

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1 **Q. Did you ever see a farmer apply**
 2 **paraquat in Texas?**
 3 A. No, sir, not there.
 4 **Q. Okay.**
 5 A. This was -- this was more for aerial
 6 work.
 7 **Q. Any other farmer in any other location**
 8 **that you've ever seen apply paraquat?**
 9 A. I've seen it in Mississippi, yes, sir.
 10 My home state.
 11 **Q. Okay. And how did they apply it?**
 12 A. They were applying it using a
 13 self-propelled equipment, commercial -- large
 14 applying equipment as well as aerial application.
 15 **Q. This was a commercial operation, right?**
 16 A. No. This was -- this was a grower, but
 17 they were a very large grower.
 18 **Q. And they used commercial-type**
 19 **application equipment, correct?**
 20 MR. WEIR: Object to form.
 21 THE WITNESS: It would be standard
 22 equipment either used by commercial or large
 23 growers. I mean, it's a standard piece of
 24 equipment. It was a Case International applying

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1 system as well as a John Deere.
 2 BY MR. TILLERY:
 3 **Q. Any other places where you've observed**
 4 **a farmer applicator apply paraquat to his, let's**
 5 **say, soybean fields?**
 6 A. That's probably the high level as far
 7 as that I can remember, sir.
 8 **Q. Okay. Now, you said you also got your**
 9 **information to answer my questions on topic 50 from**
 10 **phone calls, right?**
 11 A. Well, it's from historical, yes, sir.
 12 **Q. And who did you have phone calls with**
 13 **that informed you about how you could answer**
 14 **topic 50?**
 15 A. Well, the way that I was answering that
 16 question, sir, was how did I get information as far
 17 as for learning the application. It was not a
 18 discussion about getting information to answer the
 19 question. It was just going back and reflecting on
 20 much of the conversations I've had over the years,
 21 sir.
 22 **Q. Right. That's what I'm trying to find**
 23 **out.**
 24 A. Right.

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1 **Q. What was the source of your information**
 2 **from phone calls?**
 3 A. Just conversation would come in from --
 4 Inbound from customers, whether they were commercial
 5 applicators, retailers. It could be a grower. It
 6 could even be sales reps as far as calling just
 7 trying to understand the interpretation of the
 8 label, and then from that gaining understanding
 9 about, you know, the proper -- proper application
 10 methods. Many, many things associated with that;
 11 so --
 12 **Q. What did you learn in terms of your**
 13 **answers to topic 50? What did you learn about that**
 14 **topic from those conversations?**
 15 A. Essentially, that there's variability
 16 in understanding as far as just, you know, trying to
 17 understand what -- what the label meant. And so
 18 that's the reason that we recommend for customers to
 19 always read and follow the information; and if they
 20 don't understand it, that we have a toll-free number
 21 associated with our products to provide the
 22 technical support to help them use the product to
 23 ensure that the -- they're doing it correctly; and
 24 also from that to, you know, to answer the questions

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1 that they may have.
 2 So I've learned that there are times
 3 that there is some variability out there, sir, and
 4 that Syngenta to -- takes it very seriously as far
 5 as to provide guidance to our customers and making
 6 sure that they use the products correctly.
 7 **Q. What does "variability" mean in your**
 8 **answer?**
 9 A. What does -- it's just a lot of
 10 different questions related to what -- how do I mix
 11 it? You know, can I mix it with a given product?
 12 Can you help me understand which type of -- of PPE
 13 that I need to use?
 14 In some cases, they may not be familiar
 15 with the respirator indications as far as the
 16 numbers and things like that, sir.
 17 **Q. So did you ever tell them that it was**
 18 **neurotoxic?**
 19 MR. WEIR: Object to form.
 20 BY MR. TILLERY:
 21 **Q. In these phone calls that you had, did**
 22 **you tell the applicators, "Oh, by the way, if you**
 23 **don't wear this type of PPE, this chemical could be**
 24 **neurotoxic to you"?**

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1 MR. WEIR: Same objection.
 2 THE WITNESS: No, sir, I have not.
 3 BY MR. TILLERY:
 4 **Q. Okay. And did you ever tell them it**
 5 **could cause chronic illness?**
 6 MR. WEIR: Same objection.
 7 THE WITNESS: No, sir. I mean, we
 8 answered the questions at hand that were associated
 9 with -- with the call.
 10 BY MR. TILLERY:
 11 **Q. Move to strike your answer as**
 12 **nonresponsive. I'll read the question back.**
 13 **Did you ever tell them paraquat could**
 14 **cause them to have a chronic illness?**
 15 MR. WEIR: Same objection.
 16 MR. TILLERY: What is the objection,
 17 Counsel?
 18 MR. WEIR: Similar to the ones I had
 19 before. The premise of your question about whether
 20 there is, in fact, a risk of chronic illness or not.
 21 MR. TILLERY: I didn't say that in my
 22 question. You're just being disruptive.
 23 MR. WEIR: I'm not.
 24 MR. TILLERY: And I want to make sure

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1 everybody on the phone -- on the call and dialing in
 2 is aware of that. We've stayed away from your
 3 depositions to avoid this.
 4 If you don't understand these rules,
 5 this is a 211.02 deposition. These objections, all
 6 they do is interfere with it. If you have an issue,
 7 we'll take it up, but I don't think you understand
 8 the rules. And if you do understand the rules, you
 9 know that they're not appropriate.
 10 MR. WEIR: I was --
 11 MR. TILLERY: If you have a form
 12 objection, state the problem with the form because
 13 we have an objection rule. And I want to -- and I
 14 have the right to correct the question. So tell me
 15 what it is that's wrong with it?
 16 MR. WEIR: Okay. So I told you the
 17 basis of my objection. If you would -- if you would
 18 prefer that I give longer objections, I'm happy to
 19 do so, Steve. I'm trying to keep it tight and just
 20 object to form so I'm minimizing the impact on the
 21 deposition. But I'm happy to provide more
 22 information when I object.
 23 BY MR. TILLERY:
 24 **Q. In the phone calls you had with**

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1 **customers that you just told the court and jury**
 2 **about, did you ever inform the caller that his or**
 3 **her use of paraquat could cause a chronic illness?**
 4 MR. WEIR: Object to the form. Assumes
 5 a premise that is incorrect.
 6 THE WITNESS: No, sir.
 7 BY MR. TILLERY:
 8 **Q. Okay. How did you determine the actual**
 9 **practices of mixers, loaders, and applicators of**
 10 **paraquat products in southern Illinois regarding**
 11 **compliance with instructions and warnings on**
 12 **paraquat labels?**
 13 A. Well, what I -- I observed the mixing
 14 and the loading associated with that. So, I mean,
 15 that was one that, you know, I -- I looked to, to
 16 see how -- how they -- how we're mixing it, sir.
 17 I mean, this was -- this particular
 18 system was an automated system. So the people that
 19 were moving the product, I mean, it was -- it was
 20 in -- they were -- had the proper PPE as far as all
 21 the aprons, and they mixed. And then from that,
 22 they mixed into the -- or loaded it into the
 23 applicator. And from my view and my judgment, they
 24 were complying with the -- with the requirements on

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1 the label.

2 Q. You're referring to an observation in

3 Jacksonville, Illinois, of a commercial applicator,

4 right?

5 A. Yes, sir.

6 Q. All right. Did you understand that the

7 plaintiffs in this case were commercial applicators?

8 A. I think I remember reading that or

9 knowing that, yes, sir.

10 Q. So which ones of them did you think

11 were commercial applicators?

12 A. Which ones, sir? I'm --

13 Q. Of the plaintiffs.

14 A. I don't remember specifically. I

15 don't --

16 Q. Do you understand there's four

17 plaintiffs?

18 A. No, sir, I did not.

19 Q. All right. So is Carroll Rowan a

20 commercial applicator?

21 A. Sir, I don't remember which one, sir.

22 I mean --

23 Q. All right. Is -- is Freemon Schmidt a

24 commercial applicator?

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1 A. I don't know.

2 Q. Is Jerry Mills a commercial applicator?

3 A. Sir, I don't know if any of those were

4 commercial. I thought that I remember seeing

5 something, but I don't remember the -- which ones in

6 specifics.

7 Q. All right. Is Ronald Niebrugge a

8 commercial applicator?

9 A. I do not know, sir.

10 Q. Okay. So you assume when you answered

11 my question that the actions of commercial

12 applicators were pertinent to what farmers do when

13 they apply the product, right?

14 A. Did I assume? I didn't assume. I was

15 just offering information, sir. I don't -- didn't

16 make any assumptions.

17 Q. But you told me you've never seen a

18 farmer applicator apply product -- paraquat product

19 in southern Illinois other than what you said was a

20 commercial application in Jacksonville, correct?

21 A. Well, that was just at the time I was

22 there, yes, sir.

23 Q. Okay. Can you answer my question?

24 You've never seen a farmer like Ron Niebrugge or

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1 Freemon Schmidt or Jerry Mills, you've never seen

2 them in the way they apply it, have you?

3 MR. WEIR: Objection to form.

4 BY MR. TILLERY:

5 Q. In southern Illinois?

6 MR. WEIR: Object to form. Misstates

7 testimony.

8 THE WITNESS: No, sir, I've not.

9 BY MR. TILLERY:

10 Q. Okay. Now, other than this commercial

11 operation that you've referenced at a distributor's

12 location in Jacksonville, how did you determine the

13 actual practices of mixers, loaders, and applicators

14 of paraquat products in southern Illinois regarding

15 compliance with instructions and warnings on

16 paraquat labels?

17 A. Sir, I don't know that I can tell you

18 emphatically that I can -- that everyone has, you

19 know -- follows the label exactly the way it's

20 written.

21 I mean, that, I cannot -- cannot tell

22 you that. I mean, we -- we at Syngenta provide the

23 information to help people use the product properly,

24 but whether or not they follow that is up to them.

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1 We're not the people who would -- who would police

2 that.

3 Q. All right. So I move to strike your

4 answer as unresponsive. I'll read it back to you.

5 Other than the operation you described

6 by a commercial applicator in Jacksonville,

7 Illinois, how did you determine the actual practices

8 of mixers, loaders, and applicators of paraquat

9 products in southern Illinois regarding compliance

10 with instructions and warnings on product -- on

11 paraquat product labels?

12 A. I'm basing this just on the information

13 I have, sir. I mean, that's -- I did not say that

14 just because I saw a commercial applicator that the

15 assumption was that they were following the labels.

16 Q. So you're basically telling me you have

17 no knowledge of what these farmer applicators are

18 doing in southern Illinois of a personal nature, do

19 you?

20 A. Of a personal nature, I do not, sir.

21 Q. All right. Okay. Now, you're basing

22 your answers on what, then, in terms of personal

23 knowledge in southern Illinois? Strike the

24 question.

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1 You didn't go to Madison County,
 2 Illinois; St. Clair County, Illinois; or
 3 Monroe County, Illinois, to observe mixing, loading,
 4 and application practices of farmers to be able to
 5 answer my questions here today, did you?
 6 A. No, sir.
 7 Q. Did you assume that the practices of
 8 those farmers with mixing, loading, and applying
 9 paraquat were generally the same as in other areas
 10 of the United States?
 11 A. Sir, making assumptions, I mean, I
 12 would expect the person to follow -- follow the
 13 label. I don't have knowledge of how they were --
 14 how they were mixed and loaded and applied.
 15 Q. I strike your -- I move to strike your
 16 answer as unresponsive.
 17 Did you assume that the practices of
 18 those farmers in Madison, St. Clair, and Monroe
 19 counties were generally the same as in other areas
 20 of the United States where farmers applied paraquat?
 21 A. I guess you could -- I mean, sir, I
 22 mean, my understanding essentially is, is that
 23 people are following the labels. I hope that they
 24 are. And then from that, that they -- they are

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1 making the applications correctly.
 2 The assumption out of that, when you
 3 don't get many phone calls related to having
 4 problems, that possibly people are following the --
 5 following the information and following the safety
 6 guidelines, sir.
 7 Q. Move to strike your answer as
 8 unresponsive. One more time, and then I'll move on
 9 with another report.
 10 Did you assume that the practices of
 11 those farmers in Madison, St. Clair, and Monroe
 12 counties were generally the same as in other areas
 13 of the United States where farmers applied paraquat?
 14 A. I guess you could say I assumed, yes,
 15 sir.
 16 Q. All right. Did you assume those same
 17 types of practices were the same as those undertaken
 18 by other applicators in other parts of the world?
 19 MR. WEIR: Object to the form. Vague
 20 and ambiguous.
 21 THE WITNESS: Yeah. That -- sir, I
 22 don't have experience in other parts of the world.
 23 I mean, making an --
 24

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1 BY MR. TILLERY:
 2 Q. You don't know what they do?
 3 A. No, sir. I'm not -- I've never seen
 4 any applications done in other parts of the world.
 5 Q. Do you have any knowledge at all about
 6 how paraquat is applied outside the United States?
 7 A. In reading some of the documents, I
 8 mean, in some cases, it's actually done by backpack
 9 sprayers, which in many cases don't really represent
 10 the typical use patterns that we see here in the
 11 United States.
 12 Q. And you also know that in Europe it was
 13 applied by tractors too, right? You knew that?
 14 A. Yes, sir. I mean, it -- but to see it
 15 actually mixed, loaded, and applied, I've never
 16 witnessed that or seen it. But my understanding is
 17 that it's done both using mechanical equipment as
 18 well as handheld equipment.
 19 Q. And other than backpack sprayers, which
 20 you mentioned, do you have any knowledge that the
 21 application techniques used outside the
 22 United States are substantially different than those
 23 used within the United States in terms of applying
 24 paraquat?

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1 MR. WEIR: Objection to foundation.
 2 THE WITNESS: No, sir.
 3 BY MR. TILLERY:
 4 Q. Did you try to make any determination
 5 as to whether the plaintiffs in this case complied
 6 with instructions and warnings on paraquat labels
 7 when they applied paraquat to their crops?
 8 A. No, sir, I did not. I would not have
 9 reached out to find that information because I
 10 didn't think the contact would be allowed.
 11 Q. The answer is, no, you did not?
 12 A. No. No, sir.
 13 Q. Okay. Did you ever -- did you ever try
 14 to make any determination as to whether the
 15 plaintiffs in this case mixed, loaded, or applied
 16 paraquat in a way which was not reasonably
 17 foreseeable by Syngenta?
 18 A. No, sir.
 19 MR. WEIR: Objection to form. Vague
 20 and ambiguous. Asked and answered.
 21 BY MR. TILLERY:
 22 Q. You can go ahead and answer, sir.
 23 A. No, sir, I did not.
 24 Q. Okay. Did you try to make any

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1 determination and have you formed any opinions or
 2 conclusions as to whether the plaintiffs in this
 3 case mixed, loaded, or applied paraquat in a way
 4 which was different from what you knew other farmers
 5 were doing when mixing, loading, and applying
 6 paraquat?
 7 MR. WEIR: Object to form. Vague and
 8 ambiguous.
 9 THE WITNESS: No, sir.
 10 BY MR. TILLERY:
 11 Q. Okay. Does the actual practice of
 12 paraquat application in terms of compliance with
 13 instructions and warnings on paraquat labels differ
 14 from region to region of the United States?
 15 A. Sir, I couldn't answer that as far as
 16 the difference. I would -- if I was to -- it would
 17 be possible, but I don't --
 18 Q. Well, can you tell me whether you know
 19 one way or another as the official Syngenta
 20 position?
 21 A. I do not know one way or another, no,
 22 sir.
 23 Q. All right. Have the actual practices
 24 of paraquat applicators regarding compliance with

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1 instructions and warnings on paraquat labels changed
 2 over time?
 3 MR. WEIR: Object to the scope.
 4 Foundation as well.
 5 THE WITNESS: The -- there's been
 6 changes in PPE requirements, but other than, you
 7 know, changes as far as in their methods, I couldn't
 8 answer that, sir.
 9 BY MR. TILLERY:
 10 Q. Would you --
 11 A. I don't know.
 12 Q. Would the answer be -- okay. Does
 13 Syngenta know that mixers, loaders, and applicators
 14 of paraquat products do not always wear respirators
 15 during the mixing, loading, and application of
 16 paraquat products?
 17 MR. WEIR: Object to form. Assumes
 18 facts not in evidence.
 19 THE WITNESS: They're in -- in -- there
 20 could be indications from phone calls or that tech
 21 support had received that could indicate the
 22 possibility of not wearing some of the PPE
 23 associated.
 24

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1 BY MR. TILLERY:
 2 Q. And that would include respirators when
 3 applying the product, right?
 4 A. Yes, sir. Yes, sir.
 5 Q. And Syngenta's known this since the
 6 product was first sold in the mid '60s, hasn't it?
 7 MR. WEIR: Object to the foundation.
 8 Object to scope.
 9 THE WITNESS: Back to the '60s, I'm not
 10 sure, sir. But I can tell you that in past
 11 experience of phone calls that have been received
 12 that there's been -- been some instances of where a
 13 respirator was not worn.
 14 BY MR. TILLERY:
 15 Q. How long has Syngenta been aware either
 16 from the studies we reviewed in the first part of
 17 this deposition, which you acknowledged -- do you
 18 remember those, sir?
 19 A. Yes, sir.
 20 Q. How long has Syngenta known that it is
 21 common practice for some applicators to apply
 22 paraquat products without wearing respirators?
 23 MR. WEIR: Object to the form. Vague
 24 and ambiguous. Assumes facts not in evidence.

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1 THE WITNESS: I -- I can speak to one
 2 of the documents -- I believe it was Swan -- that
 3 stated essentially having some problems as far as
 4 with the -- with the nosebleeds. So, I mean, that
 5 paper was written back, sir, somewhere in the 1960s,
 6 mid '60s, '5, '6, '7, somewhere in there.
 7 BY MR. TILLERY:
 8 Q. So it's been since the product was
 9 basically put on the market. Would you agree with
 10 me, sir?
 11 MR. WEIR: Same objections.
 12 THE WITNESS: Based on -- based on
 13 that -- the paper and the dates, yes, sir.
 14 BY MR. TILLERY:
 15 Q. Okay.
 16 MR. WEIR: Stephen, I don't know if
 17 you're at a stopping point or not, but we've been
 18 going for about an hour. So whenever you get to a
 19 stopping point, if we could take a break, that would
 20 be great.
 21 MR. TILLERY: And I've got an area -- I
 22 just started an area. Let me take a few minutes and
 23 get through it.
 24 MR. WEIR: Okay.

<p>Page 53</p> <p>1 BY MR. TILLERY: 2 Q. You remember the studies we reviewed in 3 the early part of the deposition on June 22nd, 2020, 4 because you reviewed them. Remember? 5 A. Yes, sir. 6 Q. And that included the 1995 studies. It 7 included the Malaysian studies in the '60s. It 8 included studies done by Syngenta France in the 9 2000s. Do you remember those? And you've been over 10 it, correct? 11 A. Yes, sir. 12 Q. These were studies undertaken by 13 Syngenta, weren't they? A predecessor, corporate 14 predecessor? 15 A. Yes, sir. 16 Q. All right. Now, would you agree with 17 me that in general terms those studies indicate that 18 at least some percentage and in many of the cases, 19 most of the applicators being observed were not 20 wearing respirators during the application process? 21 Would you agree with me that that's what they found? 22 MR. WEIR: Object to the form. Vague 23 and ambiguous. 24</p>	<p>Page 55</p> <p>1 Q. So Syngenta has known since the mid 2 '60s through its own studies that at least some 3 percentage of the applicators were not wearing 4 respirators, correct? 5 A. Yes, sir. 6 Q. Okay. What hazard do respirators 7 protect against? 8 A. For the application of paraquat. 9 MR. WEIR: Object to the form. Outside 10 the scope. 11 THE WITNESS: So wear your respirator. 12 There's a few that can be related to that. 13 Covering nose and mouth could 14 present -- or prevent an accidental splashing 15 potentially into the mouth. It could also block any 16 droplets, you know, that could inflame the nasal 17 cavities related to small drift or to spray 18 particles. 19 BY MR. TILLERY: 20 Q. Okay. Any other health hazard which 21 respirators avoid? 22 MR. WEIR: Steve, can I get a standing 23 objection to anything about, you know, the hazards 24 that respirators --</p>
<p>Page 54</p> <p>1 BY MR. TILLERY: 2 Q. I mean, we can go back over them. I'm 3 trying to avoid that if you can answer that 4 question. 5 A. In those research papers, the 6 information that was presented, from my memory, sir, 7 was to come prepared as you normally would make 8 applications. And in cases, the respirators may not 9 have been used in that situation. 10 Q. All right. And the reason I'm asking 11 you is because certainly by those dates in '65, '67, 12 in the '80s and the mid '90s up through 2007, there 13 was a consistent pattern that was seen in terms of 14 the use of respirators in those studies, wasn't 15 there? 16 MR. WEIR: Object to the form. Vague 17 and ambiguous. 18 THE WITNESS: The papers indicated that 19 those patterns existed, yes, sir. 20 BY MR. TILLERY: 21 Q. And those patterns we're talking about 22 are not wearing respirators when applying the 23 product, correct? 24 A. In some sense, yes.</p>	<p>Page 56</p> <p>1 MR. TILLERY: Yes, you can. 2 MR. WEIR: Thank you. 3 THE WITNESS: Could you repeat the 4 question, sir? Sorry. 5 BY MR. TILLERY: 6 Q. Sure. Is it your understanding that 7 the use of respirators protects against certain 8 health hazards from paraquat? 9 A. It can protect, yes, from, as I stated, 10 you know, potential splashing into the mouth, 11 inhalation of -- or -- of, you know, potential 12 droplets. 13 Q. Okay. So the inhalation of droplets 14 and the splashing in the mouth is what you told me, 15 right? 16 A. Correct. I mean, that's -- that's the 17 one if you poured and, say, an inadvertent splash, 18 if you didn't have covering on your face, then you 19 could potentially have that go into your mouth. 20 Q. And that could be a poison to you, 21 right, sir? 22 A. Correct. 23 Q. And we know that paraquat is a deadly 24 poison, don't we?</p>

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1 A. When ingested, it has the potential,
 2 yes, sir.
 3 **Q. Okay. And you also said it avoids**
 4 **inhalation. What's the problem with Inhalation from**
 5 **a human health perspective?**
 6 A. Well, they -- as far as from spray
 7 droplets, they can be irritants as far as into the
 8 nose. I mean, the document -- I think it was the
 9 Swan document 1 referenced, you know, nosebleeds.
 10 And that was from -- from the irritation from the
 11 droplets in the nose.
 12 **Q. Does the use of a respirator protect**
 13 **against neurotoxicity in the brain?**
 14 MR. WEIR: Object to form. It's
 15 outside the scope. I already have a standing
 16 objection on that.
 17 BY MR. TILLERY:
 18 **Q. And I'm not talking, sir -- I'm going**
 19 **to rephrase this question because I want to make**
 20 **sure you understand it.**
 21 I'm talking not from you giving a
 22 medical opinion or giving a scientific opinion, even
 23 though you're a trained scientist. I'm asking you
 24 simply this: Is it Syngenta's position that you

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1 wear a respirator when applying paraquat to avoid
 2 neurotoxicity?
 3 A. My understanding is that that would not
 4 be the position. It's more to protect and prevent
 5 any nosebleed irritations. My understanding from
 6 our information in talking with our scientists that
 7 their belief is, is that paraquat is not considered
 8 a neurotoxin at this time.
 9 **Q. Okay. And that's based on Karn,**
 10 **[phonetic] the science that they've reviewed and**
 11 **they've undertaken; is that right?**
 12 A. That's correct, sir.
 13 **Q. So what I'm asking you is this: A**
 14 **person who has a question about the neurotoxicity of**
 15 **paraquat calls in and says, if I wear a respirator**
 16 **what will it guard against you don't mention**
 17 **neurotoxicity in your answer, do you?**
 18 A. No, sir. I mean, it's essentially, you
 19 know --
 20 **Q. You don't tell them that wearing a**
 21 **respirator will protect them from Parkinson's**
 22 **disease, do you?**
 23 A. Well, sir --
 24 MR. WEIR: Assumes facts not in

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1 evidence.
 2 BY MR. TILLERY:
 3 **Q. Can you answer my question?**
 4 A. No, sir. It would not -- we had not
 5 said that.
 6 **Q. All right. Have you ever told any**
 7 **applicator, farmer, or are aware of anybody at**
 8 **Syngenta telling any farmer, applicator, user,**
 9 **consumer of paraquat products that if you wear a**
 10 **respirator, it will guard against long-term or**
 11 **chronic neurological harm?**
 12 MR. WEIR: Same objection.
 13 THE WITNESS: To my knowledge, sir, I'm
 14 not aware.
 15 MR. TILLERY: Okay. Tom, if you want
 16 to take a break, now would be a good time to do
 17 that. Say five minutes?
 18 MR. WEIR: Why don't we do ten?
 19 MR. TILLERY: Ten is fine.
 20 THE VIDEOGRAPHER: We're going off the
 21 record. The time is 9:09. This ends media unit
 22 number 1.
 23 (Recess taken.)
 24 THE VIDEOGRAPHER: We're going back on

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1 the record. The time is 9:23. This begins media
 2 unit number 2.
 3 BY MR. TILLERY:
 4 **Q. Mr. Ouzts, has Syngenta undertaken any**
 5 **study to determine why mixers, loaders, and**
 6 **applicators of paraquat products don't always use**
 7 **respirators other than the studies that you and I**
 8 **reviewed in the first part of your deposition on**
 9 **June 22nd?**
 10 MR. WEIR: Object to form. Assumes
 11 facts not in evidence. Misstates prior testimony.
 12 THE WITNESS: Sir, I'm not aware of any
 13 other -- any studies in that type related to your
 14 question.
 15 BY MR. TILLERY:
 16 **Q. Okay. Has Syngenta ever hired an**
 17 **outside firm to determine why mixers, loaders, and**
 18 **applicators of paraquat products don't always use**
 19 **respirators?**
 20 A. To my knowledge, I'm not aware.
 21 **Q. The answer would be you don't know?**
 22 A. No, I don't know. That's correct.
 23 **Q. Okay. And you know -- you under -- you**
 24 **understand you're speaking for Syngenta today? You**

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1 know that, right?

2 A. Yes, sir.

3 Q. Okay. Has Syngenta, either by its own

4 employees or through an outside firm, undertaken any

5 studies to determine the effectiveness of wearing

6 respirators in protecting against the inhalation of

7 paraquat?

8 MR. WEIR: Object to the form. It's

9 outside of the scope.

10 THE WITNESS: Specifically to

11 inhalation, sir, I do not know.

12 BY MR. TILLERY:

13 Q. Okay. Does the way in which a

14 respirator fits its user impact its effectiveness to

15 protect against inhalation of paraquat?

16 MR. WEIR: Objection. Outside the

17 scope.

18 THE WITNESS: Face mask or respirators,

19 there is a requirement for a proper fitment test.

20 Would it have an impact just on paraquat? I can't

21 answer that, sir, but I do know that there is a

22 fitment test that is required for wearing a

23 respirator.

24

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1 MR. WEIR: Same objection.

2 THE WITNESS: No, sir. I mean, that --

3 you know, I wouldn't be able to answer that.

4 BY MR. TILLERY:

5 Q. Okay. Does Syngenta have people whose

6 job it is in its paraquat manufacturing facilities

7 to assess how respirators fit your employees?

8 MR. WEIR: Objection. Outside of the

9 scope.

10 THE WITNESS: Our health safety and

11 engineering team would be the ones that would be

12 responsible for ensuring a proper fitment. And, you

13 know, they would have the people that were required

14 to -- they would be checked or certified.

15 BY MR. TILLERY:

16 Q. Okay. And do they do that in your

17 manufacturing plants --

18 MR. WEIR: Same objection.

19 BY MR. TILLERY:

20 Q. -- as far as you know?

21 A. It's my -- as far as I know, that --

22 there's -- I think that is done potentially, yes,

23 sir.

24 Q. Okay. Who assists mixers, loaders, and

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1 BY MR. TILLERY:

2 Q. Okay. But my question was a little

3 different. And that is does the way in which it

4 fits the applicator -- that is, the respirator --

5 does it impact its effectiveness to protect that

6 applicator from the inhalation of paraquat?

7 MR. WEIR: Same objection.

8 THE WITNESS: If fitment was not

9 proper, there could be a potential impact.

10 BY MR. TILLERY:

11 Q. Okay. And would the impact include

12 some health hazard?

13 MR. WEIR: Same objection.

14 THE WITNESS: Sir, I couldn't answer

15 that. I could say there could be an impact, but as

16 far as a health hazard, that's above my ability to

17 predict that.

18 BY MR. TILLERY:

19 Q. So in other words, if, in fact, a

20 respirator was worn by a paraquat applicator and it

21 didn't fit correctly, you don't know or wouldn't

22 have any way of telling them what additional health

23 risk they would have from an improperly fitting

24 mask, correct?

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1 applicators of paraquat with regard to how the

2 respirators fit?

3 MR. WEIR: Same objection.

4 THE WITNESS: I can't answer that.

5 It -- I don't know. It could vary by state, sir. I

6 don't know.

7 BY MR. TILLERY:

8 Q. How does a person like Friedman Schmidt

9 or Jerry Mills or Ron Niebrugge know whether or not

10 their respirator is fitting appropriately?

11 MR. WEIR: Same objection. Also object

12 to the foundation.

13 THE WITNESS: I don't know, sir. I

14 mean, they could --

15 BY MR. TILLERY:

16 Q. All right.

17 A. They could ask for a professional to

18 have a fitment test, but as far as just personally

19 understanding for them, I don't know.

20 Q. If a respirator is not fitted properly

21 by an applicator, does the applicator of paraquat

22 run a greater risk of inhaling paraquat?

23 MR. WEIR: Object to the scope.

24 THE WITNESS: Does he run a greater

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1 risk of inhaling from an improperly filled or
 2 improperly fitted face mask? Is that -- that was
 3 the question, sir?
 4 BY MR. TILLERY:
 5 Q. Yes.
 6 A. Okay. I -- I don't have any -- any
 7 data to -- to tell you yes or no, sir.
 8 Q. Okay. Has Syngenta undertaken any
 9 studies concerning how users understand its labels?
 10 A. To my knowledge, no, sir.
 11 Q. Okay. Has Syngenta engaged any human
 12 factors experts to evaluate its labels and
 13 instructions?
 14 MR. WEIR: I'm going to object.
 15 Outside the scope.
 16 THE WITNESS: I'm not aware.
 17 BY MR. TILLERY:
 18 Q. The answer would be --
 19 A. I'm not aware of anyone that they hired
 20 to do that.
 21 Q. All right. Does Syngenta have an
 22 in-house team that works on labels and warnings of
 23 its products?
 24 A. Yes, sir.

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1 team as far as to --
 2 Q. All right. I'm asking who heads it up.
 3 All of these different groups, who's in charge?
 4 That's what I'm trying to find out --
 5 A. Yeah. I'm --
 6 Q. -- for paraquat?
 7 A. For --
 8 Q. Let's limit it to paraquat. Who's in
 9 charge?
 10 A. Monty would probably -- I believe would
 11 be the lead as far as on the paraquat label.
 12 Q. And that would be Monty Dixon, you
 13 said?
 14 A. Yes, sir. I'm sorry. Monty Dixon.
 15 Q. Is Syngenta aware of any specific
 16 instructions, cautionary statements, or warnings on
 17 paraquat labels which mixers, loaders, and
 18 applicators of paraquat products often fail to
 19 comply with?
 20 MR. WEIR: Object to the form. Vague
 21 and ambiguous. It's also outside the scope.
 22 THE WITNESS: Yeah. I don't know that
 23 we have statistics as far as to show that, sir.
 24

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1 Q. And what is that group or team called?
 2 A. Well, it would be many different -- it
 3 would be a regulatory team. It would be our
 4 technical product -- product leads. From that, it
 5 would also be our -- our biology teams and also our
 6 health and safety teams.
 7 Q. Is there a person who spearheads or
 8 leads all of these different groups?
 9 A. Out of the label -- essentially, labels
 10 would probably be spearheaded out of our regulatory
 11 group.
 12 Q. So you're talking about Monty Dixon,
 13 right?
 14 A. He could be one, yes, sir.
 15 Q. Do you know of anybody else --
 16 A. No. I mean, as far as for paraquat.
 17 But, I mean, there's many people in the regulatory
 18 that play it, but he would be for paraquat.
 19 Q. But for paraquat labels or warnings or
 20 instructions, it would be Monty Dixon who would have
 21 overall responsibility for that, right?
 22 A. For -- for the label? Well, it's --
 23 you have work streams. The health and safety
 24 component would be related to the health and safety

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1 BY MR. TILLERY:
 2 Q. Have you ever tried to study it?
 3 A. To my knowledge, I'm not aware.
 4 Q. For example, with respect to handling
 5 paraquat, have you ever made an assessment of the
 6 percentage of people who use rubberized gloves?
 7 A. No, sir. To my knowledge, we have not.
 8 Q. Other than the studies that you and I
 9 went through on June 22nd of this year, has Syngenta
 10 ever undertaken to find out what percentage of
 11 applicators use respirators when they're applying
 12 paraquat?
 13 A. I'm not aware of any, sir.
 14 Q. Okay. What safety precautions did
 15 Syngenta believe should be taken by mixers, loaders,
 16 and applicators of paraquat products in 1966?
 17 MR. WEIR: Object to the form. It's
 18 outside the scope.
 19 THE WITNESS: Yeah. It -- I'm trying
 20 to remember, sir. It's been -- essentially from
 21 what my recollection is, it would be long-sleeve
 22 shirt, long pants, gloves. And, you know, from
 23 that, potential of face shield or goggles.
 24

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1 BY MR. TILLERY:
 2 Q. And how long did those precautions
 3 remain in effect without change?
 4 MR. WEIR: Object to the scope.
 5 THE WITNESS: I don't remember it
 6 exactly, sir.
 7 BY MR. TILLERY:
 8 Q. What was in your recollection, I mean
 9 as -- as Syngenta here today, what was the next
 10 material change in the use of personal protective
 11 equipment after those you just identified?
 12 A. That's -- It seems, if I remember,
 13 there was some material changes moving forward from
 14 the -- the Meyer study as far as doing evaluations
 15 at that time, sir. I think the date was 1995.
 16 I'm --
 17 Q. Okay. And in 1995, what changed in
 18 terms of required personal protective equipment?
 19 A. So that was a move from -- a move into
 20 respirators, use of gloves, use of also aprons,
 21 boots, along with the current long-sleeve shirt,
 22 socks, face shield.
 23 Q. And how long did those requirements of
 24 PPE remain in effect before there was a material

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1 change?
 2 MR. WEIR: Object to the scope again.
 3 THE WITNESS: Sir, I believe those have
 4 been in effect for -- for quite a long time until
 5 present. There was some back and forth in and round
 6 PPE as far as with or without a respirator, but for
 7 the most part, that has been standard -- standard
 8 requirements, you know, to date.
 9 BY MR. TILLERY:
 10 Q. You understood that Syngenta took the
 11 position that a respirator was not required for
 12 application at different times, didn't you, sir?
 13 A. I did, sir. Then --
 14 Q. Whose -- go ahead.
 15 A. I did, sir, but the reason that it
 16 varied was -- my understanding was related to
 17 respirable fines. And so from that, it was at the
 18 time believed that the -- there were droplet size of
 19 application, which is somewhere large -- is larger
 20 than what would be considered a respirable particle
 21 size. Therefore --
 22 Q. All right. Is that applied to today?
 23 A. It's still believed that those particle
 24 sizes have not -- from spraying are not respirable,

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1 but the respirator is required now.
 2 Q. Then what hazard, then, is it guarding
 3 against if it's not for particles that are not
 4 respirable?
 5 MR. WEIR: I'll object. Outside the
 6 scope again.
 7 THE WITNESS: That information, sir, I
 8 couldn't speak specifically regarding what was the
 9 trigger event, but that came out of the health
 10 safety mitigations that -- from regulatory, from
 11 EPA.
 12 BY MR. TILLERY:
 13 Q. Yeah. You're here talking on these
 14 topics that deal with compliance with regulatory --
 15 with labels and personal protective equipment today.
 16 So, unfortunately, we have to do our best to get
 17 through these answers. So let's see if we can
 18 summarize here and start a question.
 19 You indicated that you knew that over
 20 the years Syngenta took the position with regulators
 21 that the respirators weren't required. They did
 22 that at different times. You know that, right?
 23 A. Correct. That's --
 24 Q. Okay. And the reason they did that --

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1 (Reporter clarification.)
 2 MR. WEIR: Yeah. Misstates testimony.
 3 Thank you, Renee.
 4 MR. TILLERY: And -- and you -- Did you
 5 get his answer, Miss Court Reporter?
 6 THE REPORTER: I did not.
 7 BY MR. TILLERY:
 8 Q. Can you answer the question, sir? You
 9 knew that?
 10 A. From -- from the -- the information
 11 that -- that -- that appears, yes.
 12 Q. Okay. Now, you told me the reason they
 13 took that position was because the particle size was
 14 such that the particles of paraquat weren't
 15 respirable, correct?
 16 MR. WEIR: Outside the scope.
 17 THE WITNESS: That was the information
 18 that was -- I was given, sir.
 19 BY MR. TILLERY:
 20 Q. And that means that the particles
 21 wouldn't go into the lungs when they got in through
 22 the nose, right?
 23 MR. WEIR: Same objection.
 24 THE WITNESS: I'm not understanding

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1 you, sir.

2 BY MR. TILLERY:

3 Q. So Syngenta took the position that

4 larger particles were incapable of working their way

5 through and into the ovular structures in the lung

6 to cause damage, right?

7 MR. WEIR: Same objection.

8 THE WITNESS: My understanding, yes,

9 sir.

10 BY MR. TILLERY:

11 Q. All right. Now, did Syngenta change

12 its position with respect to particle size and

13 respirators?

14 MR. WEIR: Same objection. Outside the

15 scope.

16 THE WITNESS: I'm not aware, sir. I

17 mean, the particle size essentially would remain the

18 same.

19 BY MR. TILLERY:

20 Q. It's the same today as it was in '66,

21 isn't it?

22 MR. WEIR: Same objections.

23 THE WITNESS: Same -- same application,

24 technology types are -- are -- are similar, yes,

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1 sir.

2 BY MR. TILLERY:

3 Q. And the fact is, is that the active

4 ingredient hasn't changed at all, has it? Paraquat

5 is paraquat?

6 A. Correct.

7 Q. Okay. So does Syngenta now continue to

8 take the position that respirators shouldn't be

9 worn?

10 MR. WEIR: Object to the form. Vague

11 and ambiguous. Also still outside the scope.

12 THE WITNESS: We take the position

13 based on guidance and the requirements of what the

14 EPA regulatory has issued back to us. So that's --

15 we have to follow the law.

16 BY MR. TILLERY:

17 Q. And the law -- well, strike that.

18 And what the EPA told you was to tell

19 the people to wear respirators, right?

20 MR. WEIR: Outside of the scope.

21 THE WITNESS: I would yield to

22 Monty Dixon to answer that. I'm not sure.

23 BY MR. TILLERY:

24 Q. You don't know why. Now, you talked to

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1 me and said that since 1995 the changes that

2 occurred in personal protective equipment continued.

3 Has there been any material change in

4 the obligation to wear certain types of personal

5 protective equipment since 1995?

6 A. They've changed as far as in the glove

7 requirements. They want more of a

8 chemical-resistant gloves, chemical-resistant apron,

9 respirator, face shield, rubber boots. So

10 essentially, I mean, that's -- that's what is

11 current as of today, sir. That's for -- that's for

12 a mixer loader.

13 Q. So was Syngenta aware that farmers

14 apply paraquat products in different ways?

15 A. Could you be more specific, sir? Are

16 you --

17 Q. Sure. That they use different types of

18 equipment.

19 A. Sure.

20 Q. You know that, right?

21 A. Different types of application

22 equipment, yes, sir.

23 Q. The application equipment varies

24 greatly in terms of how it works, right?

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1 A. Yes, sir.

2 MR. WEIR: Vague and ambiguous.

3 BY MR. TILLERY:

4 Q. Has the way in which farmers have

5 applied paraquat changed over time?

6 A. I mean, the application methods, you've

7 got a hydraulic system that you're using. Sir. So

8 the application methods are the same. The equipment

9 could have changed over the years. I mean obviously

10 new design, new -- new types of equipment. So it

11 could be different.

12 Q. And the type of equipment that's

13 pulling the device -- the spray devices through the

14 fields could change as well, right?

15 A. Correct.

16 Q. In other words, you know that some

17 farmers may use older equipment that doesn't have an

18 air-conditioned cab on the tractor, right?

19 A. Yes, sir.

20 Q. And these are open-air devices. And

21 would you explain for the court and jury what an

22 open-air device is for a tractor?

23 A. That would just be a tractor that would

24 not have an enclosed cab around the -- the steering

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1 wheel, seat, et cetera. It'd almost be like a – a
 2 riding lawn mower, in essence, would be like an old
 3 tractor.
 4 **Q. You could be out – out into whatever**
 5 **is in the air, they're exposed to it, right?**
 6 MR. WEIR: I'm going to object to the
 7 form. Assumes facts.
 8 THE WITNESS: You would – you would be
 9 exposed to an open-air system.
 10 BY MR. TILLERY:
 11 **Q. Right. Whatever is in the air, they're**
 12 **exposed to it, right?**
 13 MR. WEIR: Object to the form. Assumes
 14 facts not in evidence.
 15 THE WITNESS: There is a possibility.
 16 BY MR. TILLERY:
 17 **Q. What's going to keep them from it?**
 18 A. From what?
 19 **Q. From being exposed to what's in the**
 20 **air. They're sitting on an open-air tractor.**
 21 **They're out there right in front of their sprayer.**
 22 **They go down to the end of the field, turn around**
 23 **and come right back where they were just over a few**
 24 **rows. What is preventing them from breathing the**

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1 from the papers that were reviewed, there was
 2 activity as far as to see what the different safety
 3 parameters would -- would have as far as on an
 4 applicator.
 5 **Q. And when you say "the papers reviewed,"**
 6 **you're talking about the studies that you and I**
 7 **talked about in your deposition on June 22nd,**
 8 **correct?**
 9 A. That's right. Correct, sir.
 10 **Q. All right. Have – strike that.**
 11 **In terms of the distribution of**
 12 **information about product safety questions to**
 13 **Syngenta's American customers, is there a particular**
 14 **person or a group that is tasked with everyday**
 15 **answering their questions?**
 16 A. Yes, sir. We have what we've
 17 designated as a technical support group. So that's
 18 referenced -- we have a toll-free number that if a
 19 customer has a question related to -- to one of our
 20 products that they can call that number to gain more
 21 information.
 22 **Q. Where are those people located?**
 23 A. They're located in Greensboro,
 24 North Carolina.

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1 **air where this chemical has been applied?**
 2 MR. WEIR: Object. Way outside the
 3 scope now.
 4 THE WITNESS: Sir, there's nothing
 5 preventing them to breath the air. However, there
 6 are many environmental factors as well as droplet
 7 size, things there that may or may not have
 8 particles that the person could -- could breathe. I
 9 can't answer that.
 10 BY MR. TILLERY:
 11 **Q. Okay.**
 12 A. Not as far as specifically.
 13 **Q. All right. Has Syngenta tried to keep**
 14 **track of any change in mixer, loader, and paraquat**
 15 **applicator conduct in terms of the use of personal**
 16 **protective equipment over the years?**
 17 A. As far as looking at statistical
 18 information, I'm not aware, sir, or gaining that,
 19 sir.
 20 **Q. So in other words, in terms of how**
 21 **respirators were used in the mid-'60s versus the**
 22 **mid-'80s versus 2005, there wasn't any effort to try**
 23 **to track those differences, correct?**
 24 A. As far as tracking, no, sir. But in --

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1 **Q. And who's the head of that group?**
 2 A. A gentleman by the name of
 3 Walter Thomas.
 4 **Q. And what is his training?**
 5 A. He has a Ph.D. in weed science.
 6 **Q. Okay. So he has significant training,**
 7 **education to understand these things so that he can**
 8 **answer questions that applicators might have about**
 9 **product safety, correct?**
 10 A. Most of the -- in the product safety
 11 components, he would -- he would field questions or
 12 part of his team would field that question. They --
 13 they would be able to answer some questions.
 14 However, if it exceeded the -- the technical
 15 capability, they would reach out to other health and
 16 safety personnel who could provide more information.
 17 **Q. And that might be the product safety**
 18 **groups that – technical people, science people,**
 19 **right?**
 20 A. That's correct, sir.
 21 **Q. And there's science people here in the**
 22 **United States, and there's science people in – in**
 23 **Europe as well, right?**
 24 A. Correct.

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1 interrupted by the court
 2 reporter.)
 3 MR. WEIR: I had -- I had an objection
 4 to the scope as well as the form. It assumes facts
 5 not in evidence.
 6 BY MR. TILLERY:
 7 Q. I'll restate the question, sir, by
 8 reading it back to you.
 9 A. Thank you.
 10 Q. And that's because the technical
 11 specialist would tell you that based on their
 12 science at Syngenta and studies that they've done
 13 that paraquat doesn't get into the brains of those
 14 people who apply it, correct?
 15 A. Our specialists who do that essentially
 16 don't support some of the other documents, and
 17 that's what -- the information that we would be
 18 given, yes, sir.
 19 Q. All right. I'm -- I'm unable to
 20 understand your question. Would --
 21 A. So --
 22 Q. I'm asking you the reason you would
 23 tell people who are buying paraquat products that
 24 paraquat won't get into their brains when they apply

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1 it is because the specialists at Syngenta told you
 2 that that's what their science shows; isn't that
 3 correct?
 4 MR. WEIR: Same objections.
 5 THE WITNESS: That's -- that the
 6 science does not show that.
 7 BY MR. TILLERY:
 8 Q. All right. And had the science shown
 9 that, you would have told the people had they asked
 10 you the question, right? You wouldn't have lied to
 11 them.
 12 MR. WEIR: Object to the scope.
 13 Assumes facts not in evidence. Foundation.
 14 THE WITNESS: Sir, I don't know how to
 15 answer that question other than I don't know.
 16 BY MR. TILLERY:
 17 Q. Well, let's just put it this way: If
 18 the scientists at Syngenta had said, "Yes, it does
 19 get into the brain," you wouldn't have told people
 20 who asked you that question a lie, would you? You
 21 would have told them, "Yeah. If you use the stuff,
 22 it will get in your brain?"
 23 MR. WEIR: Same objections.
 24 THE WITNESS: Sir, if that was found,

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1 that takes -- Syngenta takes the health and safety
 2 of their customers very seriously as far as our
 3 product as well. So I think that there would have
 4 been some actions associated with that if that
 5 was -- you know, if the -- the specialists, as far
 6 as their work with that, have data to support that.
 7 BY MR. TILLERY:
 8 Q. Okay. So if they'd had it, what would
 9 those actions be that you would anticipate?
 10 MR. WEIR: Object to the scope.
 11 THE WITNESS: Sir, I'm not familiar
 12 with the processes as far as what would happen
 13 there.
 14 I would make the assumption that there
 15 would be, you know, meetings and then obviously a
 16 review of -- of protocols associated with that. But
 17 I don't know that the -- that process, sir.
 18 BY MR. TILLERY:
 19 Q. You're saying that if they knew it
 20 actually got into the brain, they may want to
 21 reconsider whether they sell it. Isn't that what
 22 you're telling me in a roundabout way?
 23 A. Whether or not they sell it? Is that
 24 what you said, sir?

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1 Q. Whether or not they continue to sell
 2 it.
 3 A. Correct.
 4 Q. All right. So what I'm asking you is
 5 if you can just bear with me for this question and
 6 assume it is that if, in fact, the scientists at the
 7 highest level told you that it does, in fact, get
 8 into their brains, the people who have contact with
 9 the consumers, the purchasers of paraquat, wouldn't
 10 have lied to them. They would have told them the
 11 truth, right?
 12 MR. WEIR: Object to the form. That's
 13 vague and ambiguous. Outside the scope as well.
 14 THE WITNESS: There would have been
 15 measures -- I would believe if that was to happen
 16 that there would be measures taken as far as to --
 17 to assess and make decisions as far as what were the
 18 next steps to do related to -- to the product and
 19 sales.
 20 BY MR. TILLERY:
 21 Q. I move to strike your answer as
 22 unresponsive. Let's try it a different way. Let's
 23 start over.
 24 Let's say that a farmer applicator

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1 calls you up and says, "Mr. Ouzts, will this product
 2 paraquat get into my brain while I'm applying it in
 3 my farm field, my soybean fields?"
 4 And you said, "Well, I don't know.
 5 I'll check." And you call the scientists who have
 6 responsibility for paraquat and the research and the
 7 analysis, and they call back and say, "Yeah. It
 8 sure will," what would you tell the person who made
 9 the inquiry?
 10 MR. WEIR: Object to the form. Assumes
 11 facts not in evidence. Incomplete hypothetical.
 12 Scope.
 13 THE WITNESS: Sir, if that was the
 14 case, I would tell the truth.
 15 BY MR. TILLERY:
 16 Q. Perfect. You'd tell them the truth,
 17 wouldn't you?
 18 A. I mean, that's --
 19 Q. Standard what you're required to do --
 20 do you agree with me on that? -- always?
 21 A. Yes, sir. I mean, that's -- that's
 22 what we would do.
 23 Q. All right. Now, you told me in your
 24 deposition on June 22nd that you verified that

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1 paraquat doesn't get into your brain by checking
 2 paraquat.com and reading that too, right?
 3 MR. WEIR: Object. Calls for expert
 4 testimony.
 5 BY MR. TILLERY:
 6 Q. Go ahead and answer.
 7 A. Yes, sir. Yes, sir.
 8 Q. Do you know who Philip Botham is?
 9 A. Could you repeat the name, please?
 10 Q. Botham. Philip Botham.
 11 A. I don't recognize that, sir.
 12 Q. Do you understand that he has a
 13 position with Syngenta?
 14 A. I don't know that he's here in the U.S.
 15 He may actually be in one of the European areas,
 16 sir. There's so many.
 17 Q. He's in Europe. He's in the UK.
 18 A. Okay.
 19 Q. He's been designated as a witness in
 20 this litigation to answer questions. Did you know
 21 that?
 22 A. No, sir, I did not.
 23 Q. Okay. And did you know that he is the
 24 worldwide head of product safety with respect to

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1 paraquat?
 2 A. I was not aware, no, sir. I'm assuming
 3 maybe Andy Cooper or one of those persons might
 4 report to him, then, if that's case.
 5 Q. That is correct.
 6 A. Okay.
 7 Q. All of those people would report to
 8 Phil Botham. He's changed his status recently, you
 9 know, moving towards retirement is what he told me
 10 in his deposition, but he's occupied this role for
 11 many years. Did you understand that?
 12 A. I do.
 13 Q. You at least heard his name, right?
 14 A. The name? I think so, yes, sir, but
 15 it's just not one that's familiar.
 16 Q. All right. Are you aware that
 17 Dr. Botham has testified under oath in this
 18 litigation that Syngenta has been aware since the
 19 mid-1990s that paraquat enters the brains of farmer
 20 applicators when it is used as anticipated?
 21 MR. WEIR: Objection.
 22 THE WITNESS: No, sir, I'm not.
 23 MR. WEIR: Outside the scope. I
 24 believe it misstates testimony as well.

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1 BY MR. TILLERY:
 2 Q. You can answer it, sir.
 3 A. No, sir, I'm not.
 4 Q. Let me show you something, if you could
 5 pull it up. Sorry. I'm going to show you a clip.
 6 MR. TILLERY: And this will be marked,
 7 the hard copy, Counsel, as Exhibit 18.
 8 (Exhibit 18 was identified for
 9 the record.)
 10 MR. TILLERY: I don't think we can
 11 record the video, but the hard copy transcript of
 12 his testimony will be marked as Exhibit 18.
 13 Q. So please take a look at this, sir.
 14 MR. WEIR: Before you play this clip, I
 15 mean, this is only 24 seconds of a deposition is
 16 what you're planning to play here, Steve?
 17 MR. TILLERY: I don't know how long it
 18 is. No. There's more than that. We're going to
 19 play several clips.
 20 MR. WEIR: Well, I just want to be
 21 clear. I mean, I believe you have objected
 22 previously in the deposition of Dr. Greenemeier, for
 23 instance, that we -- individual -- that lawyers
 24 taking depositions can't play clips of -- of

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1 recordings. Are you changing your position on that
 2 now?
 3 MR. TILLERY: So, you know, when you
 4 get to take my deposition, that will be another day
 5 when I have to answer your questions. But it isn't
 6 today. So if you have an objection --
 7 MR. WEIR: Yeah. I'm objecting to you
 8 playing only a piece of this clip. I'm objecting
 9 that it seems like you are changing your position.
 10 (Whereupon, a video was
 11 played.)
 12 BY MR. TILLERY:
 13 Q. And then let's play the next. And just
 14 so you're -- to make you feel better, I think I've
 15 included every clip of his where he's talked about
 16 this topic. So let's go to the next one, number 19.
 17 (Exhibit 19 was identified for
 18 the record.)
 19 MR. WEIR: So just -- sorry, Steve.
 20 Your representation is that you have included every
 21 clip from Dr. Botham's interview where he talks
 22 about paraquat crossing or not crossing the blood
 23 brain barrier?
 24 MR. TILLERY: Not the blood brain

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1 barrier, getting into their brain. However it gets
 2 in because there's other ways of doing it, not just
 3 through the blood brain barrier.
 4 MR. WEIR: Your representation is that
 5 you are playing all of the clips about this. That's
 6 what you said?
 7 MR. TILLERY: I -- you know, why don't
 8 you just read the record. Put in the layman. Okay?
 9 Go ahead.
 10 THE WITNESS: Sir?
 11 BY MR. TILLERY:
 12 Q. Yes.
 13 A. Did you just play that clip?
 14 Q. Yes, sir. You didn't see it?
 15 A. Well, no, there was so much
 16 conversations going on. I heard your voice on the
 17 clip, but I thought it was going back and forth. So
 18 I'm --
 19 Q. We're going to go back and start it
 20 over.
 21 MR. TILLERY: Can you go load the one
 22 before so he's not distracted by it?
 23 Q. I'm sorry, Mr. Ouzts. We'll play it
 24 again.

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1 MR. WEIR: And I'm going to make the
 2 same objections.
 3 MR. TILLERY: Go ahead and make it now
 4 so it doesn't distract him.
 5 MR. WEIR: I just did, Steve.
 6 MR. TILLERY: Okay. Go ahead.
 7 Oh, yeah, I'm sorry. Is this the
 8 original?
 9 (Whereupon, a video was
 10 played.)
 11 MR. TILLERY: Okay. And let's -- could
 12 you pull the one before that up? I want to hear
 13 that one again. This one here.
 14 Q. I think this is the first one,
 15 number 18, Mr. Ouzts.
 16 A. Okay.
 17 (Whereupon, a video was
 18 played.)
 19 MR. TILLERY: Okay. And if you go to
 20 the next clip -- is there a clip?
 21 Q. The last one was number 19. This next
 22 one will be number 20.
 23 (Exhibit 20 was identified for
 24 the record.)

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1 (Whereupon, a video was
 2 played.)
 3 MR. WEIR: Just for the record, I just
 4 want to object again to using these clips without
 5 context, and I object to any questions that are
 6 based on those clips.
 7 BY MR. TILLERY:
 8 Q. Have you ever asked Dr. Botham or any
 9 other Syngenta scientist whether paraquat can enter
 10 the brains of applicators, Mr. Ouzts?
 11 MR. WEIR: Let me object as well. This
 12 is outside the scope.
 13 THE WITNESS: No, sir, I have not.
 14 BY MR. TILLERY:
 15 Q. Were you aware that Syngenta knew from
 16 the mid 1990s that some amount of paraquat would get
 17 into the brains of applicators when they applied it
 18 before today?
 19 MR. WEIR: Same objections.
 20 THE WITNESS: No, sir, I was not.
 21 BY MR. TILLERY:
 22 Q. Okay. Has anybody ever told you, any
 23 of the scientists at Syngenta, ever indicated to you
 24 that they knew for at least 25 years that, when

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1 farmer and applicators used this product, it can get
 2 into the brains of the applicators?
 3 MR. WEIR: Objection. Outside of the
 4 scope.
 5 THE WITNESS: No, sir, I was not aware.
 6 BY MR. TILLERY:
 7 Q. Had you been told by Dr. Botham or by
 8 any other Syngenta scientist that paraquat can enter
 9 the human brain, would you have informed the group
 10 of employees who respond to people who have
 11 questions about product safety so they could inform
 12 applicators of this fact?
 13 MR. WEIR: Objection. Incomplete
 14 hypothetical.
 15 THE WITNESS: If that was to have
 16 occurred, I would think that the information would
 17 be conveyed.
 18 BY MR. TILLERY:
 19 Q. Were you aware that Syngenta in the
 20 early 2000s had a scientist with the name of
 21 Louise Marks?
 22 A. I do not know that name, sir.
 23 Q. Were you ever told about studies of
 24 neurotoxicity of paraquat that she conducted and

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1 reported in 2007?
 2 MR. WEIR: Same objections. Outside
 3 the scope.
 4 THE WITNESS: No, sir. I mean, that --
 5 that's way outside of my -- my area of
 6 accountability or where I would work.
 7 BY MR. TILLERY:
 8 Q. When did you start working with
 9 Syngenta?
 10 A. 1995, '4, '5.
 11 Q. Okay.
 12 A. I've been with them about 20 -- going
 13 on 27 years.
 14 Q. In that 27 years, did they ever tell
 15 you that they had conducted studies that showed in
 16 mouse models that paraquat is neurotoxic?
 17 MR. WEIR: Object to the form. It's
 18 outside of the scope. I believe it misstates
 19 evidence.
 20 THE WITNESS: No, sir, not aware.
 21 BY MR. TILLERY:
 22 Q. Did they ever tell you that they
 23 thought that it could cause damage to the mid brain
 24 of a mammalian species like a mouse?

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1 MR. WEIR: Same objections.
 2 THE WITNESS: No, sir.
 3 BY MR. TILLERY:
 4 Q. Did you know that it could cause damage
 5 to the dopaminergic neurons in the mid brain
 6 according to the results of Dr. Marks?
 7 MR. WEIR: Same objection.
 8 THE WITNESS: No, sir. That was
 9 just -- that was outside of my -- my area.
 10 BY MR. TILLERY:
 11 Q. But if, in fact, it was neurotoxic and
 12 caused damage to the same neurons that are
 13 implicated in the cause of Parkinson's disease,
 14 that's something that you think you'd probably want
 15 to know about, right?
 16 MR. WEIR: Object. Assumes facts not
 17 in evidence. Outside the scope.
 18 THE WITNESS: It would be information
 19 that could be good to know.
 20 BY MR. TILLERY:
 21 Q. Okay. No one ever mentioned the
 22 scientific results of Louise Marks to you in your
 23 role at Syngenta, did they?
 24 MR. WEIR: Object. It's outside of the

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1 scope. It's been asked and answered.
 2 THE WITNESS: No, sir.
 3 BY MR. TILLERY:
 4 Q. In any of the meetings, product safety
 5 discussions, PowerPoints, anything you've ever heard
 6 or read at Syngenta, did anybody ever tell you of
 7 the results of the studies of paraquat that were
 8 undertaken by Dr. Louise Marks?
 9 MR. WEIR: Same objections.
 10 THE WITNESS: I'm not aware of any
 11 information there, sir.
 12 BY MR. TILLERY:
 13 Q. Okay. Were you aware of whether they
 14 were ever reported to the United States EPA in the
 15 2007 time when they came about? Were you aware
 16 that -- whether they were reported or not?
 17 MR. WEIR: Objection. Outside of the
 18 scope.
 19 THE WITNESS: No, sir. That's outside
 20 of my -- my area of work.
 21 BY MR. TILLERY:
 22 Q. All right. In -- strike that.
 23 Is the fact that paraquat gets into the
 24 brains of applicators, as Dr. Botham says Syngenta

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1 has known for 25 years, something you think Syngenta
 2 should have told farmers and applicators of paraquat
 3 since the time they first knew it?
 4 MR. WEIR: Object to the scope, and I
 5 think it misstates prior testimony.
 6 THE WITNESS: It -- could you restate
 7 that question? It almost sounded like a statement
 8 as opposed to a question, sir. Sorry.
 9 BY MR. TILLERY:
 10 Q. Yeah. Yeah. Is the fact that paraquat
 11 gets into the brains of applicators as Dr. Botham
 12 says Syngenta has known for 25 years -- is that
 13 something you think Syngenta should have told
 14 farmers and applicators of paraquat since the time
 15 they first knew it and understood it?
 16 MR. WEIR: Same objections. It's also
 17 vague and ambiguous.
 18 THE WITNESS: The assessment as far as
 19 I would believe the information would be shared? I
 20 think so, yes, sir.
 21 BY MR. TILLERY:
 22 Q. Okay. Is this something you intend to
 23 tell your brothers who apply paraquat?
 24 MR. WEIR: Objection. It's outside the

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1 causing a problem, sir. That's way outside of my --
 2 my learning.
 3 Q. Okay. Do you know whether paraquat is
 4 neurotoxic?
 5 A. Do I --
 6 MR. WEIR: Objection. Outside the
 7 scope.
 8 THE WITNESS: No. I -- I do not know
 9 if it is neurotoxic, sir.
 10 BY MR. TILLERY:
 11 Q. Did you ever ask Dr. Botham or any
 12 other Syngenta scientist if paraquat was neurotoxic?
 13 MR. WEIR: Same objections. I think
 14 it's been asked and answered as well.
 15 THE WITNESS: I do not know Dr. Botham.
 16 But, no, because of the information we were given
 17 that it was considered not, then it didn't raise the
 18 question to ask if it was, sir.
 19 BY MR. TILLERY:
 20 Q. So the answer would be you've never
 21 asked him about it?
 22 A. I did not, no, sir.
 23 Q. Okay. Is the neurotoxicity of paraquat
 24 something that should be disclosed to a farmer

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1 scope.
 2 THE WITNESS: Well, sir, right now,
 3 this is confidential. So I don't know that I can
 4 share anything outside of this at the current time.
 5 BY MR. TILLERY:
 6 Q. All right. Is this something you'll
 7 now tell Syngenta employees to warn other paraquat
 8 applicators about?
 9 MR. WEIR: Same objection.
 10 THE WITNESS: That's outside of -- I
 11 don't have the -- the authority as far as to tell
 12 them.
 13 I think the key thing -- the question
 14 at hand would be finding it in the brain, has it
 15 really actually -- you know, the detection as
 16 opposed to is it causing harm, I guess that's the
 17 piece that I don't understand if that's in play or
 18 not, sir.
 19 BY MR. TILLERY:
 20 Q. So you think there's some level that
 21 could get in the brain that's just fine?
 22 A. I don't -- I don't know as far as what
 23 level, sir. I just raised the question of if it's
 24 just to detect, does "detect" really mean that it's

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1 applicator in your view --
 2 MR. WEIR: Object.
 3 BY MR. TILLERY:
 4 Q. -- if it is neurotoxic?
 5 A. You said if it was neurotoxic, should
 6 it be shared?
 7 Q. Yes. Yes.
 8 A. If the data shows that, I think that
 9 Syngenta would do that, and I think so.
 10 Q. Whether they should or not or whether
 11 they would or not is not what I asked, is it?
 12 A. You said should it be displayed --
 13 Q. Yeah.
 14 A. -- or should it be --
 15 Q. I said if -- is the neurotoxicity of
 16 paraquat, if it's found to be neurotoxic, something
 17 which you believe should be disclosed to farmer
 18 applicators? That's what I'm asking.
 19 MR. WEIR: Object to the form. It
 20 assumes facts not in evidence.
 21 Are you asking him in the role as
 22 corporate rep now or personal?
 23 MR. TILLERY: Either one or both.
 24 MR. WEIR: Well, it's -- it would be

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1 helpful to know which one you're asking so he can
2 know how to answer the question right.
3 BY MR. TILLERY:
4 Q. Can you answer my question, sir?
5 A. If it was known, I think the right
6 thing would be to -- to make that known, sir.
7 Q. All right. How many states in the
8 United States use paraquat?
9 MR. WEIR: Object to the form. It's
10 outside the scope. Foundation.
11 THE WITNESS: It's -- it's labeled in
12 all states, sir.
13 BY MR. TILLERY:
14 Q. Okay. So all states? All 50 states?
15 A. Yes, sir.
16 Q. All right. Do you know whether farmers
17 in southern Illinois applied paraquat to farm fields
18 in any materially different ways than farmers would
19 in southern California or in -- I'm sorry, in
20 California?
21 MR. WEIR: Objection. It's been asked
22 and answered.
23 THE WITNESS: It could be applied in
24 different ways potentially. There's many different

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1 ways to make those applications depending on crop,
2 depending on other hazards associated with that. So
3 there is some variability.
4 BY MR. TILLERY:
5 Q. Okay. What would that variability
6 between Illinois, southern Illinois, and let's say
7 the Central Valley of California be?
8 A. I mean, if we were dealing -- it
9 depends on which crops were grown in those areas,
10 sir, depending on the timing. You know, for -- for
11 instance, in, you know, a citrus or some sort of a
12 tree nut or vine crop, it may be applied with small
13 application equipment, as opposed to in Illinois in
14 a larger higher acreage, larger acreage area, it
15 could be applied more with a self-propelled or an
16 aerial application type of system.
17 Q. Okay. Are you aware of any difference
18 in the use of personal protective equipment between
19 southern Illinois and California when they apply
20 paraquat?
21 A. No, sir, I'm not.
22 Q. Okay. Which type of spraying equipment
23 or spraying method provides the most protection from
24 paraquat exposure to applicators?

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1 MR. WEIR: Objection. It's outside of
2 the scope. Lacks foundation.
3 THE WITNESS: You know, without having
4 the data to support, I mean, I would expect it would
5 be an application equipment either that's something
6 that has an enclosed cab with filtered air
7 associated with that, sir.
8 BY MR. TILLERY:
9 Q. Okay. Which type of spraying equipment
10 or method provides the least protection from
11 paraquat exposure to users?
12 MR. WEIR: Same objections. Also vague
13 and ambiguous.
14 THE WITNESS: Most likely it would be
15 one that would be considered a backpack type of
16 application, sir.
17 BY MR. TILLERY:
18 Q. Okay. Has Syngenta ever warned
19 applicators that they should use a certain type of
20 equipment when spraying paraquat?
21 MR. WEIR: Object. It's outside of the
22 scope. Lacks foundation.
23 THE WITNESS: To my knowledge, I'm not
24 aware, sir.

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1 BY MR. TILLERY:
2 Q. Okay.
3 A. We would make recommendations as far as
4 to ensuring that their equipment was in good working
5 order, you know, proper hygiene, cleaned, and, you
6 know, ensuring that, you know, no leaks. Things
7 like that.
8 Q. But you've never told them that they
9 should use a certain type of equipment when applying
10 paraquat to their fields or crops, right?
11 MR. WEIR: Object again to outside the
12 scope. Lacks foundation.
13 THE WITNESS: No, sir.
14 BY MR. TILLERY:
15 Q. Okay. Syngenta is aware that some
16 farmers have created their own spray equipment to
17 apply paraquat, correct?
18 MR. WEIR: Object to lacks foundation.
19 Outside the scope.
20 THE WITNESS: Sir, did you say "created
21 their own equipment"?
22 BY MR. TILLERY:
23 Q. Yes. Created their own spraying
24 devices.

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1 A. To tell you that we -- we have that
 2 definitely. But, I mean, I'm sure that's a --
 3 that's a practice that -- that is at hand, sir.
 4 Q. Okay. Syngenta is aware that some
 5 farmers spray paraquat on their farm fields using
 6 different types of farm implements to pull the
 7 sprayers, correct?
 8 A. That's a possibility, yes, sir.
 9 Q. Well, I mean, you know that some might
 10 use an open-air tractor, some might use a different
 11 size tractor, some might use a truck to pull the
 12 sprayer. It's variable. That's what I'm saying.
 13 A. Yes, sir.
 14 Q. You don't mandate that they use a
 15 certain type of implement to spray their fields, do
 16 you?
 17 A. No, sir.
 18 Q. Okay. Now, with respect to the spray
 19 equipment that they use themselves, has Syngenta
 20 ever warned paraquat applicators they should only
 21 use certain types of spray equipment?
 22 MR. WEIR: I'm going to object. It's
 23 outside the scope. Lacks foundation.
 24 THE WITNESS: I'm not aware of that,

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1 sir.
 2 BY MR. TILLERY:
 3 Q. Okay. Has Syngenta ever instructed or
 4 warned farmers not to use open-air tractors or other
 5 open-air equipment when spraying paraquat?
 6 MR. WEIR: Same objections.
 7 THE WITNESS: To my knowledge, no, sir.
 8 BY MR. TILLERY:
 9 Q. Has Syngenta ever said, "if you're
 10 wearing" -- strike that.
 11 Has Syngenta ever warned applicators
 12 that, if they're using open-air equipment, they
 13 absolutely must wear respirators?
 14 MR. WEIR: Same objections. I think it
 15 assumes facts not in evidence as well.
 16 THE WITNESS: As an absolute mandate,
 17 sir, I'm not aware of that.
 18 BY MR. TILLERY:
 19 Q. Okay. Has Syngenta ever given any
 20 instruction or warnings to paraquat applicators
 21 about the type of spraying equipment to be used
 22 which was different from what was on the product
 23 label?
 24 A. I'm not aware of that, sir. No. I'm

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1 not aware of anything like that.
 2 Q. Has any paraquat label ever instructed
 3 paraquat applicators to use specific types of
 4 equipment during spray?
 5 MR. WEIR: Object. It's outside the
 6 scope.
 7 THE WITNESS: An example I could give
 8 you would be if we -- if they were using a post
 9 direct-type of application, a hooded sprayer. So
 10 you would have to use a specific type of equipment
 11 that have -- would have an enclosed hood that would
 12 allow an application enter a row of the crop to keep
 13 it from exposing the crop and causing injury.
 14 BY MR. TILLERY:
 15 Q. Okay. Anything else you can think of?
 16 A. Not at this time, sir.
 17 Q. Has Syngenta ever warned paraquat
 18 applicators to use a specific type of spray nozzle
 19 when applying paraquat?
 20 MR. WEIR: Objection. It's outside the
 21 scope.
 22 THE WITNESS: As far as specific to
 23 nozzles as far as a name brand or a given one, no,
 24 sir. But there has been guidance as far as to

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1 produce droplet size of the appropriate size to
 2 minimize drift and use larger droplets, a larger
 3 diameter droplet for application.
 4 BY MR. TILLERY:
 5 Q. When did Syngenta do that?
 6 A. It's been on labels for quite a few
 7 years as far as just minimize risk. It's in the
 8 directions for use piece of that. I couldn't tell
 9 you the exact date, sir, but it has been -- it's in
 10 there in the directions for use as far as to use
 11 droplets to minimize drift.
 12 Q. Has Syngenta ever issued any warnings
 13 or instructions or cautionary statements independent
 14 of the warnings themselves about the use of
 15 nozzles --
 16 MR. WEIR: Object.
 17 BY MR. TILLERY:
 18 Q. -- independent of the warning labels?
 19 Excuse me.
 20 MR. WEIR: Object. It's vague and
 21 ambiguous. Outside the scope.
 22 BY MR. TILLERY:
 23 Q. Do you want me to restate the question
 24 Mr. Ouzts?

<p style="text-align: right;">Page 113</p> <p>1 A. No, sir. I mean, I'm not aware of 2 any – any secondary documents there, sir. 3 Q. Okay. So everything you're talking 4 about is what's on the paraquat product label, 5 correct? 6 A. Correct. 7 Q. And the spray drift you're talking 8 about is to protect against drift of the paraquat 9 onto other fields and causing damage to other crops, 10 correct? 11 MR. WEIR: Object. I think it 12 misstates testimony. 13 THE WITNESS: Drift would be to 14 nontarget – you know, nontarget crops and/or 15 minimizing, you know, just the movement over a long 16 distance, sir. 17 BY MR. TILLERY: 18 Q. Right. And what I mean by that is, is 19 that you're a soybean farmer, but across the street, 20 you have another farmer who has different crops or 21 he has whatever that he's planting. You don't want 22 to have that drift across that road and damage your 23 neighbor's crop – crops, right? 24 A. That – that's correct. The Intent is,</p>	<p style="text-align: right;">Page 115</p> <p>1 it now. 2 MR. WEIR: Okay. 3 MR. TILLERY: Okay. Thank you. 4 THE VIDEOGRAPHER: We're going off the 5 record. The time is 10:28. This ends media unit 6 number 2. 7 (Recess taken.) 8 THE VIDEOGRAPHER: We're going back on 9 the record. The time is 10:51. This begins media 10 unit number 3. 11 BY MR. TILLERY: 12 Q. Has Syngenta ever instructed or warned 13 applicators of paraquat about the specific spray 14 pressure to be used when spraying paraquat? 15 MR. WEIR: Objection. Outside the 16 scope. Lacks foundation. 17 THE WITNESS: Directed to pressure, no, 18 sir. 19 BY MR. TILLERY: 20 Q. Okay. Has Syngenta ever instructed or 21 warned applicators about the specific height the 22 sprayer should be above the ground when applying 23 paraquat? 24 MR. WEIR: Same objections.</p>
<p style="text-align: right;">Page 114</p> <p>1 is for the -- where the product is applied to stay 2 in that -- that zone of application. 3 Q. Have you ever seen a label that says, 4 "Avoid drift because it can lead to inhalation by 5 bystanders"? 6 MR. WEIR: Objection. Outside the 7 scope. 8 THE WITNESS: In that particular 9 language, I don't think I have, sir. 10 BY MR. TILLERY: 11 Q. Okay. Have you ever heard of any 12 labels or – strike that. 13 Have you ever seen any language on a 14 label of paraquat that warns against drift in 15 connection with creation of a human health hazard? 16 MR. WEIR: Objection. It's outside of 17 the scope. It's vague and ambiguous. 18 THE WITNESS: No, sir, I'm not aware. 19 BY MR. TILLERY: 20 Q. Okay. 21 MR. WEIR: Steve, whenever you get to a 22 stopping point, if we could take another break. I 23 don't want to interrupt you. 24 MR. TILLERY: That's fine. We can do</p>	<p style="text-align: right;">Page 116</p> <p>1 THE WITNESS: We -- we do have height 2 requirements now as far as associated with that 3 product. 4 BY MR. TILLERY: 5 Q. When did those height requirements 6 become effective? 7 A. The new ones haven't become effective 8 yet. It's in work with the regulatory. Monty Dixon 9 could speak more to that. 10 Q. Okay. Has any warning instruction, 11 cautionary statement of any kind up until today's 12 date ever been on a label or any other type of 13 material disseminated by Syngenta about the specific 14 height a sprayer should be above the ground when 15 applying paraquat? 16 A. We do have -- 17 MR. WEIR: Object to the form. It's 18 vague and ambiguous. It's outside the scope. 19 THE WITNESS: There are height 20 requirements as far as for aerial application. And 21 In some states, there are state-mandated regulations 22 associated with that, you know, as far as to be able 23 to minimize any off-target movement. 24</p>

<p style="text-align: right;">Page 117</p> <p>1 BY MR. TILLERY: 2 Q. You're talking about an airplane, 3 right? 4 A. Yes, sir. 5 Q. Helicopter or an airplane? 6 A. Correct. 7 Q. Okay. Other than a helicopter or an 8 airplane for the use of aerial application of 9 paraquat, has Syngenta ever instructed or warned 10 applicators about the specific height the sprayer 11 should be above the ground when spraying paraquat? 12 MR. WEIR: Object to the form. It's 13 outside the scope as well. 14 THE WITNESS: Sir, I can't remember if 15 that's on the label or not right now. I – I 16 could – I could check on that and then answer back. 17 BY MR. TILLERY: 18 Q. But you don't remember – or strike 19 that. 20 You don't remember it ever being on the 21 label, do you? 22 MR. WEIR: Objection. I think it 23 misstates testimony. 24 THE WITNESS: That was the answer I</p>	<p style="text-align: right;">Page 119</p> <p>1 products. So I – sir, I just don't – not prepared 2 to answer that question, sir. Sorry. 3 BY MR. TILLERY: 4 Q. Has Syngenta ever instructed or warned 5 applicators about how weather conditions affect 6 paraquat spraying? 7 MR. WEIR: Objection. Outside the 8 scope. 9 THE WITNESS: You said "weather 10 conditions," sir? 11 BY MR. TILLERY: 12 Q. Yes, sir. 13 A. Could you be more specific in what 14 weather conditions are you referring to? 15 Q. Well, let's start off with, say, wind. 16 A. Well, sure. I mean, if you have high 17 winds associated with that, you would want to – to 18 ensure that you do not apply in that type of 19 situation. 20 Q. What is considered a high wind that 21 would preclude application? 22 A. Typically somewhere between five and 23 ten miles an hour. 24 Q. Five and ten would preclude it, right?</p>
<p style="text-align: right;">Page 118</p> <p>1 just gave, sir. I mean, I would need to check. I 2 can't remember if it's on there or not. There's a 3 lot of moving pieces around – with our labels. So 4 as far as that – 5 BY MR. TILLERY: 6 Q. Yeah. This is my only – 7 MR. WEIR: Let him finish his answer, 8 please. 9 THE WITNESS: Yeah. I can't remember 10 if it is specifically on there or not, sir. 11 BY MR. TILLERY: 12 Q. Whether it's on there or not, do you 13 know if Syngenta has a standard that they recommend 14 for use as to the height of the sprayer above the 15 ground when applying paraquat? 16 MR. WEIR: Objection. Outside the 17 scope. 18 THE WITNESS: There are standards 19 sometimes associated, and it depends on the 20 equipment. It depends on the types of nozzles that 21 are used and the span of those nozzles. 22 I can't remember specifically to 23 paraquat. There has been typically directions for 24 use or use directions associated with – with</p>	<p style="text-align: right;">Page 120</p> <p>1 A. There -- there would be a caution. And 2 some of those -- some of those could be associated 3 with state or local requirements and regulations 4 associated with that. 5 Q. Has Syngenta ever instructed farmer 6 applicators to avoid application of paraquat if the 7 wind exceeds five miles an hour? 8 A. Specifically to five? I'm not sure on 9 that, sir. 10 Q. Okay. Syngenta is aware that farmers 11 apply paraquat in different weather conditions, 12 aren't they? 13 A. Yes, sir. 14 Q. Okay. Syngenta is aware that 15 applicators apply paraquat in different wind speeds, 16 correct? 17 A. Correct. 18 Q. Okay. From the field observational 19 studies that you and I went through on June 22nd of 20 this year in the first part of your deposition, 21 Syngenta has been aware for many years that spray 22 nozzles are frequently clogged during paraquat 23 spraying applications, correct? 24 MR. WEIR: Objection. It misstates</p>

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1 prior testimony. It's vague and ambiguous.
 2 THE WITNESS: Sir, I can't speak to the
 3 frequency as far as that, but there's so many
 4 contributing factors associated with nozzles. And
 5 plugging it may or may not be directly -- directed
 6 or associated with paraquat alone.
 7 BY MR. TILLERY:
 8 Q. Right. I'm not asking about other
 9 chemicals. I'm asking about paraquat.
 10 Don't you remember your testimony where
 11 we went through and identified the observational
 12 studies of the individuals who got off the
 13 equipment, cleaned spray nozzles? Do you remember
 14 that?
 15 A. Sure. Yes, sir.
 16 Q. Okay. All right. So my question to
 17 you is, is that Syngenta has been aware that that
 18 happens for a number of years, correct?
 19 A. Yes, sir.
 20 Q. All right. And would it be fair to say
 21 that Syngenta has been aware that spray nozzles get
 22 clogged during paraquat spraying operations since
 23 the '60s?
 24 MR. WEIR: Object. That's outside the

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1 scope.
 2 THE WITNESS: To your point, sir,
 3 paraquat or many other products could potentially
 4 cause a blockage, not just specific to paraquat.
 5 But to answer your question, yes, they
 6 were aware that paraquat at the time associated with
 7 those studies could -- they had nozzle blockage.
 8 BY MR. TILLERY:
 9 Q. Okay. And that went back to the '60s.
 10 Would you agree with that knowledge?
 11 A. That was what was written and depicted
 12 in the -- in the papers, yes, sir.
 13 Q. So you would agree with me, correct?
 14 A. Yes.
 15 Q. All right. Syngenta from those studies
 16 was also aware of the fact that paraquat applicators
 17 frequently removed their gloves when removing and
 18 preparing spray nozzles, correct?
 19 MR. WEIR: Objection. It misstates
 20 testimony. It's vague and ambiguous.
 21 THE WITNESS: In that research paper,
 22 yes, sir.
 23 BY MR. TILLERY:
 24 Q. Not just in one, Mr. Ouzts. Don't you

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1 remember the number we went through?
 2 A. Well, in the papers, excuse me, we're
 3 talking about.
 4 Q. All right. And the papers we're
 5 referring to are the marked exhibits in this
 6 deposition, correct?
 7 A. That's correct.
 8 Q. Okay. And those showed that frequently
 9 the farmers or the applicators would get off their
 10 equipment, take off their gloves, and then remove
 11 the nozzle with their bare hands, correct?
 12 MR. WEIR: Vague and ambiguous.
 13 Misstates testimony.
 14 THE WITNESS: In those exhibits, yes,
 15 sir, that's correct.
 16 BY MR. TILLERY:
 17 Q. In that process, they would leave the
 18 tractor or other device pulling the sprayer, get
 19 down into the field where the nozzle is located on
 20 the sprayer. Is that a correct statement?
 21 A. Not -- not completely, sir. In some of
 22 those applications, they were also made with
 23 backpacks; so they would not be getting off the
 24 tractor. So it was multiple types of equipment.

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1 Q. Okay. Where they were using a tractor
 2 to pull a spray boom and where there was a clogged
 3 nozzle, do you remember them getting off of the
 4 equipment, stopping it, and walking through to get
 5 to the nozzle? Do you remember that?
 6 A. Yes, sir.
 7 Q. Okay. Syngenta was aware of that fact
 8 as well, right?
 9 A. Based on the documents, yes, sir.
 10 Q. Okay. Syngenta, through those studies
 11 that we talked about, went through and identified,
 12 was also aware that some paraquat applicators blow
 13 through the nozzles to clear them, correct?
 14 A. With some sort of air source? What are
 15 you referring to, sir?
 16 Q. Do you remember -- we can pull and go
 17 back through --
 18 A. I'm saying --
 19 Q. -- the same exhibit.
 20 A. Are you talking about by mouth? Is
 21 that what you're referring to?
 22 Q. Yes. By mouth, which we went over and
 23 talked about and discussed.
 24 A. Sure. I just wanted to make sure I was

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1 dear, sir. So those papers did depict that some
 2 of -- some of the applicators did blow out the
 3 nozzles by mouth.
 4 Q. If a paraquat's applicator in cleaning
 5 one of these nozzles got paraquat on their hands,
 6 would Syngenta expect the applicator to wait until
 7 the spraying process was done in the field before it
 8 would have the opportunity to wash the paraquat off
 9 his hands?
 10 MR. WEIR: Objection. It's outside the
 11 scope. Vague and ambiguous.
 12 THE WITNESS: Would we expect him to
 13 wait? The -- the recommendation would be to wash
 14 your hands once you've been exposed.
 15 BY MR. TILLERY:
 16 Q. Okay. So you would expect that the
 17 spray applicator if he were, oh, let's say, a few
 18 miles from his home to when he -- every time he got
 19 a nozzle that he had to take off and clean would be
 20 to pull up the equipment, drive the equipment
 21 through the farm fields to a location where he could
 22 get access to the roads and drive the equipment home
 23 and wash his hands and then come back and start over
 24 the process? Is that the recommended procedure by

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1 Syngenta?
 2 MR. WEIR: Objection. Object to the
 3 form. Calls for expert testimony. It's an
 4 incomplete hypothetical.
 5 THE WITNESS: What I would expect, sir,
 6 as far as in some of the practices that I was seeing
 7 that they would have some potable water source there
 8 at the site of application that would allow them to
 9 do that and clean it on-site.
 10 BY MR. TILLERY:
 11 Q. Okay. And what kind of a potable water
 12 source are you describing?
 13 A. Clean water.
 14 Q. Okay. And so are you talking about a
 15 bottle of water?
 16 A. It could be any type clean water
 17 source. Some -- or a container of some sort, sir.
 18 I mean, some sort of hygiene as far as to rinse
 19 the -- the material that they were exposed to off.
 20 Q. Would you expect them to have the kind
 21 of equipment necessary like a wash basin at the end
 22 of the farm rows where they could scrub their hands
 23 with soap and water?
 24 A. Many -- I would expect some to have

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1 that. Probably not all of those, sir.
 2 Q. Okay. Do you know of a single farmer
 3 in southern Illinois that has a wash basin at the
 4 end of his farm rows?
 5 MR. WEIR: Objection. Way outside the
 6 scope.
 7 THE WITNESS: At the end of his farm
 8 rows, no. But the -- and I don't know this, but
 9 I -- for Illinois, no, sir.
 10 BY MR. TILLERY:
 11 Q. Okay. Well, tell me in the last farm
 12 you've ever gone to where the farmers who apply
 13 paraquat had a wash basin at the end of the fields
 14 where they could scrub their hands?
 15 MR. WEIR: Same objection.
 16 THE WITNESS: An actual -- an actual
 17 wash basin, sir, I don't see that. But I've seen
 18 growers when I was in Mississippi in September --
 19 the weekend of September the 5th of this year, you
 20 know, that then -- I don't know if they were -- they
 21 weren't applying. But they do have -- in their
 22 application equipment, they have where they mix.
 23 They also have water to where they can rinse and
 24 clean their hands or, you know, do some sort of

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1 rinsing of an exposed part of their body.
 2 BY MR. TILLERY:
 3 Q. I move to strike your answer as
 4 unresponsive. Can you tell me the last time
 5 anywhere in the world that you saw a farmer who
 6 applies paraquat who had in his farm fields a wash
 7 basin that he can wash and scrub his hands?
 8 MR. WEIR: Object to form. It's been
 9 asked and answered. It's outside the scope.
 10 THE WITNESS: A physical wash basin as
 11 you described, sir, no, sir.
 12 BY MR. TILLERY:
 13 Q. All right. Does Syngenta believe that
 14 mixers, loaders, and applicators of paraquat
 15 products read the label of every container despite
 16 the number of times they've used the very same
 17 product?
 18 A. I don't know that I could say that -- I
 19 don't know that they would read it every time, sir.
 20 I don't have data to support that.
 21 Q. Okay.
 22 A. If I was opening a container -- If I
 23 was going to use a container and I have many acres
 24 to spray, the assumption would be that the reading

<p style="text-align: center;">Page 129</p> <p>1 that label on the first preparation of application, 2 that should cover and be the umbrella for the entire 3 application irregardless if I opened multiple 4 packages. 5 Q. Right. You wouldn't want to have to go 6 back – strike that. 7 You wouldn't think that the farmer 8 would read all of the labels of every container, 9 would you? 10 MR. WEIR: Object to the form. It's 11 vague and ambiguous. 12 THE WITNESS: All the labels referring 13 to the paraquat container, sir? 14 BY MR. TILLERY: 15 Q. Correct. 16 A. Again, as I stated earlier, I think he 17 would read the first and that would suffice over all 18 of the application measures that he's doing for that 19 given period of time, sir. 20 Q. Okay. If there was a label change for 21 personal protective equipment on a container of 22 paraquat product, how is that change communicated to 23 the mixers, loaders, and applicators of paraquat? 24 MR. WEIR: Objection. It's outside of</p>	<p style="text-align: center;">Page 131</p> <p>1 comes out of the nozzle? 2 MR. WEIR: Objection. It's outside the 3 scope. Lacks foundation. 4 THE WITNESS: Humid conditions? I 5 mean, hypothetically it could slow the evaporation 6 of a particle. And by doing so, it would hold its 7 actual form longer as opposed to potential 8 evaporation at lower humidities. 9 BY MR. TILLERY: 10 Q. Okay. Does a change in humidity alter 11 how paraquat mist is suspended in the air? 12 MR. WEIR: Same objections. 13 THE WITNESS: I'm not clear on that, 14 sir. I mean, I don't have the data to support. I 15 mean, I don't know if it would be more or less 16 suspended in the air. 17 BY MR. TILLERY: 18 Q. You don't know one way or another? 19 A. Sir? 20 Q. You don't know one way or another? 21 A. No, sir, I don't. 22 Q. Okay. Do humid weather conditions 23 contribute to paraquat's solubility in the air? 24 MR. WEIR: Same objections.</p>
<p style="text-align: center;">Page 130</p> <p>1 the scope. Lacks foundation. 2 THE WITNESS: Typically it's 3 communicated in the directions for use in the safety 4 information associated with the label. 5 BY MR. TILLERY: 6 Q. But how does the farmer, applicator, 7 mixer, loader, how does he know that one container 8 of paraquat has had a change in the label? 9 MR. WEIR: Same objections. It's also 10 been asked and answered. 11 THE WITNESS: I mean, he would – he 12 would read – he would read the label. If he 13 hadn't – if he had product, I mean, he would be 14 looking at that to – you know, to know or to 15 hope -- maybe one of his retailers had actually 16 informed him. In many cases at the retail 17 locations, if there's been change as far as in must 18 wear respirator, our sales reps in many cases will 19 provide that information to the retail customers and 20 possibly even to some growers. But it may not 21 happen all the time. 22 BY MR. TILLERY: 23 Q. Do humid weather conditions contribute 24 to paraquat's particle size when the spray mist</p>	<p style="text-align: center;">Page 132</p> <p>1 THE WITNESS: I don't know, sir. 2 BY MR. TILLERY: 3 Q. Okay. How do periods of temperature 4 inversion contribute to paraquat spray mist 5 remaining in the air where paraquat is being 6 applied? 7 MR. WEIR: Same objections. 8 THE WITNESS: If you have an inversion, 9 you typically have difference in temperatures. And 10 so from that, the colder temperature, it would stay 11 suspended in the air longer and could potentially 12 move not allowing that particle to – to land in the 13 target area. 14 BY MR. TILLERY: 15 Q. And be – 16 A. Suspended in the air. 17 Q. -- suspended in the air, right? 18 A. Correct. 19 Q. Is Syngenta aware that some applicators 20 apply paraquat during periods of temperature 21 inversion? 22 A. We're aware that it has happened during 23 the application procedure. 24 Q. Okay.</p>

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1 A. There's also recommendations that
 2 should an inversion occur that you should stop.
 3 Q. Okay. Do periods of temperature
 4 inversion occur often in the Central Valley of
 5 California?
 6 MR. WEIR: Objection. Outside the
 7 scope.
 8 THE WITNESS: I don't know, sir. I'm
 9 not familiar with the environmental conditions all
 10 the time there.
 11 BY MR. TILLERY:
 12 Q. Okay. For the next questions I'm going
 13 to ask you, I want you to assume that one of the
 14 plaintiffs in this case is Ronald Niebrugge who used
 15 paraquat on his farm. For several years, he sprayed
 16 his farm fields with a homemade sprayer using an
 17 open-air farm tractor. He wore gloves when mixing
 18 and loading the paraquat but not while driving the
 19 tractor. Clogged spray nozzles occurred
 20 occasionally during spraying causing Mr. Niebrugge
 21 to leave the tractor, walk through the farm fields
 22 to remove and clear the nozzle. He usually wasn't
 23 able to wash his hands until he returned to his home
 24 at the end of the day.

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1 Mr. Niebrugge used a homemade
 2 boom-mounted sprayer which was 4 feet above the
 3 ground, and he used 30- to 50-pound spray pressure.
 4 He wore a respirator while mixing and loading
 5 paraquat but did not wear one in the field when
 6 spraying.
 7 He testified that there was really no
 8 way to avoid – to avoid inhaling at least some of
 9 the paraquat when applying it because, when spraying
 10 paraquat, each time you turned around at the end of
 11 the field, you have to drive back through whatever
 12 paraquat mist was still floating in the air.
 13 Do you understand those facts, sir?
 14 A. I understand your statement, yes, sir.
 15 Q. Okay. Based on those assumed facts, is
 16 there anything Mr. Niebrugge did when applying
 17 paraquat which was contrary to Syngenta's warnings
 18 or instructions to paraquat applicators?
 19 MR. WEIR: Objection. It's outside of
 20 the scope.
 21 THE WITNESS: Well, currently he did
 22 not have a respirator on as far as when he was
 23 making the applications, if I remember your
 24 statement correctly, sir.

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1 And then making the assumption that he
 2 did have long-sleeve shirt, pants on, but you
 3 didn't -- didn't state that. I'm making that
 4 assumption.
 5 BY MR. TILLERY:
 6 Q. He did, actually. I would add that he
 7 was wearing long-sleeve shirts and long pants.
 8 A. Okay. Yeah. The only piece also that
 9 if he did get any contamination on his skin or from
 10 handling there that he did not wash – you know,
 11 wash it off immediately after that. He waited until
 12 end of day or end of application until he was back
 13 to where he could perform a hygiene act.
 14 Q. So anything else you can think of?
 15 A. I mean, the only -- you know, as far as
 16 making application turning around, you know, going
 17 back through, you know, potentially he could have
 18 slowed down or waited for the spray fog to clear
 19 before going back across the field. But, I mean,
 20 that's -- based on the information that you
 21 provided, I think that's what -- what I have right
 22 now, sir.
 23 Q. Okay. Based on those assumed facts,
 24 was there anything Mr. Niebrugge did when applying

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1 paraquat which was not foreseeable by Syngenta?
 2 MR. WEIR: Objection. Outside the
 3 scope. It's vague and ambiguous.
 4 THE WITNESS: Could you clarify
 5 something? When you say "foreseeable," as far as --
 6 are you talking about --
 7 BY MR. TILLERY:
 8 Q. Anticipated that a farmer could apply
 9 it this way.
 10 A. I think that this could have been
 11 applied in the manner that you've -- that -- that
 12 you depicted. And, I mean, Syngenta would -- you
 13 know, that -- that could be a method Syngenta --
 14 potentially someone had seen.
 15 Q. Right. That would be anticipated or
 16 foreseeable that some farmers would apply it this
 17 way. Would you agree?
 18 MR. WEIR: Same objection. Outside the
 19 scope. Vague and ambiguous.
 20 THE WITNESS: Well, the application
 21 method of -- we actually documented in the 1995
 22 study as far as there were many different ways as
 23 far as how they would apply that.
 24

1 BY MR. TILLERY:
 2 Q. Yeah. Well, I'm just trying to get it
 3 clear.
 4 A. Yeah.
 5 Q. Based on these assumed facts, was there
 6 anything he did which – in applying the paraquat
 7 which wasn't something that they could anticipate or
 8 foresee that farmers might do?
 9 MR. WEIR: Same objections.
 10 THE WITNESS: I don't think so, sir.
 11 BY MR. TILLERY:
 12 Q. Okay. Based on these assumed facts,
 13 how did Mr. Niebrugge's actions differ from what you
 14 knew other farmers, at least some of them, were
 15 doing when mixing loading and applying paraquat?
 16 MR. WEIR: Same objections.
 17 THE WITNESS: I mean, this is one
 18 example of application. Others could have been
 19 using a closed tractor. Others could have been
 20 using a respirator. They could have been using, you
 21 know, additional PPE equipment associated with that
 22 forced air or full Tyvek. I mean, there's –
 23 there's numerous different mechanisms that maybe one
 24 would have used.

1 BY MR. TILLERY:
 2 Q. And would you agree that Syngenta could
 3 assume that many farmers would apply it exactly the
 4 same way?
 5 MR. WEIR: Objection. Vague and
 6 ambiguous. Outside the scope.
 7 THE WITNESS: I don't know that I could
 8 speak to many; but based on your point, I mean,
 9 obviously this is one. I mean, I would make the
 10 assumption that there could be some that could apply
 11 in that direction – that manner.
 12 BY MR. TILLERY:
 13 Q. In other words, seeing this or seeing a
 14 farmer not doing this exactly what Mr. Niebrugge did
 15 would not come as a surprise to you at Syngenta that
 16 farmers do this, correct?
 17 MR. WEIR: Same objections. It's
 18 outside the scope. It's vague and ambiguous.
 19 THE WITNESS: I don't know that I would
 20 use the word "surprised." I mean, that's – that's
 21 one that – you know, it would be an application
 22 method that – that has occurred.
 23 BY MR. TILLERY:
 24 Q. Right. We went through earlier in this

1 deposition the Meyer study and other studies that
 2 Syngenta did itself; and what he did was consistent
 3 with others and what you observed and wrote about
 4 and reported in studies, observation studies,
 5 correct?
 6 MR. WEIR: Objection. It's outside the
 7 scope. It's vague and ambiguous.
 8 THE WITNESS: Correction, sir. In
 9 the – in the studies, I mean, they – that was a
 10 method of application.
 11 BY MR. TILLERY:
 12 Q. I'm just trying to clarify. Did you
 13 say "correction" or "correct"?
 14 A. Oh, I said, "Correct," that in those
 15 studies, that's what was reflected as far as
 16 application methods similar to what the gentleman
 17 here made applications.
 18 Q. All right. Now, let's go back to
 19 another one.
 20 For the next questions, I want you to
 21 assume that one of the plaintiffs in this case is
 22 Freemon Schmidt who has testified that, when he
 23 applied paraquat on his farm fields, he wore rubber
 24 coated gloves, long-sleeve shirts, and pants while

1 mixing, loading, and spreading paraquat. He had
 2 clogged spray nozzles on average four to five times
 3 a day and had to remove his gloves to remove and
 4 clean the nozzles – nozzles. He used open-air farm
 5 tractor when pulling the sprayers in farm fields.
 6 Mr. Schmidt testified that it was not
 7 always possible to keep from getting paraquat on his
 8 clothes from the equipment, the spray mist, and from
 9 the vegetation. There was a depression in one of
 10 his farm fields that caused the paraquat to hang in
 11 the air, and then he had to drive back through it
 12 each pass when spraying it. The spray plume was
 13 about 18 inches above the ground.
 14 Based upon those assumed facts, is
 15 there anything Mr. Schmidt did when applying
 16 paraquat that was contrary to Syngenta's warnings or
 17 instructions to paraquat applicators?
 18 MR. WEIR: I'm going to object again.
 19 Outside the scope. Also object just to the extent
 20 that's inconsistent with any other testimony that
 21 was given by Mr. Schmidt.
 22 THE WITNESS: Sir, I'm just -- I'm
 23 looking at the quick notes that I made.
 24

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1 BY MR. TILLERY:
 2 Q. If you want any of this read back, I'm
 3 happy to do so.
 4 A. No. I think I'm good. If so, I'll
 5 request. Thank you.
 6 You know, essentially, one of the
 7 things that did raise a flag to me is where he
 8 mentioned having a depression as far as in that
 9 depression in the field and the spray was actually
 10 hanging in that field, which would be, to me, a
 11 slight indication that there's potential inversion
 12 there so it's actually not moving to -- to the
 13 canopy or to the areas that it needs to be applied.
 14 So one of the things that I would
 15 recommend, if you do see that inversion, that you
 16 should stop spraying or move to other parts of the
 17 field where that was not in play.
 18 Q. Anything else that he did that would be
 19 contrary to Syngenta's warnings or instructions to
 20 paraquat applicators?
 21 A. I mean, he had rubber gloves on. He
 22 had the pants -- pants and shirt.
 23 Did he -- was he -- but he did not have
 24 a respirator on. I didn't see that --

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1 Q. He did not wear a respirator when
 2 applying.
 3 A. Right. So that was one that we would
 4 recommend at that time to wear one.
 5 Q. Okay. Anything else?
 6 A. I mean, obviously, again, if he was
 7 opening in -- opening nozzles, taking nozzles,
 8 cleaning, doing anything associated with that and
 9 was not washing his hands or whatever, the exposed
 10 components that he had, excuse me, then I would
 11 expect him to -- to do that.
 12 The other component of that was that
 13 you mentioned he did -- couldn't keep it off his
 14 clothes. Now, I don't know if that was from small
 15 deposits just from drift or if he was having trouble
 16 cleaning the nozzles and it was actually a situation
 17 where the clothing had become saturated. If it was
 18 saturated, then the recommendation would be to
 19 remove those and also clean the -- the exposed area
 20 to that.
 21 Q. Okay. Anything else, sir?
 22 A. I think that's -- that's a high level
 23 as far as what I see there based on my notes.
 24 Q. Is there anything Mr. Schmltd did when

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1 apply paraquat which was not anticipated or
 2 reasonably foreseeable by Syngenta --
 3 MR. WEIR: Objection.
 4 BY MR. TILLERY:
 5 Q. -- about the technology that he used?
 6 MR. WEIR: Objection. It's outside the
 7 scope. It's vague and ambiguous.
 8 THE WITNESS: As far as anything out of
 9 reason, other than not wearing a respirator and not
 10 doing proper hygiene, I mean, the application method
 11 is -- is, you know, possible as far as to do that.
 12 BY MR. TILLERY:
 13 Q. Well, you say "possible." Is it --
 14 A. I mean, it's -- what I'm saying is it
 15 would be -- It could be one that has occurred as far
 16 as, you know, what he stated. And it could have
 17 happened in other areas as well, sir.
 18 Q. It's something that Syngenta is aware
 19 does happen in other areas, correct?
 20 MR. WEIR: Same objections.
 21 THE WITNESS: To definite -- to
 22 definitely say that it does happen in other areas,
 23 there -- I would say based on some of our studies
 24 and things, there is possibilities that it can, yes,

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1 sir.
 2 BY MR. TILLERY:
 3 Q. Yeah. And you also talked about the
 4 respirators. And you know that from your own
 5 studies that farmer applicators weren't always
 6 wearing respirators, didn't you?
 7 A. There are -- there are potential
 8 occurrences that it doesn't happen, yes, sir.
 9 Q. Well, didn't the studies that you and I
 10 went over in this deposition, the same deposition,
 11 say exactly that?
 12 A. That's just --
 13 Q. One of them -- one of them, I think,
 14 said 18 out of 20 of the applicators didn't wear
 15 respirators?
 16 MR. WEIR: Objection. It's vague and
 17 ambiguous. Misstates testimony.
 18 BY MR. TILLERY:
 19 Q. Remember? Do you remember that?
 20 A. I remember what the study -- what the
 21 paper said, yes, sir. And my statement was that
 22 there's potential that others do not wear or it
 23 could happen. And, I mean, in this document as far
 24 as in those paper that it -- that it has happened.

<p style="text-align: right;">Page 145</p> <p>1 Q. And what I'm saying is that told you 2 that it could be anticipated or foreseeable that 3 Mr. Schmidt would act the same way as those other 4 applicators, right? 5 MR. WEIR: Object to form. Vague and 6 ambiguous. 7 THE WITNESS: It would be a plausible 8 situation there, sir. 9 BY MR. TILLERY: 10 Q. Plausible or foreseeable? 11 A. It's possible. Foreseeable? Yeah. It 12 could be foreseeable. 13 Q. Okay. For the next questions, I want 14 you to assume that one of the plaintiffs in this 15 case is a man named Jerry Mills who used paraquat on 16 his apple orchard. Mr. Mills used a homemade Brown 17 sprayer pulled behind a tractor with nozzles 18 20 inches from the ground. He used anti-vaporized 19 nozzles to control spray drift. From 1978 to '85, 20 he used an open-air cab. After that, he used an 21 enclosed cab. 22 When he mixed, loaded, and sprayed 23 paraquat, he wore chemical-proof gloves, long-sleeve 24 shirts, and long pants. Clogged spray nozzles were</p>	<p style="text-align: right;">Page 147</p> <p>1 A. Okay. Okay. And he did blow on the 2 nozzles, but he did not -- they did not -- 3 Q. Touch his mouth. 4 A. -- enter into his mouth? 5 Q. Right. 6 A. So he just blew from a distance? 7 Q. Right. 8 A. And no respirator? 9 Q. And no respirator. 10 A. Yeah. I mean, essentially, other than 11 the crop, the differences in application, equipment, 12 timing versus open and closed cab, I mean, this -- 13 he moved to a closed cab in '85 as opposed to the 14 other two gentlemen there. But essentially what 15 you're -- you're covering here is very similar to 16 the previous two minus the closed-cab tractor. 17 Q. So was there anything that he did that 18 was contrary to Syngenta's warnings or instructions 19 to paraquat applicators? 20 A. I mean, other than not -- not proper 21 hygiene as far as once he was exposed as far as from 22 opening the nozzles without using gloves, you know, 23 and not using a respirator, I mean, those are -- 24 those are very similar to the other ones.</p>
<p style="text-align: right;">Page 146</p> <p>1 not uncommon in his spraying, and he had to open 2 them up with his bare hands to clear the clog. 3 Once he took the nozzle apart, he would 4 sometimes blow through them being careful not to 5 touch it with his mouth. He did not wear a 6 respirator. 7 Based on those assumed facts, is there 8 anything Mr. Mills did when applying paraquat which 9 was contrary to Syngenta's warnings or instructions 10 to paraquat applicators? 11 MR. WEIR: Objection. Outside the 12 scope. I also object to the extent it's 13 inconsistent with Mr. Mills's testimony. 14 THE WITNESS: So he did wear gloves, 15 pants, shirt, etc. Gloves -- even when the nozzles 16 were clogged, he had gloves on; is that correct, 17 sir? 18 BY MR. TILLERY: 19 Q. He did not -- 20 A. He did not? 21 Q. -- wear gloves when -- and I should 22 have said that. I apologize. 23 He did not wear gloves when removing 24 the nozzles.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Right. 2 A. And the answer would be very 3 similar to -- or it would be the same as -- 4 Q. The others? 5 A. -- the others. 6 Q. And that -- would that also apply with 7 respect to the fact that he would not have been 8 doing anything that wasn't foreseeable by Syngenta? 9 All of his conduct would have been foreseeable? 10 MR. WEIR: Objection. Vague and 11 ambiguous. Outside the scope. 12 THE WITNESS: To -- to -- I mean, to 13 the answer, I mean, there's potential to it was -- 14 it's foreseeable, yes. 15 BY MR. TILLERY: 16 Q. Yeah. So let's now move to a different 17 topic. Let's go to number 68 at this point, and 18 I'll read that topic into the record so we're clear 19 on what we're talking about. 20 And the topic says, "The existence from 21 time to time during the period paraquat has been on 22 the market in the United States of reasonable 23 economic substitutes for paraquat for the uses for 24 which paraquat has been registered."</p>

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1 Did you understand that to be topic 68,
2 sir?
3 A. Yes, sir.
4 Q. All right. And you told me at the
5 beginning of this deposition that you'd prepared by
6 reading and looking at that material, right?
7 A. Yes, sir.
8 Q. Okay. Let's go back over that again.
9 What did you read and look at to prepare for that
10 topic number 68?
11 A. Well, essentially going back and
12 looking just at Gramoxone information, reflecting on
13 historical practices of -- of what has occurred in
14 the field, talking with situations related to
15 different application uses, talking with my
16 technical product lead working through some of the
17 scenarios of where paraquat could be used or
18 other -- you know, other products possibly, but just
19 trying to think through some of the scenarios that
20 would be associated with that question, sir.
21 MR. TILLERY: Okay. Let's take about a
22 three- or four-minute break, okay? And then we'll
23 come back. All right? Thank you.
24 THE VIDEOGRAPHER: We're going off the

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1 United States.
2 A. Well, I think through our conversation
3 and dialogue that we had, it was that if you look at
4 paraquat and you look at where -- when it started,
5 it was probably the first nonselective herbicide
6 that was in the business. And so from that, there
7 was not a product that was similar to it in the
8 industry back in the -- the '60s.
9 Q. When did it become -- strike that.
10 When did other products come into the
11 marketplace that would be doing the same thing?
12 MR. WEIR: Object to the form. It's
13 vague and ambiguous.
14 THE WITNESS: Could you -- to be clear,
15 you'd be doing the same thing. I mean --
16 BY MR. TILLERY:
17 Q. Yeah. They were -- that are products
18 that accomplished the same purpose as paraquat.
19 A. So probably at that time there would be
20 products like -- well, glyphosate would be one that
21 moved into the industry as far as in the -- in the
22 '70s. I don't remember the exact date, sir. Mid --
23 mid to late '70s.
24 Q. Okay. And besides glyphosate?

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1 record. The time is 11:29. This ends media unit
2 number 3.
3 (Recess taken.)
4 THE VIDEOGRAPHER: We're going back on
5 the record. The time is 11:37. This begins media
6 unit number 4.
7 BY MR. TILLERY:
8 Q. Mr. Ouzts, what document are you
9 specifically relying upon to answer questions
10 pertaining to topic 68?
11 A. Specific documents?
12 Q. Yes.
13 A. Not -- for the most part, not a
14 specific document, sir. I mean, it's just
15 experience and then conversations that I've had with
16 my technical specialist or my technical product
17 lead.
18 Q. Who is that?
19 A. His name is Dane Bowers.
20 Q. And what did Mr. Bowers tell you?
21 A. Related to -- as far as what, sir?
22 Q. As to what reasonable economic
23 substitutes for paraquat have been available since
24 paraquat has been on the market in the

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1 A. Well, there are many products as far as
2 they're used, but it really just depends on what the
3 situation is, sir.
4 I mean, paraquat is not just a -- a --
5 it's a tool in the toolbox. And so depending on
6 weather conditions, if I'm, you know, in a cold
7 environment; depending on what weed spectrum I have,
8 if I've got many winter annuals; or if I'm going to
9 be tank mixing the product with other -- other
10 chemicals or applying that with fertilizers, then,
11 you know, those are the things that really depict on
12 when do I select a product like paraquat versus
13 other products that you would use in the toolbox
14 like a glyphosate or a glufosinate, something like
15 that.
16 Q. When were the glufosinates available?
17 A. Glufosinates came in, in the -- in
18 the mid -- I'm trying to think back, sir. Sometime
19 in the '90s.
20 Q. Okay. And before that, it was
21 glyphosate that came in?
22 A. Yes, sir. I mean, glyphosate has been,
23 you know, one of the -- as far as a nonselective
24 herbicide, it's the number 1 herbicide used in the

<p style="text-align: right;">Page 153</p> <p>1 world.</p> <p>2 Q. Okay. So if you factor in these</p> <p>3 variables that you contemplated there that play, as</p> <p>4 you say, a tool in the toolbox, which are reasonable</p> <p>5 economic substitutes for paraquat?</p> <p>6 A. Potentially glyphosate could be a</p> <p>7 substitute. At times it did move into taking the</p> <p>8 place of many -- in many cases for -- you know, for</p> <p>9 paraquat depending on where it was, I mean. And</p> <p>10 then the challenge over time was as we were</p> <p>11 beginning to develop resistance.</p> <p>12 So with the resistance component, you</p> <p>13 see a movement back into using paraquat in certain</p> <p>14 situations because a particular weed does not have</p> <p>15 resistance to that. And so it's -- again, it's</p> <p>16 understanding all the dynamics associated with a</p> <p>17 grower of what is he trying to -- to accomplish.</p> <p>18 And then from that, he selects the tools that best</p> <p>19 fit his needs as far as to plant quickly or to, you</p> <p>20 know, be tank mixed with many products.</p> <p>21 So it's just -- it's one of those that</p> <p>22 to say that it's -- that you can interchange one</p> <p>23 particular product for -- for paraquat is -- it's</p> <p>24 not always just a one-to-one switch, sir.</p>	<p style="text-align: right;">Page 155</p> <p>1 restricted use pesticides are not available for</p> <p>2 purchase or use by the general public?</p> <p>3 MR. WEIR: Same objection.</p> <p>4 THE WITNESS: Not for the general</p> <p>5 public. You must be licensed to have a restricted</p> <p>6 use license to purchase.</p> <p>7 BY MR. TILLERY:</p> <p>8 Q. That limitation on usage is because</p> <p>9 restricted use pesticides have the potential to</p> <p>10 cause unreasonable adverse effects to the</p> <p>11 environment and injury to applicators or bystanders</p> <p>12 without the restrictions, correct?</p> <p>13 MR. WEIR: Objection. It's outside the</p> <p>14 scope. Vague and ambiguous.</p> <p>15 THE WITNESS: They're put in place as</p> <p>16 far as it could have one or more of the impacts that</p> <p>17 you referred to depending on the product, sir.</p> <p>18 BY MR. TILLERY:</p> <p>19 Q. Okay. The restricted use</p> <p>20 classification restricts a product or its uses to</p> <p>21 use by a certified applicator or someone under the</p> <p>22 certified applicator's direct supervision, correct?</p> <p>23 MR. WEIR: Same objections.</p> <p>24 THE WITNESS: Currently, that -- that</p>
<p style="text-align: right;">Page 154</p> <p>1 Q. Okay. The United States Environmental</p> <p>2 Protection Agency regulates pesticides, doesn't it?</p> <p>3 A. Sir?</p> <p>4 MR. WEIR: Objection. It's outside the</p> <p>5 scope.</p> <p>6 BY MR. TILLERY:</p> <p>7 Q. I didn't get your answer, Mr. Ouzts.</p> <p>8 A. My understanding is EPA does the</p> <p>9 regulation of pesticides.</p> <p>10 Q. Okay. I'll refer in this line of</p> <p>11 questions to the United States Environmental</p> <p>12 Protection Agency as the EPA. Okay?</p> <p>13 A. Yes, sir.</p> <p>14 Q. All right. Does the EPA classify</p> <p>15 pesticides as restricted use pesticides or general</p> <p>16 use pesticides?</p> <p>17 MR. WEIR: Objection. Outside the</p> <p>18 scope.</p> <p>19 THE WITNESS: Well, they have more than</p> <p>20 one. I mean, you have -- you have the restricted</p> <p>21 use components, and then you also have those that</p> <p>22 are not reflected for general use.</p> <p>23 BY MR. TILLERY:</p> <p>24 Q. Right, right. Would you agree that</p>	<p style="text-align: right;">Page 156</p> <p>1 is correct depending on -- like, it depends on the</p> <p>2 product; but that's correct as the -- as the</p> <p>3 regulation stands at this time.</p> <p>4 BY MR. TILLERY:</p> <p>5 Q. Paraquat is a restricted use pesticide,</p> <p>6 right?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Why is paraquat a restricted use</p> <p>9 pesticide?</p> <p>10 MR. WEIR: Objection to the scope.</p> <p>11 Lacks foundation.</p> <p>12 THE WITNESS: I don't have the exact --</p> <p>13 I mean, my understanding is that there are</p> <p>14 requirements associated with it. Part of it is</p> <p>15 related to, you know, the potential human health</p> <p>16 assessment.</p> <p>17 BY MR. TILLERY:</p> <p>18 Q. Right. It's because of the potential</p> <p>19 to be so highly toxic that an applicator needs to</p> <p>20 become certified to even use the chemical; isn't</p> <p>21 that correct?</p> <p>22 MR. WEIR: Same objections.</p> <p>23 THE WITNESS: An applicator must be</p> <p>24 certified to make the application, correct, sir.</p>

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1 BY MR. TILLERY:
 2 **Q. But it's because the chemical is**
 3 **dangerous and toxic so the regulators want to make**
 4 **sure the person has been trained to be able to use**
 5 **it. Would you agree with that?**
 6 MR. WEIR: Same objection.
 7 BY MR. TILLERY:
 8 **Q. That's why it's a restricted use**
 9 **pesticide?**
 10 A. A person who has a restricted use
 11 pesticide license that understands, who is properly
 12 trained, or a person who is using that properly
 13 trained, proper PPE, and proper handling minimizes
 14 the risk associated with that product, yes, sir.
 15 **Q. Right. But it starts off with the**
 16 **risks associated with the product, doesn't it?**
 17 MR. WEIR: Objection. Vague and
 18 ambiguous.
 19 THE WITNESS: I think, sir, but I would
 20 yield to my colleague Monty Dixon to -- to answer
 21 that completely.
 22 BY MR. TILLERY:
 23 **Q. Paraquat -- paraquat is in the family**
 24 **of bipyridyls, correct?**

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1 MR. WEIR: Objection. Outside the
 2 scope.
 3 THE WITNESS: That's correct, sir.
 4 BY MR. TILLERY:
 5 **Q. Paraquat has two pyridine rings that**
 6 **are joined, right?**
 7 MR. WEIR: Same objection.
 8 THE WITNESS: I know it has two rings.
 9 I don't know where they join, sir. That's outside
 10 of my scope.
 11 BY MR. TILLERY:
 12 **Q. What was your undergraduate and**
 13 **graduate training?**
 14 A. Biology.
 15 **Q. Okay.**
 16 A. I had --
 17 **Q. And what was your graduate training?**
 18 A. Both were biology.
 19 **Q. Okay. And you have a master's degree?**
 20 A. Yes, sir.
 21 **Q. And you studied biology and chemistry**
 22 **associated with it? You've taken chemistry classes,**
 23 **haven't you?**
 24 A. I have. I mean, I know that it's

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1 two -- it's two rings, I mean.
 2 **Q. Okay. I'm not trying -- I'm not trying**
 3 **to -- to trick you with these questions.**
 4 A. No.
 5 **Q. I'm trying to create a record. I'm**
 6 **going to represent to you that the things that I'm**
 7 **asking you are noncontroversial. Okay?**
 8 A. No. Understood. Understood, sir. I
 9 just wanted to --
 10 **Q. I'm not asking to embarrass you in any**
 11 **way. That's not my function. I want to --**
 12 A. No.
 13 **Q. Okay?**
 14 A. I was not expecting that.
 15 **Q. All right. I won't do that.**
 16 **A positively charged nitrogen is**
 17 **attached to each ring at the 4 position. Would you**
 18 **agree with that?**
 19 MR. WEIR: Objection. It's outside the
 20 scope. Lacks foundation.
 21 THE WITNESS: I -- I can't argue with
 22 it if that's a fact, sir. I mean, I'll take you at
 23 your word, sir.
 24

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1 BY MR. TILLERY:
 2 **Q. All right.**
 3 A. I don't know.
 4 **Q. All right. A carbon and three**
 5 **hydrogens from the methyl group --**
 6 A. Yes.
 7 **Q. -- attach to the positively charged**
 8 **nitrogen. Would you agree with that?**
 9 A. Again, I don't know the molecular
 10 structure of that, sir. So, I mean, I'm going to
 11 take you at your word.
 12 **Q. Yeah. You wouldn't dispute what I just**
 13 **said, would you, based upon your knowledge?**
 14 A. I have no information to dispute, sir.
 15 **Q. All right. Paraquat is a nonselective**
 16 **broad-spectrum contact -- contact herbicide, right?**
 17 A. Correct.
 18 **Q. Nonselective means it kills any kind of**
 19 **plant it touches or comes into contact with, right?**
 20 A. Correct.
 21 **Q. So paraquat kills plants**
 22 **indiscriminately and doesn't distinguish between**
 23 **weeds and nontarget plants, correct?**
 24 A. Correct.

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1 **Q.** And contact herbicide means that
 2 **paraquat does not have to be taken up by the root of**
 3 **the plant to kill it. Is that fair?**
 4 A. It's partially. I would say that it's
 5 not all -- not only root uptake, but contact
 6 herbicide has no systemicity. It doesn't move
 7 within the plant. So it's just strictly where --
 8 where it makes contact is where it has activity.
 9 **Q.** Okay. And it kills any part of the
 10 **plant it touches, right?**
 11 A. Correct.
 12 **Q.** Okay. "Broad spectrum" means that
 13 **paraquat kills a wide variety of broadleaf weeds and**
 14 **grasses, correct?**
 15 A. Correct.
 16 **Q.** And it's used as a desiccant, isn't it?
 17 A. Correct.
 18 **Q.** And so the court and jury is aware of
 19 **what we're talking about, doesn't the word**
 20 **"desiccant" mean that it dries out the leaves or**
 21 **parts of the green plant tissues which it touches**
 22 **and does it quickly?**
 23 A. Correct.
 24 **Q.** Paraquat is highly water soluble, isn't

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1 inactivity and unavailability, sir. So I don't know
 2 if it becomes inactive. It becomes unavailable.
 3 BY MR. TILLERY:
 4 **Q.** How would you describe that difference?
 5 A. Basically -- well, inactive, to me,
 6 would mean that it's broken down into -- potentially
 7 broken down. But it's -- it -- it's -- you could
 8 detect it, but it doesn't work. It doesn't have any
 9 effect because it's bound so tightly.
 10 **Q.** Okay. Diquat is a nonselective
 11 **broad-spectrum contact -- contact herbicide like**
 12 **paraquat, isn't it?**
 13 A. Yes, sir.
 14 **Q.** Is Diquat manufactured and sold by
 15 **Syngenta?**
 16 A. Yes, sir.
 17 **Q.** Okay. Diquat's herbicidal properties
 18 **were discovered by ICI, a predecessor company of**
 19 **Syngenta in 1955, correct?**
 20 MR. WEIR: Objection.
 21 THE WITNESS: I think that's correct,
 22 sir.
 23 BY MR. TILLERY:
 24 **Q.** Okay. And that's the same exact year

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1 it?
 2 A. Yes.
 3 **Q.** It's rapidly absorbed in the plant,
 4 **correct?**
 5 A. It moves, yes.
 6 **Q.** And that makes it rainfast, doesn't it?
 7 A. Yes.
 8 **Q.** Is rainfast another way of saying that
 9 **after about 30 minutes to an hour after paraquat is**
 10 **applied, if it rains, it won't wash off the plants?**
 11 A. Correct.
 12 **Q.** Does Syngenta claim that since paraquat
 13 **is positively charged, it tightly binds to clay**
 14 **particles and soil?**
 15 MR. WEIR: Objection. Outside the
 16 scope.
 17 THE WITNESS: That's correct, sir.
 18 BY MR. TILLERY:
 19 **Q.** Okay. Because it is tightly bound,
 20 **does that mean that paraquat becomes inactive in**
 21 **soil?**
 22 MR. WEIR: Same objection.
 23 THE WITNESS: I think the -- my
 24 understanding is there's a difference between

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1 that paraquat's herbicidal properties were
 2 discovered by ICI, correct? 1955?
 3 A. Those dates, yes, sir, I think that's
 4 correct.
 5 **Q.** Diquat has been sold by Syngenta with
 6 **the trademark Reglone, right?**
 7 A. Correct.
 8 **Q.** Am I pronouncing that correctly?
 9 A. Reglone, yes, sir. R-e-g-l-o-n-e.
 10 **Q.** Thank you. Diquat is also in the
 11 **bipyridyl family like paraquat, isn't it?**
 12 A. Correct.
 13 **Q.** Diquat has two purity rings with a
 14 **positively charged nitrogen on each of them, right?**
 15 MR. WEIR: Objection. Outside the
 16 scope.
 17 THE WITNESS: Again, I will yield to
 18 your -- your information, sir. I --
 19 BY MR. TILLERY:
 20 **Q.** You wouldn't dispute that?
 21 A. I'm not disputing it.
 22 **Q.** Okay. But each positively -- positive
 23 **nitrogen is not attached to a carbon with three**
 24 **hydrogens. Would you agree with that or at least**

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1 not have any basis to disagree?
 2 MR. WEIR: Objection. Outside the
 3 scope. Lacks foundation.
 4 THE WITNESS: Yeah. I have no reason
 5 to dispute you, sir.
 6 BY MR. TILLERY:
 7 Q. Okay. In other words, the positive
 8 nitrogen is not attached to a methyl –
 9 MR. WEIR: Same objections.
 10 (Reporter clarification.)
 11 BY MR. TILLERY:
 12 Q. Do you agree with that?
 13 A. Based on your description, yes, I do.
 14 Q. All right. Nonselective means that the
 15 weed killer kills whatever part of the green plant
 16 it touches or comes into contact with?
 17 MR. WEIR: Objection. Asked and
 18 answered.
 19 THE WITNESS: Correct. Nonselective
 20 means it – just what it says.
 21 BY MR. TILLERY:
 22 Q. Right.
 23 A. It just doesn't matter.
 24 Q. Diquat does not distinguish between

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1 Q. And it's rapidly absorbed in the plant,
 2 correct?
 3 A. Correct.
 4 Q. So like paraquat, that makes Diquat
 5 rainfast, doesn't it?
 6 A. After drying time, correct.
 7 Q. Yeah. So – which means at about
 8 30 minutes to an hour after Diquat is applied, if it
 9 rains, Diquat won't wash off the plant, right?
 10 A. Correct.
 11 Q. Syngenta also claims that since Diquat
 12 is positively charged, it tightly binds to clay
 13 particles in soil. Make the same claim, don't they?
 14 A. Correct.
 15 Q. Because it is tightly bound, Diquat
 16 becomes inactive in soil just like paraquat. Would
 17 you agree?
 18 A. Yes, sir.
 19 Q. I think you used the word – I think
 20 you said "unavailable"?
 21 A. Unavailable. Inactive, yes.
 22 Q. All right. But the same way?
 23 A. Correct.
 24 Q. Same exact description.

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1 weeds and nontarget plants, correct?
 2 A. Correct.
 3 Q. And since it's a contact herbicide,
 4 Diquat kills whatever plant materials it touches
 5 without having to be taken up in the root just like
 6 paraquat, right?
 7 A. Correct.
 8 Q. Diquat is a broad-spectrum
 9 herbicide/pesticide just like paraquat, right?
 10 A. It's broad spectrum, yes, sir.
 11 Q. And, again, "broad spectrum" means that
 12 the pesticide kills a wide variety of broadleaf
 13 weeds and grasses, correct?
 14 A. Correct.
 15 Q. Diquat is also used as a desiccant,
 16 right?
 17 A. Correct. Correct.
 18 Q. That means it dries out the leaves of
 19 parts of the green plant it touches quickly,
 20 correct?
 21 A. Correct.
 22 Q. Diquat is also highly water soluble
 23 like paraquat, right?
 24 A. Correct.

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1 MR. TILLERY: Let's -- it's 11:55.
 2 Before we go forward -- here. It's almost
 3 1:00 o'clock your time.
 4 Let's take a -- maybe a half an hour
 5 break and get back on then. Okay? Or do you want
 6 to take a shorter break?
 7 MR. WEIR: Why don't we take a lunch
 8 break now? I think that makes sense, Steve.
 9 MR. TILLERY: How long do you want?
 10 MR. WEIR: Why don't we take 45 minutes
 11 so we have a chance to get some food and talk for a
 12 bit.
 13 MR. TILLERY: Okay. That's fine. All
 14 right. Forty-five minutes, it is.
 15 THE VIDEOGRAPHER: We're going off the
 16 record. The time is 11:55. This ends media unit
 17 number 4.
 18 (Recess taken.)
 19 THE VIDEOGRAPHER: We're going back on
 20 the record. The time is 12:48. This begins media
 21 unit number 5.
 22 BY MR. TILLERY:
 23 Q. Mr. Ouzts, I'm going to put an exhibit
 24 up now that I want you to look at. Do you see this,

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1 sir?

2 A. Yes, sir.

3 (Exhibit 21 was identified for

4 the record.)

5 BY MR. TILLERY:

6 Q. And I'm going to represent to you that

7 this is a 2017 archived page from Syngenta's

8 website.

9 A. Okay.

10 Q. Do you see that?

11 A. I do.

12 Q. Okay. Please take a look at it and

13 familiarize yourself with it. And we'll --

14 A. Okay.

15 Q. Oh, here we go. I'm sorry. If you

16 look at this first page, I think you're looking at

17 page 1 on your --

18 A. Yes, sir.

19 Q. And it lists "Has burn-down desiccant."

20 Do you see that?

21 A. Yes, sir.

22 Q. And the first one it lists is what?

23 A. Gramoxone SL 2.0.

24 Q. That's your standard Gramoxone product,

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1 BY MR. TILLERY:

2 Q. Okay. And they can be used

3 interchangeably, correct?

4 A. Well, I don't know that I fully agree

5 with interchangeable. They are tools in the toolbox

6 to be used depending on what -- what target I'm

7 looking at.

8 Q. Well, how are they different in their

9 targets?

10 A. Well, the mode of action is the same.

11 Q. Okay.

12 A. But even with -- you can have

13 antibiotics that have the same mode of action, but

14 one may work better than the other.

15 So, I mean, it's -- so for Gramoxone

16 per se versus Reglone, Gramoxone typically has

17 faster activity as far as on the -- the control of

18 the plant versus Reglone. So when speed of activity

19 comes into play, one may choose Gramoxone over

20 Reglone because it has a faster effect on the plant.

21 Once -- I'll stop there.

22 Q. -- this stuff. I asked --

23 A. Sorry?

24 Q. -- about what's different in the

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1 right?

2 A. Correct.

3 Q. And then it lists as your second

4 burn-down desiccant?

5 A. Reglone.

6 Q. Reglone, which is what?

7 A. It's a Diquat product or Diquat active.

8 Q. That's a Diquat product. So on the

9 website, you list the trade names for paraquat and

10 Diquat, namely, Gramoxone and Diquat, under the same

11 category, correct?

12 A. Well, paraquat and Diquat under the

13 brand names Gramoxone for paraquat, Reglone for

14 Diquat, yes, sir.

15 Q. Okay. All right. And they're both

16 classified as burn-down desiccants, right?

17 A. Correct.

18 Q. So they have the same chemical mode of

19 action of killing weeds, right?

20 MR. WEIR: Objection.

21 THE WITNESS: Same --

22 MR. WEIR: Vague and ambiguous.

23 THE WITNESS: Same mode of action.

24

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1 targets. So I move to strike your answer as

2 unresponsive.

3 Now, let's go back to my question.

4 Here's my question: How are they different in their

5 targets?

6 A. May I ask a point of clarification,

7 sir? Target test? Target -- I mean, could you

8 clarify "target," please?

9 Q. Exactly. What are you trying to kill?

10 That's your target weeds. Are they different?

11 A. Target -- target weeds. Well, I mean,

12 they both have impact. Target weeds as far as

13 burn-down and nonselective, they're there, yes, sir.

14 Q. They're the same, aren't they?

15 A. Well, they have the same mode of action

16 and they have impacts on the same target pest or

17 most of the same target pests, yes.

18 Q. All right. The type of plant matter

19 killed by these chemicals would be substantially the

20 same, correct?

21 MR. WEIR: Object. Form. Vague and

22 ambiguous.

23 THE WITNESS: For -- for the most part,

24 yes; but, again, it depends on the situation and it

<p style="text-align: right;">Page 173</p> <p>1 depends on the overall target pest. Some – one may 2 work better than the other. So, again, it – 3 BY MR. TILLERY: 4 Q. Okay. Paraquat and Diquat can be used 5 under the same weather and climate conditions, can't 6 they? 7 A. Yes, sir. 8 Q. Okay. In contrast to paraquat's 9 restricted use classification, Diquat is classified 10 as a general use pesticide, isn't it? 11 A. Correct. 12 Q. There's no license required to purchase 13 Diquat or to apply it, correct? 14 A. Correct. 15 Q. So any homeowner could go into a store 16 that sold Diquat and could legally buy it and use 17 it, correct? 18 A. Correct. 19 Q. And that's because Diquat is not as 20 acutely toxic or lethal as paraquat, correct? 21 MR. WEIR: Object to the form. Outside 22 the scope. 23 THE WITNESS: Based on the regulatory, 24 yes. I don't know the tox. But based on that, yes,</p>	<p style="text-align: right;">Page 175</p> <p>1 document. And it will show you at the bottom of the 2 page, this is Syngenta-PQ-02122207 through 08. It's 3 a two-page document. 4 A. Okay. 5 Q. Okay. Do you see that? 6 A. I do. 7 Q. It's dated – it's reprinted from 8 nature. It's Volume 252, number 5481, pages 314 9 through 315 dated November 22nd, 1974. 10 Do you see that? 11 A. Yes, sir. 12 Q. All right. Now, let's go to the second 13 page, and let's see who wrote this. 14 Do you know who these gentlemen were or 15 are? 16 A. Their names are not familiar to me 17 because that was before my time in the company, but 18 it does denote as far as the company is ICI. 19 Q. Yeah. These are Syngenta predecessor 20 scientists, right? 21 A. Appears to, based on the document, sir. 22 Q. Now, if you look at Michael Rose, he 23 was a scientist who worked at Syngenta for many 24 years. Did you know that?</p>
<p style="text-align: right;">Page 174</p> <p>1 and the – and the – the cautionary statement. 2 MR. TILLERY: We'll have the next 3 exhibit. If you'll pull up... 4 Q. Do you know if Syngenta claims that the 5 lung is paraquat's primary targeted poisonings? Do 6 you know one way or another? 7 A. I'm sorry? 8 BY MR. WEIR: Outside the scope. 9 BY MR. TILLERY: 10 Q. Do you know one way or another whether 11 Syngenta claims that the lung is paraquat's primary 12 target in poisonings? 13 MR. WEIR: Object. Scope. Lack of 14 foundation. 15 THE WITNESS: No, sir, I don't have any 16 information on that. 17 BY MR. TILLERY: 18 Q. Okay. Well, let me show you an 19 exhibit, sir. 20 A. Okay. 21 (Exhibit 22 was identified for 22 the record.) 23 BY MR. TILLERY: 24 Q. Now, please take a look at this</p>	<p style="text-align: right;">Page 176</p> <p>1 MR. WEIR: Objection. Calls for 2 speculation. 3 THE WITNESS: No, sir, I didn't know 4 the length of his tenure. 5 BY MR. TILLERY: 6 Q. Well, did you know that Lewis Smith 7 was – was head of product safety before 8 Phil Botham? He had that job? Were you aware of 9 that, and he was there when you were still with the 10 company? 11 MR. WEIR: Same objection. 12 THE WITNESS: Sir, he may have been, 13 but my interaction with these gentlemen was – you 14 know, I didn't have the interactions with them. So 15 I'm not familiar with their names. 16 BY MR. TILLERY: 17 Q. You're not disputing that E.M. Wyatt, 18 Lewis Smith, Michael Rhodes are scientists at 19 Syngenta, right? You're not disputing that? 20 A. No, sir. Based on this document, I 21 have no reason to. 22 Q. Okay. So let's go and take a look at 23 the first page of the document on this two-page 24 document. And do you see the title "Evidence for</p>

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1 **Energy-Dependent Accumulation of Paraquat Into Rat Lung"?**
 2 **Do you see that?**
 3 **A. Yes, sir.**
 4 **Q. Let's go to the second paragraph. Will**
 5 **you read that?**
 6 **A. That's the one that starts with "We**
 7 **have demonstrated?"**
 8 **Q. Yes. Could you slowly read that into**
 9 **the record, please?**
 10 **A. Sure. "We have demonstrated an**
 11 **energy-dependent accumulaton of paraquat In slices**
 12 **of rat lung. This process may account for the**
 13 **retention of paraquat in the lungs of many species.**
 14 **Diquat, a herbicide closely related In structure and**
 15 **properties to paraquat, Is not actively accumulated**
 16 **by the lung silces. It Is not retained by the lung**
 17 **in vivo and does not damage the lung."**
 18 **Q. And it cites -- before you move**
 19 **forward, it cites L.L. Smith and M.S. Rose**
 20 **unpublished work, right?**
 21 **A. Yes, sir.**
 22 **Q. And those are the same two people who**
 23 **were -- two of the three authors of this document,**
 24

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1 **seen with Diquat Is energy dependent."**
 2 **Do you see that?**
 3 **A. I do.**
 4 **Q. All right. Now, let's, if we can, go**
 5 **to the next page and start where it says, "The**
 6 **maintenance," that sentence through the end of the**
 7 **paragraph, and read that for the court and jury into**
 8 **the record. This Is hard to see.**
 9 **A. Sure. "The maintenance of a constant**
 10 **concentration of 1 microgram per milliliter for**
 11 **approximately 30 hours can, therefore, only be the**
 12 **result of a release of paraquat from other organs**
 13 **into the blood or Impaired renal function or both.**
 14 **Since the gastrointestinal tract of rats was shown**
 15 **to contain a large propotion of the oral dose, this**
 16 **is the most likely source of the blood paraquat.**
 17 **The lung was clearly able to accumulate paraquat to**
 18 **levels in excess of the blood concentration.**
 19 **Similar experience with Diquat given orally to rats**
 20 **show that no such accumulation occurs. L.L. Smith**
 21 **and M.S. Rose unpublished work. Thus, the rat lung**
 22 **accumulates paraquat but not Diquat both In vivo and**
 23 **In vitro."**
 24 **Q. And what that tells you is that the**

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1 **right?**
 2 **A. Correct.**
 3 **Q. Okay. They're both Syngenta**
 4 **scientists, right?**
 5 **A. Yes, sir.**
 6 **Q. All right. Now, let's skip the next**
 7 **paragraph and go to the fourth paragraph and read**
 8 **that one in the -- well, the first seven and a half**
 9 **lines. It starts, "The amount of,"**
 10 **A. Sure. I was just making sure where to**
 11 **stop.**
 12 **"The amount of Diquat food in" -- no,**
 13 **excuse me. "The amount of Diquat found in rat lung**
 14 **slices incubated in media-containing Diquat remained**
 15 **constant from 30 minutes to 2 hours. The plateau**
 16 **value obtained was dependent on the concentration**
 17 **present in the medium. In contrast, paraquat was**
 18 **accumulated linearly from 30 minutes to 2 hours.**
 19 **The amounts of paraquat accumulated were in excess**
 20 **of those seen with Diquat."**
 21 **Q. Now, if you skip down, there's another**
 22 **sentence towards the bottom of that paragraph, and**
 23 **it says, "Thus the accumulation of paraquat into**
 24 **silces of rat lung to amounts In excess of those**

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1 **chemical components of paraquat cause It, the**
 2 **structure or the chemical, to accumulate in a**
 3 **mammalian species like a rat, but it doesn't**
 4 **accumulate Diquat in the same way, does it?**
 5 **MR. WEIR: Object. Lacks foundation.**
 6 **Outside the scope. I don't know that it's**
 7 **accurately representing what the document actually**
 8 **says.**
 9 **BY MR. TILLERY:**
 10 **Q. Isn't that what it says, sir?**
 11 **A. Potentially it was -- there was**
 12 **paraquat in the brain or In the tissue samples and**
 13 **Diquat was not. I mean, that's the way that I**
 14 **understand this document, sir.**
 15 **Q. So it accumulates in tissues if it's**
 16 **paraquat; doesn't accumulate in tissues if it's**
 17 **Diquat. Isn't that what you take away?**
 18 **MR. WEIR: Same objections.**
 19 **THE WITNESS: In the text that is. But**
 20 **I'm not -- my understanding of this type of research**
 21 **Is, you know, to make a conclusion. But what the**
 22 **text says, that's what I take away.**
 23 **BY MR. TILLERY:**
 24 **Q. Well, I mean, do you have any dispute**

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1 the accuracy of this scientific finding by Syngenta
 2 scientists?
 3 A. I do not, sir.
 4 Q. All right. Let's go to the last
 5 paragraph or the next paragraph. I'll read this
 6 one.
 7 "Since it is known that the response of
 8 human lung to oral paraquat is delay, it is possible
 9 that a similar accumulation occurs in man.
 10 Therefore, it is of paramount importance that, after
 11 ingestion of paraquat, all possible measures are
 12 taken to remove paraquat not only from the stomach
 13 but from the rest of the gastrointestinal tract and
 14 blood"; is that right?
 15 A. That's what it states, sir, yes.
 16 Q. So is this telling you that Diquat is
 17 safer than paraquat?
 18 MR. WEIR: Objection. Outside of the
 19 scope. Vague and ambiguous.
 20 THE WITNESS: Sir, the data shows to me
 21 that the -- the possibilities as far of where it
 22 accumulates paraquat into the brain versus Diquat
 23 does not show that; but as far to tell one is safer
 24 than the other one, I mean, that's -- I leave that

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1 Q. Okay. Has Diquat ever been associated
 2 with an increased risk of Parkinson's disease?
 3 MR. WEIR: Object to the scope.
 4 THE WITNESS: Sir, I'm not -- I'm not
 5 aware of that information. I don't know if it has
 6 occurred or not.
 7 BY MR. TILLERY:
 8 Q. Have you ever heard of it being alleged
 9 to have caused Parkinson's disease?
 10 MR. WEIR: Same objection.
 11 THE WITNESS: Currently, no, sir.
 12 BY MR. TILLERY:
 13 Q. Okay. Has Diquat ever been alleged to
 14 be a human neurotoxin?
 15 MR. WEIR: Same objection.
 16 THE WITNESS: The same answer.
 17 Currently, I'm not aware.
 18 BY MR. TILLERY:
 19 Q. Has Diquat ever been associated with
 20 any chronic health effects from long-term use?
 21 MR. WEIR: Same objection.
 22 BY MR. TILLERY:
 23 Q. To your knowledge?
 24 A. To my knowledge, sir, I'm not aware,

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1 to the experts as far as to make that determination.
 2 BY MR. TILLERY:
 3 Q. It certainly doesn't show that Diquat
 4 is more dangerous, does it?
 5 MR. WEIR: Same objections.
 6 THE WITNESS: It shows that Diquat does
 7 not accumulate in the brain.
 8 BY MR. TILLERY:
 9 Q. All right. Okay. So now let's, if you
 10 can, answer for me whether it was known, then, as of
 11 1974 that Diquat was not as toxic in these tissues
 12 as paraquat? Would you agree with that?
 13 MR. WEIR: Same objections.
 14 THE WITNESS: According to this
 15 document in 1974, the information at hand, that
 16 aligns with your statement, sir.
 17 BY MR. TILLERY:
 18 Q. So my statement would be correct.
 19 Would you agree?
 20 A. Based on this, yes, sir.
 21 Q. These two chemicals have been able for
 22 use as pesticides -- pesticides for approximately
 23 the same amount of time, haven't they?
 24 A. Yes, sir.

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1 no.
 2 Q. Has Diquat ever been alleged to be an
 3 endocrine disruptor?
 4 MR. WEIR: Same objection.
 5 THE WITNESS: Sir, I'm not aware of
 6 this. Much of this is outside of my purview.
 7 BY MR. TILLERY:
 8 Q. All right. The only reason I'm asking
 9 is because whether or not you volunteered for it,
 10 your counsel has -- have listed you as the person
 11 who speaks to topic 68, which has been for the topic
 12 dealing with substitutes for paraquat.
 13 A. Right.
 14 Q. Okay. Yeah. That's why I'm asking you
 15 these questions.
 16 A. I understand.
 17 Q. Okay. Has Diquat ever been alleged to
 18 be a carcinogen?
 19 MR. WEIR: Same objection. Outside the
 20 scope.
 21 THE WITNESS: My understanding, no,
 22 sir.
 23 BY MR. TILLERY:
 24 Q. Okay. Has Diquat ever been alleged to

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1 cause harm to reproductive health or to
 2 developmental effects in utero or to infants?
 3 MR. WEIR: Same objection.
 4 THE WITNESS: My understanding, no,
 5 sir.
 6 BY MR. TILLERY:
 7 Q. Okay. Has Diquat ever been alleged to
 8 be a groundwater contaminant?
 9 MR. WEIR: Same objection.
 10 THE WITNESS: Not aware of any, sir.
 11 BY MR. TILLERY:
 12 Q. Has Diquat ever been alleged to harm
 13 pollinators or otherwise threaten ecosystems?
 14 MR. WEIR: Same objections.
 15 THE WITNESS: I'm not aware of
 16 endangered species, sir.
 17 BY MR. TILLERY:
 18 Q. Okay. Once the European Union no
 19 longer allowed the sale of paraquat in Europe,
 20 Syngenta sold Diquat in Europe for the same purpose,
 21 didn't it?
 22 MR. WEIR: Objection. Outside the
 23 scope. Lacks foundation.
 24 THE WITNESS: I can't speak to as far

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1 agricultural industry in Europe, to your knowledge?
 2 MR. WEIR: Objection. Lacks
 3 foundation. Outside the scope. Vague and
 4 ambiguous.
 5 THE WITNESS: I don't have any
 6 information as far as to – to answer that, sir. I
 7 don't know.
 8 BY MR. TILLERY:
 9 Q. Okay. Diquat has not only been
 10 available for the same time as paraquat in the
 11 United States, but it's also been generally
 12 available in the same locations as paraquat, hasn't
 13 it?
 14 A. In most cases, yes, sir.
 15 Q. Okay. Are you aware of any impediments
 16 to the production of Diquat as compared to paraquat?
 17 MR. WEIR: Objection. Vague and
 18 ambiguous.
 19 THE WITNESS: Now, when you say
 20 "impediments," as far as overall production of the
 21 active ingredient?
 22 BY MR. TILLERY:
 23 Q. Yeah. Making it.
 24 A. I'm not – not aware of issues, sir.

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1 as – fully as far as the paraquat/Diquat practices
 2 in Europe, but my understanding it's something that
 3 they did use Diquat in some instances to control the
 4 weeds where they used paraquat.
 5 BY MR. TILLERY:
 6 Q. Where they had been banned from using
 7 paraquat, correct?
 8 MR. WEIR: Same objections. Also
 9 object to the premise that there was a ban.
 10 THE WITNESS: It's my understanding,
 11 sir, yes.
 12 BY MR. TILLERY:
 13 Q. Are you aware of the fact that it's
 14 unlawful to -- to use paraquat in 71 different
 15 countries?
 16 MR. WEIR: Objection. Outside the
 17 scope. Lacks foundation.
 18 THE WITNESS: I understand that there
 19 is bans and it is unlawful if it is banned. The 71
 20 number -- I did not know the total number.
 21 BY MR. TILLERY:
 22 Q. Okay. When the Europeans used Diquat
 23 after paraquat in 2007, did that switch from
 24 paraquat to Diquat negatively affect the

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1 That would be more our production team.
 2 Q. You've never heard at your employment
 3 with Syngenta for 25 years or thereabouts that
 4 there's been any problem that would preclude the
 5 production of Diquat, right?
 6 MR. WEIR: Object to the scope as well.
 7 THE WITNESS: We have -- I'm not aware
 8 of problems, sir.
 9 BY MR. TILLERY:
 10 Q. Okay. Are the manufacturing processes
 11 for the two chemicals paraquat technical and Diquat
 12 technical relatively similar?
 13 MR. WEIR: Objection. It's outside the
 14 scope. Lacks foundation.
 15 THE WITNESS: I don't know, sir. I
 16 mean, they're in the same family. But I'm sure
 17 there's -- there's alternate or slightly different
 18 processes as far as for the active ingredient as
 19 well as, I think, the formulation upon it could be a
 20 little different as well.
 21 BY MR. TILLERY:
 22 Q. Where is Diquat made for Syngenta?
 23 MR. WEIR: Same objections.
 24 THE WITNESS: The only location that I

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1 know, It's made In Huddersfield, England.
 2 BY MR. TILLERY:
 3 **Q. Is the process of formulating the**
 4 **finished products from the two technical products**
 5 **similar?**
 6 MR. WEIR: Same objections.
 7 THE WITNESS: I think so.
 8 Sir, for clarity, the active is made In
 9 Huddersfield, but the – it's formulated in the U.S.
 10 in St. Gabriel, Louisiana.
 11 BY MR. TILLERY:
 12 **Q. The paraquat is, or both of them are?**
 13 A. Both.
 14 **Q. Both of them are. There are no**
 15 **regulatory reasons Diquat could not be produced at**
 16 **the same scale as paraquat, are there?**
 17 MR. WEIR: Objection to the scope.
 18 Lacks foundation.
 19 THE WITNESS: I don't know if there are
 20 regulatory impediments, sir. I would yield to
 21 Monty Dixon to answer that, my colleague.
 22 BY MR. TILLERY:
 23 **Q. Sorry. Are you finished?**
 24 A. Yes, sir. I was just referring to my

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1 colleague Monty Dixon.
 2 **Q. All right. There are no technological**
 3 **reasons Diquat could not have been produced at the**
 4 **same scale as paraquat, correct?**
 5 MR. WEIR: Same objections.
 6 THE WITNESS: I don't know, sir.
 7 BY MR. TILLERY:
 8 **Q. Okay. I mean, you're – I'm asking you**
 9 **as a representative to Syngenta again, and this is**
 10 **my opportunity to ask questions to Syngenta on this**
 11 **topic. The fact that you don't know, of course,**
 12 **means that Syngenta doesn't know. So I'm trying to**
 13 **make sure we're on the same page.**
 14 **Are you saying there's other people who**
 15 **have that weren't produced here today to answer**
 16 **these questions?**
 17 MR. WEIR: Let me just state for the
 18 record, I think you are outside the scope of
 19 topic 68. So I think Mr. Ouzts is testifying in his
 20 personal capacity. We can obviously have that fight
 21 later, but I just want to make that point for the
 22 record.
 23 BY MR. TILLERY:
 24 **Q. There were no manufacturing reasons why**

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1 **Diquat could not have been produced at the same**
 2 **scale as paraquat to your knowledge, were there,**
 3 **Mr. Ouzts?**
 4 MR. WEIR: Again, object to the scope.
 5 Lacks foundation.
 6 THE WITNESS: Sir, I have no knowledge
 7 as far as to understand that. So, I mean, I'm not
 8 qualified to answer that question, sir.
 9 BY MR. TILLERY:
 10 **Q. So there are no scientific reasons why**
 11 **Diquat could not have been produced at the same**
 12 **scale as paraquat, right?**
 13 MR. WEIR: Same objections.
 14 THE WITNESS: Again, sir, I think that
 15 my answer from previous questions would be the same.
 16 BY MR. TILLERY:
 17 **Q. Has – has Syngenta formulated an**
 18 **official policy as to the circumstances under which**
 19 **it would research and develop – develop – I mean,**
 20 **let me restart the question. Strike that one.**
 21 **Has Syngenta formulated any official**
 22 **policy as to the circumstances under which you can**
 23 **research and development – develop possible**
 24 **substitutes for products alleged to be harmful to**

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1 humans?
 2 MR. WEIR: I object to the scope. It
 3 lacks foundation. Vague and ambiguous.
 4 THE WITNESS: Sir, I think the clear
 5 message here is our policy is that we produce
 6 products that we believe are safe for use proper --
 7 when you use proper equipment, proper protection.
 8 I mean, the policy -- we wouldn't -- I
 9 don't think generally -- we would not make products
 10 that we knew were harmful to an end user. You know,
 11 from that, we -- we look at all the aspects of
 12 product safety, environmental safety, all the things
 13 that are associated there to make determinations if
 14 a product is -- is fit to be released as far as for
 15 sale and that there's many avenues. I'm not aware
 16 of any changes in that from past history.
 17 BY MR. TILLERY:
 18 **Q. I move to strike your answer as**
 19 **unresponsive.**
 20 **Has Syngenta formed any official policy**
 21 **as to the circumstances under which it would**
 22 **research and develop possible substitutes for**
 23 **products which are considered to be harmful to**
 24 **humans?**

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1 MR. WEIR: Same objections.
 2 BY MR. TILLERY:
 3 Q. Were there any policies?
 4 A. I don't know if a policy related to
 5 harmful. I mean, that would be one that obviously
 6 I'm -- I'm not aware of that. We -- we constantly
 7 look for new products.
 8 Q. Okay. So if a product when it's used
 9 as directed gets into the applicator's brain and
 10 it's a weedkiller capable of redox cycling, do you
 11 know if that could be harmful?
 12 MR. WEIR: Objection. It's outside the
 13 scope. Assumes facts not in evidence. Vague and
 14 ambiguous. Lacks foundation.
 15 THE WITNESS: So I'm -- the last
 16 statement you said, what was the -- you -- if it
 17 gets into the brain and it causes what? That was
 18 what I was unclear on that you said, sir.
 19 BY MR. TILLERY:
 20 Q. I said so if a product when it's used
 21 as directed gets into the applicator's brain and it
 22 is a weedkiller capable of redox cycling.
 23 A. Okay.
 24 Q. Do you know if that could be harmful to

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1 the applicator?
 2 MR. WEIR: Same objections.
 3 THE WITNESS: I would have to yield to
 4 my toxicologist and our health and safety people as
 5 far as in that -- to answer that. I -- I don't
 6 know.
 7 BY MR. TILLERY:
 8 Q. Do you know if Syngenta has -- strike
 9 that.
 10 Do you know if Syngenta scientists have
 11 suggested using Diquat as a substitute for paraquat
 12 if Diquat is banned in the
 13 United States?
 14 MR. WEIR: Objection. It's outside the
 15 scope. Lacks foundation.
 16 THE WITNESS: I'm not aware as far as
 17 taking that -- that strategy as far as a
 18 substitution, no, sir.
 19 BY MR. TILLERY:
 20 Q. Okay. Is paraquat more profitable in
 21 its sales than Diquat?
 22 A. Is it more profitable?
 23 Q. Yes. In other words, does Syngenta
 24 make more money for the sale of paraquat than it

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1 does from Diquat?
 2 A. No. Overall profitability is --
 3 paraquat is less profitable than Diquat currently.
 4 Q. So -- and when you say "profitable,"
 5 you mean you're charging more for Diquat?
 6 A. Well, there is a higher price, yes,
 7 sir.
 8 Q. How much higher?
 9 A. I'd have to go look. It's -- it's
 10 approximately 70 -- 70, \$80 a gallon.
 11 Q. Okay. And it -- does economy of scale
 12 affect the price of this product?
 13 A. To clarify, economy of scale as far as
 14 you're referring to production or --
 15 Q. Yeah. In production. If you make more
 16 of it, does the price go down?
 17 A. In theory that would be what normal
 18 production would be, but I would yield to our
 19 production people to accurately answer that
 20 question, sir.
 21 Q. Let's look at this next exhibit for
 22 just a second. And I think this is number 23.
 23 (Exhibit 23 was identified for
 24 the record.)

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1 BY MR. TILLERY:
 2 Q. This is Exhibit Number 23. If you
 3 wouldn't mind taking a look at this, please.
 4 A. Sure.
 5 Q. Can you move it around to see the
 6 entire discussion?
 7 A. Yes, sir. I'm at the bottom. I was
 8 going to read from bottom to top.
 9 Q. That's perfect. I think this is the
 10 bottom.
 11 A. Okay.
 12 Q. Okay. Under this -- strike that.
 13 You understand this to be an exchange
 14 between Lewis Smith and Jonathan Sullivan and
 15 Aruffo Sandoz?
 16 Do you see that?
 17 A. Yes, sir, I do.
 18 Q. Who are those people?
 19 A. Lewis Smith, I believe, was on one of
 20 the prior publications who was a researcher.
 21 Q. In Syngenta in Europe, right?
 22 A. Yes, sir. This is -- Smith appears to
 23 be in Basel. Both of these gentlemen do based on
 24 the -- the notation at the end of their name.

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1 **Q. Who is Aruffo Sandoz?**
 2 A. I'm not familiar with that -- with his
 3 name, sir.
 4 **Q. Okay. When it says "CHBS" after his**
 5 **name, what does that mean?**
 6 A. That's just the acronym that goes with
 7 their location. I believe that depicts Basel,
 8 Switzerland.
 9 **Q. That means he's at the world**
 10 **headquarters of Syngenta, right?**
 11 A. Based on this, he is affiliated there.
 12 I don't know if he's there on-site but, yes, global
 13 site.
 14 **Q. Okay. And then the main or principal**
 15 **communication is by Lewis Smith discussing a**
 16 **comparison of toxicity between paraquat and Diquat,**
 17 **right?**
 18 A. Correct.
 19 **Q. Okay. And what does he conclude in his**
 20 **very last sentence of the -- of the email in the**
 21 **last main paragraph?**
 22 A. This is the one that says, "Diquat does
 23 not cause damage to neuro- neuroma cells in the
 24 mouse brain. The business can proceed to expand the

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1 **Q. Right.**
 2 A. My understanding that there was a
 3 slightly reduced toxicity of Diquat compared to
 4 paraquat.
 5 **Q. Three to four times is slightly?**
 6 A. I didn't know the number, sir. I just
 7 knew it was less.
 8 **Q. Okay. If it's three to four times**
 9 **safer than paraquat, is that -- would you consider**
 10 **that to be a significant improvement in safety?**
 11 MR. WEIR: Object. It's vague and
 12 ambiguous.
 13 THE WITNESS: You know, based on --
 14 based on those numbers, I don't know. The safety
 15 question would be are we talking mortality? Are we
 16 talking events? I guess that's the question as far
 17 as what -- what the three to four times safety is
 18 related to, sir.
 19 BY MR. TILLERY:
 20 **Q. Well, if it's your life, you live or**
 21 **you die, do you think that's significant? Would you**
 22 **rather have the paraquat or the Diquat?**
 23 MR. WEIR: Object to the form. Vague
 24 and ambiguous. Argumentative.

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1 uses of Diquat knowing this issue has been addressed
 2 and unlikely to be problematic in the future."
 3 **Q. So it says here -- let's look at this.**
 4 **Let's look at the last sentence. If you go to the**
 5 **last page of the document, the last written**
 6 **paragraph.**
 7 A. Okay. Yep.
 8 **Q. "With regard to other aspects of the**
 9 **toxicity of Diquat, I would comment that the acute**
 10 **toxicity is probably two to threefold less than**
 11 **paraquat. This is based on animal experimentation**
 12 **and some limited experience of human poisonings.**
 13 **However, Diquat poisoning is more treatable than**
 14 **paraquat poisoning. So if you combine the intrinsic**
 15 **reduced toxicity of Diquat with the likelihood of**
 16 **clinical intervention, we'll improve survivability.**
 17 **It is probably safe to judge that, relative to**
 18 **paraquat, Diquat is three to four times safer for a**
 19 **given dose."**
 20 **Did you understand that before this --**
 21 A. Yes, sir.
 22 **Q. Yeah.**
 23 A. Did I understand that before this
 24 document?

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1 THE WITNESS: To address your question
 2 for -- for mortality, I mean, I think it would be
 3 obvious you'd want the three- to four-time
 4 reduction.
 5 BY MR. TILLERY:
 6 **Q. Right. Okay. So would you agree with**
 7 **me that for many years Syngenta has been aware of**
 8 **the fact that Diquat is multiple times safer around**
 9 **human beings than paraquat, correct?**
 10 MR. WEIR: Object. It's outside the
 11 scope. I think it lacks foundation. It
 12 misrepresents the document.
 13 THE WITNESS: So when you refer to
 14 safety, I mean, the way that I read this is more so
 15 related to paraquat poisoning, which would be --
 16 looks to be more of an ingestion as opposed to a
 17 dermal exposure. So, I mean, the overall safety
 18 component of that, I mean, obviously if you -- if
 19 you swallow it, then that would be one thing.
 20 As far as dermal safety, I can't answer
 21 that based on this document here. So I don't know.
 22 I mean, I think that's what it's referring to is
 23 more of an oral component here.
 24

<p style="text-align: right;">Page 201</p> <p>1 BY MR. TILLERY:</p> <p>2 Q. Okay. It – for any reason, do you</p> <p>3 know of any way in which Diquat is – is more</p> <p>4 dangerous than paraquat? Do you know of any aspect</p> <p>5 of it?</p> <p>6 MR. WEIR: Object. Again, it's outside</p> <p>7 the scope.</p> <p>8 THE WITNESS: Sir, that's sort of – I</p> <p>9 mean, they're dangerous with all of these. So, I</p> <p>10 mean, to -- to compare one or the other, I mean,</p> <p>11 it's -- it's really -- If you look at it on the same</p> <p>12 level, there's -- there's a reduction here. But,</p> <p>13 again, to compare them on the safety level, I would</p> <p>14 want to yield to our tox people to better speak to</p> <p>15 this.</p> <p>16 BY MR. TILLERY:</p> <p>17 Q. Our question was whether you know --</p> <p>18 you here today know of any way in which Diquat is</p> <p>19 more likely to cause human health issues for</p> <p>20 applicators than paraquat?</p> <p>21 MR. WEIR: Same objections.</p> <p>22 THE WITNESS: Sir, based on these, I'm</p> <p>23 not aware. Used properly, they both can be used</p> <p>24 safely with the proper equipment.</p>	<p style="text-align: right;">Page 203</p> <p>1 I'll be asking you some questions on redirect,</p> <p>2 Mr. Ouzts.</p> <p>3 So picking up on a point that</p> <p>4 Mr. Tillery was just getting at, could you explain</p> <p>5 the differences to a grower with respect to</p> <p>6 differences between Diquat and paraquat?</p> <p>7 A. So, I mean, essentially, the mode of</p> <p>8 action as far as how they work in a plant is</p> <p>9 basically the same. But if you're looking for --</p> <p>10 for a product -- for instance, if we have a customer</p> <p>11 who has a lot of grass, grasses in his field, is</p> <p>12 looking for a very fast activity of, you know,</p> <p>13 within 24 hours of activity, you know, versus a</p> <p>14 longer time where he has Diquat, then that's where</p> <p>15 you would make the recommendation.</p> <p>16 Paraquat typically is more active and</p> <p>17 has better activity on grasses. And in some cases,</p> <p>18 we have to tank mix products to enhance some of the</p> <p>19 broadleaf activity, and the inverse is true with</p> <p>20 Diquat. And the burn-down activity is much better</p> <p>21 with paraquat. Again, its speed of activity versus</p> <p>22 what we see with Diquat.</p> <p>23 So simply put, it's just the efficacy.</p> <p>24 And the -- the control weed spectrum is better with</p>
<p style="text-align: right;">Page 202</p> <p>1 BY MR. TILLERY:</p> <p>2 Q. Move to strike your answer as</p> <p>3 unresponsive. Let me read it to you again. Okay?</p> <p>4 Do you know of any way in which Diquat</p> <p>5 is more likely to cause human health issues for</p> <p>6 applicators than paraquat?</p> <p>7 MR. WEIR: Same objections. It's been</p> <p>8 asked and answered.</p> <p>9 THE WITNESS: Sir, I'm not aware, but</p> <p>10 that's not my area of expertise; so --</p> <p>11 BY MR. TILLERY:</p> <p>12 Q. You're not aware of it, right?</p> <p>13 A. I am not aware.</p> <p>14 MR. TILLERY: No further questions.</p> <p>15 MR. WEIR: All right. Mr. Ouzts, do</p> <p>16 you want to take a quick break, or should we just</p> <p>17 jump right into it?</p> <p>18 MR. TILLERY: Go right ahead. Jump in.</p> <p>19 THE WITNESS: I'm good. I've got</p> <p>20 water. So I'm fine, sir.</p> <p>21 EXAMINATION</p> <p>22 BY MR. WEIR:</p> <p>23 Q. For the record, again, this is Tom Weir</p> <p>24 from Kirkland & Ellis on behalf of Syngenta, and</p>	<p style="text-align: right;">Page 204</p> <p>1 the paraquat molecule.</p> <p>2 Q. So would it be accurate to say that</p> <p>3 paraquat and Diquat are one-for-one alternatives to</p> <p>4 each other?</p> <p>5 MR. TILLERY: Excuse me. Before you</p> <p>6 answer, this -- you're trying to redirect in a</p> <p>7 211.02 exam by offering leading questions. So I'm</p> <p>8 not going to try to -- I'm not -- I don't want to</p> <p>9 disrupt your deposition, but I object to the form.</p> <p>10 It's leading and suggestive. Okay?</p> <p>11 You can't conduct a cross of your own</p> <p>12 witness. And it's our position, as you are --</p> <p>13 you -- to the extent you cross-examine him, to the</p> <p>14 extent you question him at all, you will waive your</p> <p>15 right to bring this witness to the trial of this</p> <p>16 case. And I want to tell you now so you don't claim</p> <p>17 later that you were sort of misled about this</p> <p>18 position. You understand the law on this. You will</p> <p>19 not be able to offer his testimony.</p> <p>20 MR. WEIR: All right. So just so we're</p> <p>21 clear for the record, I am -- I am doing redirect</p> <p>22 testimony. We disagree with your position that we</p> <p>23 would somehow be foreclosed from calling this</p> <p>24 witness at trial if we chose to do so.</p>

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1 And also to be clear, I don't believe
2 I'm cross-examining Mr. Ouzts. And I was not -- I
3 was not intending to lead him, and I don't think
4 that I did. But you've made your record, and I
5 will -- I can ask a question again.
6 BY MR. WEIR:
7 Q. Mr. Ouzts, would it be accurate to say
8 that paraquat and Diquat are one-for-one
9 alternatives to each other?
10 MR. TILLERY: Same objection. It's
11 leading and suggestive.
12 This is improper cross -- it's improper
13 leading in a 211.02 exam.
14 MR. WEIR: You've made your objections.
15 You've made your record.
16 MR. TILLERY: You asked a different
17 question.
18 MR. WEIR: Mr. Ouzts can answer my
19 question. You've made your record.
20 THE WITNESS: Diquat and paraquat are
21 in the same family. But, again, as I stated
22 earlier, they are not a one-for-one. They each have
23 unique properties that make them a valuable tool to
24 control certain pests, whether it's in desiccation

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1 of plants and/or weed control.
2 BY MR. WEIR:
3 Q. Do you still have Exhibit 23 up,
4 Mr. Ouzts?
5 A. 23. I can bring it up. I have it
6 here.
7 Q. And just again for the record, this is
8 that Lewis -- two-page Lewis Smith email. Do you
9 see that document?
10 A. Yes, sir, I do.
11 Q. And you recall Mr. Tillery was asking
12 you questions about whether there were some areas
13 where Diquat may be less safe than paraquat. Do you
14 recall that testimony?
15 A. Yes, sir, I do.
16 Q. Could you turn to the second page of
17 this document?
18 A. Okay.
19 Q. Do you see on the third line down of
20 that paragraph, do you see the sentence starting "We
21 know"?
22 A. Yes.
23 Q. Would you read that sentence into the
24 record?

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1 A. "We know that the expansion of the use
2 of Diquat may lead to more human exposure through
3 food residues."
4 Q. What is -- what do you understand that
5 to mean?
6 A. It appears that there may be concern as
7 far as use on certain crops. The residue levels on
8 those crops may exceed what the current risk cup
9 would be associated with allowable residues in the
10 overall food chain.
11 Q. What do you mean by "risk cup"?
12 A. Essentially, the -- the way that I
13 understand that is you have a certain amount of
14 residue that would be allowed in the overall food
15 chain. So looking at the number of crops, looking
16 at the use methods that would be associated with
17 that, you make determinations on what the remaining
18 residue would be available as far as in that crop
19 and then from that, understand what potential
20 consumption would be, say, on an exposure level.
21 So it's -- you know, we have residue
22 limits established called "maximum residue limits"
23 associated with that.
24 Q. Are you able to go back and open up

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1 Exhibit 21?
2 A. Yes, sir.
3 Q. All right. Do you recall this is
4 the -- the -- what Mr. Tillery represented to you
5 was an archived version of the Syngenta website? Do
6 you recognize that?
7 A. I do, yes.
8 Q. Now, when Mr. Tillery pointed out that
9 on toward the bottom of the first page, there's a
10 category that says "Burn-down desiccant" and under
11 that category, it lists both Gramoxone and Reglone.
12 Do you see that?
13 A. Yes.
14 Q. And look in -- can you look in
15 pre-emergents, which is the first part of the page?
16 A. Uh-huh.
17 Q. All right. Do you see either Gramoxone
18 or Reglone listed there?
19 A. No, sir.
20 Q. If you look in -- look in the second
21 column toward the bottom.
22 A. Oh, sorry, I was looking
23 post-emergents. Yes, I see it.
24 MR. TILLERY: Excuse me. It's leading

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1 and suggestive. This is – you're conducting a
 2 cross-examination of your own witness. I'm going to
 3 ask the court to strike it all or rule that he is
 4 not permitted to testify at trial. This is your
 5 opportunity to examine him, if that's what you're
 6 doing.

7 MR. WEIR: Thank you for your
 8 objection, Counsel. You've made your record.
 9 Again, I'm just pointing him to a part of a
 10 document.

11 Q. Mr. Ouzts, do you see in pre-emergents
 12 that Gramoxone SL 2.0 is listed there?

13 A. In the middle column, yes. Sorry. I
 14 was looking at post-emergent.

15 Q. Is Reglone listed?

16 A. No, it's not.

17 Q. What does that mean to you? What did
 18 you understand that to mean?

19 A. Well, typically as far as for
 20 pre-emerge use, which would be possibly mixed with
 21 other herbicides, use – the use in this particular
 22 situation, Gramoxone has a better fit than where
 23 the DI – or, excuse me, the Reglone fits just
 24 because of speed of control.

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1 Q. And just so that we're clear for the
 2 court and the jury, what is a pre-emergent
 3 herbicide?

4 A. So a pre-emergent herbicide would be
 5 the herbicide goes down before the crop has come out
 6 of the ground.

7 Q. Could you turn to Exhibit 22 now,
 8 please.

9 A. Okay.

10 Q. Again, for the record, Exhibit 22 is
 11 that paper written by Michael Rose, Lewis Smith, and
 12 Ian Wyatt that relate to accumulation of paraquat in
 13 the rat lung; is that right?

14 A. Correct.

15 Q. Earlier – I believe you testified
 16 earlier that with respect to accumulation of
 17 paraquat or Diquat in – in rat brain or brain
 18 tissue, did you misspeak when you said that?

19 MR. TILLERY: Excuse me. I object to
 20 the form of the question. It's leading and
 21 suggestive. I ask that it be stricken and the
 22 answer.

23 BY MR. WEIR:
 24 Q. You can answer, Mr. Ouzts.

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1 A. Could you repeat the question? Did I
 2 misspeak on which case?

3 Q. Earlier I believe you testified that –
 4 that this – this paper involved accumulation of
 5 paraquat or Diquat in the brain of a rat. Did you
 6 misspeak when you said that?

7 MR. TILLERY: I object to the form of
 8 the question. It's leading and suggestive. This is
 9 a 211.02 examination. You're only entitled to
 10 clarify. You cannot conduct a redirect examination
 11 in a 211.02. You have to call him as your own
 12 witness. This is the Illinois rule.

13 MR. WEIR: I'm clarifying what he spoke
 14 to earlier. You've made your record, Counsel.

15 THE WITNESS: So the document – the
 16 document spoke to paraquat only in the brain. It
 17 did not speak to Diquat.

18 BY MR. WEIR:
 19 Q. Did it speak to the brain or to the
 20 lung?

21 MR. TILLERY: Again, I object. Same
 22 objection. You're – you are leading your witness.
 23 This is a redirect, not a clarification.

24 THE WITNESS: Yep, you're right. It's

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1 in the lung and not in the brain.

2 BY MR. WEIR:
 3 Q. Okay. Mr. Ouzts, I'd like to speak a
 4 little more generally about the – the technical
 5 support team that you testified about earlier. Were
 6 you ever involved with that team? Did you ever work
 7 on that team?

8 A. Yes, I did.

9 Q. Okay. And what was your position?

10 A. I was head of the group for 12 years.

11 Q. And was that – as far as your time at
 12 Syngenta, what – what years were you at the
 13 technical support team?

14 A. Oh, I'd say I just recently left. So
 15 that was about 2008 until last year.

16 Q. Okay. Could you describe for the court
 17 and the jury just at a high level what that group
 18 does?

19 A. Sure. The tech support team – we –
 20 we are a staff of experienced personnel who have had
 21 experience in research and development working as
 22 far as in field sales and agronomy within the
 23 products or Syngenta, working with Syngenta
 24 products.

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1 And then we are, in essence, an
 2 800-number set up to help people when they have
 3 questions related to the use of our products,
 4 whether that is compatibility, product safety, pest
 5 control, you know, how to mix and apply, just really
 6 helping them interpret the information that we have
 7 on the label.
 8 **Q. Okay. And would that be true of all**
 9 **herbicide products including paraquat?**
 10 A. It's our entire portfolio.
 11 **Q. Okay. And so if we could just say as a**
 12 **hypothetical, just assume a grower calls -- calls**
 13 **the technical support team and -- and wants advice**
 14 **on how to apply paraquat. What would that**
 15 **conversation be like between that grower and the**
 16 **technical support team?**
 17 MR. TILLERY: And, again, before you --
 18 before you answer, this is beyond the scope of
 19 direct examination. It is -- I never talked to him
 20 at all about this, and you're going way beyond.
 21 You're not clarifying. You're not redirecting.
 22 This is a complete new examination.
 23 And I am -- and you should be precluded from
 24 offering this testimony while in the court.

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1 MR. WEIR: Again, you've made your
 2 record, Counsel. I think that is completely untrue.
 3 You asked specifically about the technical support
 4 team earlier, and I am getting more information
 5 about it. I'm clarifying the record.
 6 **Q. You can proceed, Mr. Ouzts.**
 7 A. So when a person calls up for a
 8 paraquat product, a Gramoxone product, and they have
 9 questions, I mean, it's going to be a dialogue.
 10 It's not just a one-minute answer. It's really
 11 about understanding, you know, specifically what is
 12 your question.
 13 From that we have a conversation. So
 14 it could be, you know, "I have these weeds that I
 15 want to control," or, "I'm trying to mix these
 16 products," or, "I want to mix this particular
 17 fertilizer," or, "Can you help me interpret what the
 18 proper safety equipment that I need as far as to
 19 make applications or mix?"
 20 I mean, it's many, many different
 21 things that come through there that we just try to
 22 help our customers navigate our label, navigate
 23 questions that they have, and sometimes it's
 24 problems that they may have related to use of our

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1 product.
 2 **Q. When you say that you would "help them**
 3 **interpret the label," what do you mean by that?**
 4 MR. TILLERY: Again, same objection.
 5 You're way beyond the scope of direct examination,
 6 and this is your witness that you're conducting an
 7 improper examination for -- cross.
 8 BY MR. WEIR:
 9 **Q. You can answer.**
 10 A. Well, in many cases when you read the
 11 label, sometimes it's just not clear. So it's
 12 really when you read a statement or can you help me,
 13 can I -- for instance, could I use this -- after
 14 application, can I graze an animal on this? You
 15 know, sometimes it may not be clear. So we help
 16 them as far as the interpretation of the label and
 17 provide guidance of is it a yes or a no. Typically
 18 it would be no for paraquat because of you're not
 19 allowed to feed to animals. So it's just walking
 20 them through when -- their questions helping them
 21 navigate and understand.
 22 **Q. How long could these conversations be**
 23 **between an individual grower and --**
 24 MR. TILLERY: Same objection. Same

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1 objection. It's an improper examination after a
 2 211.02 exam.
 3 BY MR. WEIR:
 4 **Q. Do you want me to ask the question**
 5 **again, Mr. Ouzts?**
 6 A. No. You asked me how long was the --
 7 how long the phone conversations go on?
 8 **Q. How long do they last?**
 9 A. Sure. They can vary from anywhere from
 10 a few minutes to 30 to 45 minutes, and it could be
 11 iterative conversations that we have over a period
 12 of time. I can give you an example of a phone call,
 13 if you would like.
 14 We had a customer one time who was
 15 having problems as far as with compatibility. We
 16 talked through what the mixing scenario was as far
 17 as with his products.
 18 From that, I went personally to the
 19 lab, reproduced the problem, and then from that came
 20 back and called the customer back with a solution to
 21 see if that would fix the problem.
 22 MR. TILLERY: And I move to strike the
 23 answer for other reasons because it did -- the
 24 answer went off and answered and -- and suggested

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1 and volunteered additional information that I
2 couldn't interpose an appropriate objection to.
3 So if the court for the reasons I have
4 stated in my initial objection overrules it, I ask
5 that the court strike this answer for the other
6 reason.
7 BY MR. WEIR:
8 **Q. Mr. Ouzts, how many individuals work on**
9 **Syngenta's technical support team?**
10 A. Including the head, it would be eight.
11 **Q. Do they work part time? Full time?**
12 **How long do they spend on this team? Or how much of**
13 **their job responsibilities relate to the team, I**
14 **should have said.**
15 MR. TILLERY: So same objection. It's
16 beyond the scope of the 211 -- 211.02 examination.
17 It's improper questioning. Object to the form.
18 BY MR. WEIR:
19 **Q. You can answer, Mr. Ouzts.**
20 A. 100 percent time dedicated to the
21 technical support staff. That's their job is there
22 to support customers, whether they are end user
23 customers, grower retailers, calls from our sales --
24 sales staff or agronomy staff. We work, you know,

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1 across companies whether it's with -- with growers,
2 retailers.
3 **Q. Are you aware of any other company that**
4 **manufactures paraquat products that has anything**
5 **like the technical support team that's at Syngenta?**
6 MR. TILLERY: Lack of foundation.
7 Excuse me. Lack of foundation for the question.
8 You have not established that he knows about other
9 companies and all of these -- has he surveyed their
10 ability to do. And I object that it goes way beyond
11 the scope of the 211.02 examination. And it's
12 improper in form.
13 BY MR. WEIR:
14 **Q. You can answer the question, Mr. Ouzts.**
15 A. There are other companies that are out
16 there. Most of those are not basic manufacturers
17 like -- in research companies like Syngenta. There
18 are what we call -- they make generic --
19 manufacturers of generic brand product.
20 We're not aware of any type of
21 technical support team together to support the
22 product like what we can and what we do.
23 **Q. And how would -- how would you know**
24 **about what other companies do?**

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1 MR. TILLERY: Again, I object to the
2 question going beyond the scope of my 211.02
3 examination, and it's a redirect, which is improper
4 under Illinois rules.
5 MR. WEIR: Do you just want a standing
6 objection on that, Steve?
7 MR. TILLERY: Yes. I'll have a
8 standing objection on that. It won't mean that I
9 won't object on other grounds but I -- just so we're
10 clear, I want a standing objection that all of your
11 questions to the extent that they go beyond the
12 211.02 examination are improper and improper in form
13 as well. Okay? Do you object -- do you agree to
14 that?
15 MR. WEIR: I'll agree to the standing
16 objection with respect to you believing that my
17 redirect is somehow improper or going beyond the,
18 you know, obvious things that you spoke about
19 earlier.
20 If you do have a form objection,
21 though, I would appreciate if you would interpose
22 that so I can alter the question if I need to.
23 **Q. All right. Mr. Ouzts, do you want me**
24 **to reask the question or do you remember what I --**

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1 A. Reask, please.
2 **Q. Sure. How do you -- how would you know**
3 **about what other companies do with respect to**
4 **whether they have a similar technical support team**
5 **or hotline?**
6 A. Several years back, we -- we made an
7 effort as far as to understand were we the only one
8 or were there other companies that had staff that
9 could provide, you know, an 800 number or service
10 like we were doing.
11 We did some surveys as far as working
12 with our key account managers, who they're the ones
13 that call on our distribution channel. We contacted
14 sales reps in the field and essentially said, "Hey,
15 are you aware of other companies that -- that have a
16 team dedicated with an 800 number like we do and the
17 level of expertise to support the products in the
18 fashion that Syngenta does full time with a full
19 staff?"
20 And the information coming back was,
21 no, there are companies that have people that can be
22 contacted with information, but the full-time
23 dedication staff like we have, we believe that
24 Syngenta is the only one that has a dedicated staff

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<p>1 like this in the U.S.</p> <p>2 MR. TILLERY: Move to strike the answer</p> <p>3 also because it incorporated a series of hearsay</p> <p>4 statements that aren't capable of cross-examination.</p> <p>5 BY MR. WEIR:</p> <p>6 Q. How long has Syngenta had the technical</p> <p>7 support team or a team that operates in a similar</p> <p>8 way?</p> <p>9 A. Quite a long time. I can tell you back</p> <p>10 in 1985, '86, Zeneca company had the -- what they</p> <p>11 call the help desk, which was a hotline set up for</p> <p>12 people who had questions.</p> <p>13 And then prior to that, 20-plus years</p> <p>14 approximately as far as here, you know,</p> <p>15 Syngenta Greensboro has had a support -- support</p> <p>16 team to provide information to customers.</p> <p>17 BY MR. WEIR:</p> <p>18 Q. Okay. Mr. Ouzts, I'd like to move to</p> <p>19 another topic and talk about a few of the exposure</p> <p>20 studies that you testified about in your last</p> <p>21 deposition, in the last iteration of your deposition</p> <p>22 with Mr. Tillery.</p> <p>23 A. Uh-huh.</p> <p>24 MR. WEIR: Steve, is someone on your</p>	<p>1 Bates ending 228608. It's an eight-page document.</p> <p>2 Do we have the same thing?</p> <p>3 MR. TILLERY: Mine is -- starts at</p> <p>4 228608.</p> <p>5 MR. WEIR: Yep. Yep. Same document.</p> <p>6 MR. TILLERY: Fine.</p> <p>7 BY MR. WEIR:</p> <p>8 Q. All right. Mr. Ouzts, do you happen to</p> <p>9 have a copy of that document?</p> <p>10 A. Exhibit 3?</p> <p>11 Q. Yeah. Exhibit 3. It's the 1969 Swan</p> <p>12 Malaysia study.</p> <p>13 A. One second. Yes, I do.</p> <p>14 Q. All right.</p> <p>15 MR. WEIR: All right. So just for the</p> <p>16 record, we are looking at a document that was marked</p> <p>17 as Exhibit 3 to Mr. Ouzts's deposition on June 22,</p> <p>18 2020. It is Bates stamped Syngenta-PQ-00228608.</p> <p>19 (Previously marked Exhibit 3</p> <p>20 was shown to the witness.)</p> <p>21 BY MR. WEIR:</p> <p>22 Q. Mr. Ouzts, do you recall testifying --</p> <p>23 looking at and testifying about this study back in</p> <p>24 June?</p>
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<p>1 team who is running eDepoze able to pull up</p> <p>2 Exhibit 3?</p> <p>3 MR. TILLERY: What is the document?</p> <p>4 MR. WEIR: Exhibit 3. It is the 1969</p> <p>5 Swan study.</p> <p>6 MR. TILLERY: '69 Swan study.</p> <p>7 MR. WEIR: Are you able to pull it up</p> <p>8 or not sure yet? Are you guys able to pull it up on</p> <p>9 eDepoze or you're not sure?</p> <p>10 MR. TILLERY: We're getting it now.</p> <p>11 MR. WEIR: Okay. I appreciate that.</p> <p>12 Thank you.</p> <p>13 MR. TILLERY: Okay. Yeah. We're</p> <p>14 having technical troubles pulling it up. Do you</p> <p>15 have a way of putting it up yourself?</p> <p>16 MR. WEIR: I guess I can share my</p> <p>17 screen or share a screen unless, Steve, I mean, if</p> <p>18 you have a copy, I'm happy to mail a copy to</p> <p>19 Mr. Ouzts too and we can all just work off the</p> <p>20 copies we have. That's fine with me.</p> <p>21 MR. TILLERY: Okay. I'm -- I'm looking</p> <p>22 at the exhibit, which is -- are you talking about</p> <p>23 the "Exposure of Spray Operators to Paraquat"?</p> <p>24 MR. WEIR: That's the one. Yeah. It's</p>	<p>1 A. Yes, I do.</p> <p>2 Q. And at a -- at a very high level, can</p> <p>3 you just describe what -- what the -- what this</p> <p>4 study looked at?</p> <p>5 A. So essentially, I was looking at the</p> <p>6 exposure of applicators in Malaysia and looking at</p> <p>7 that trying to understand roots of exposure as well</p> <p>8 as, you know, what levels of exposure would occur.</p> <p>9 My understanding after looking at the</p> <p>10 document that he chose this because of the method of</p> <p>11 application. Most of these applications were -- or</p> <p>12 all the applications were done by -- by backpack</p> <p>13 sprayer on a daily basis for long -- long periods of</p> <p>14 time for the day over many months.</p> <p>15 Q. Okay. And when you say that "They</p> <p>16 chose that for the method of application and for the</p> <p>17 length of time," what do you mean by that? Why</p> <p>18 would they have chosen that to your knowledge?</p> <p>19 A. Well, the length of time when you think</p> <p>20 about --</p> <p>21 MR. TILLERY: I object to the form of</p> <p>22 the question, please. Object to the form of the</p> <p>23 question. Go ahead.</p> <p>24</p>

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1 BY MR. WEIR:
 2 Q. You can answer, Mr. Ouzts. Continue.
 3 A. Yeah. It's two things: Period of
 4 time, you know, ten months of application. As far
 5 as their application timing, hourly of six to seven
 6 hours per day but also the exposure component. They
 7 were using backpack sprayers. And essentially with
 8 a backpack, that would give you the potential –
 9 probably the most, like, highest exposure level that
 10 you would potentially see as far as with – with an
 11 application method.
 12 And when I say "exposure," that would
 13 be human exposure.
 14 Q. Okay. And so when you're talking
 15 about – you mentioned six to seven hours per day
 16 over ten months, to your knowledge, how does that
 17 compare to what a grower might use in the
 18 United States for applying paraquat?
 19 MR. TILLERY: Lack of foundation.
 20 It – on examination by plaintiffs, he indicated an
 21 inability to understand or know the answer to that
 22 question. He would be, thereby, speculating on an
 23 answer.
 24 MR. WEIR: We disagree.

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1 Q. Mr. Ouzts, you can answer the question.
 2 A. It would be dependent as far as here in
 3 the U.S., I mean, the high -- you know, the large
 4 majority of the applications made here would be made
 5 with self-propelled type of equipment of some sort.
 6 Depending on the size of the farm, the
 7 size of the equipment, ten months, that would not
 8 happen here in the U.S. Essentially, our growing
 9 season is basically ten months, but the application
 10 timing for, say, Gramoxone or paraquat at the
 11 burn-down situation would occur, you know, only
 12 approximately in a two-week time if I was looking
 13 at, you know, corn production in the Midwest.
 14 Q. Could you turn, Mr. Ouzts, to page 6 of
 15 the document, please.
 16 A. You're referencing page 6 on the PDF
 17 iteration?
 18 Q. Page 6 of the PDF. It is a Bates
 19 ending in 613.
 20 A. Okay.
 21 Q. All right. And the first full
 22 paragraph on the left column there, the authors
 23 write "The extent of systemic absorption indicated
 24 by the levels of paraquat found in the urine in both

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1 trials was small."
 2 What do you understand that to mean?
 3 A. Well, basically, there was a detect
 4 level, but the overall amount was – was small as
 5 far as in having potential impact to human risk.
 6 Q. Okay. Earlier in your deposition,
 7 Mr. Tillery asked you a lot about whether certain –
 8 whether paraquat was detected in the systems of
 9 certain individuals or not. Do you recall
 10 testifying about that?
 11 A. Yes, sir, I do.
 12 Q. Based on your understanding from
 13 reading these studies and your time at Syngenta,
 14 what does a – what does a detection in the system
 15 tell you?
 16 MR. TILLERY: Again, he's not been
 17 offered as an expert witness in the area, and this
 18 is beyond the scope of exam where he indicated he
 19 didn't know this information for the court after
 20 indicating he didn't know the science and would
 21 defer to technical people and other scientists.
 22 You're now offering him as an expert in
 23 the area concerning human health exposures, and it's
 24 improper. And it also goes beyond the scope of the

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1 examination I conducted.
 2 MR. WEIR: Just to respond to the
 3 objection, you asked him a lot of questions about
 4 whether things were detected or not, and you never
 5 asked him any follow-up questions about what that
 6 meant. And so I'm clarifying that for the record on
 7 redirect here.
 8 MR. TILLERY: And the reason is because
 9 he said he didn't know. That's the reason. If he
 10 knew the answer, I would ask him, but he said he
 11 deferred to the scientists.
 12 You're now trying to convert him to a
 13 scientist. So I'll come back on redirect, and we
 14 will find out how much science knowledge he has.
 15 MR. WEIR: And if you can -- if you can
 16 point me to the place where you asked him about
 17 whether it meant anything or not, I'm happy to
 18 withdraw the question. But I don't believe you
 19 asked it, and so I was going to ask it now.
 20 Q. You can answer, Mr. Ouzts.
 21 A. So to -- to the amount as far as -- the
 22 way I understand as far as the level of detection
 23 means that I have a registry of -- of a chemical,
 24 i.e., potentially paraquat. However, just a detect

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1 doesn't always mean that there is a risk. And this
 2 has been in some of the teaching and training that
 3 we had.
 4 So just to detect or having that
 5 doesn't always mean that it's a risk. Our training
 6 essentially says the dose makes the poison. So
 7 it's -- it's related to how much is in the system as
 8 to whether or not it has an adverse effect.
 9 MR. TILLERY: And I move to strike the
 10 answer as un- -- as going beyond the scope of my
 11 examination for all the reasons I've previously
 12 stated.
 13 BY MR. WEIR:
 14 Q. Okay. All right. Mr. Ouzts, if you
 15 look in the next column still on page 6 here, the
 16 authors write that "The results of the 1967
 17 publication, particularly in the group wearing
 18 normal clothing, illustrate the reduction in
 19 exposure that can result for a relatively minor
 20 increase in care and discipline especially as half
 21 of this group operated over the same ground as in
 22 the 1965 investigation."
 23 Do you see that?
 24 MR. TILLERY: Could you tell me where

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1 Q. All right, Mr. Ouzts. And this -- this
 2 study involved backpack spraying. Is that what you
 3 testified to earlier?
 4 A. Yes.
 5 Q. Okay. How much -- to your knowledge,
 6 how often are backpack sprayers used in the
 7 United States for paraquat application?
 8 A. I don't have an exact number, sir, but
 9 I -- the overall backpack application practices in
 10 the U.S. are extremely small. I would have to give
 11 an estimate of well below 5 percent total
 12 application of paraquat.
 13 MR. TILLERY: I would object to the
 14 answer and ask that it be stricken as speculative
 15 and lack of foundation for it.
 16 BY MR. WEIR:
 17 Q. And how is the majority of paraquat
 18 application done in the United States?
 19 A. Essentially by self-propelled vehicles
 20 or self-propelled equipment. So either by aerial
 21 application, ground application, either a pull or a
 22 self-propelled applicator.
 23 Q. Okay. And do you recall seeing any
 24 studies during your deposition so far that dealt

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1 you're reading from in the examination -- document?
 2 MR. WEIR: Sure. I am again on
 3 Exhibit 3. I'm on page 6 of the exhibit. It is the
 4 same page we were just on. It's the Bates ending
 5 613.
 6 MR. TILLERY: 613?
 7 MR. WEIR: 613. I'm in the right-hand
 8 column, paragraph starting "The results."
 9 Q. Mr. Ouzts, what is that -- what is that
 10 sentence I just read? What do you understand that
 11 to mean?
 12 MR. TILLERY: I object. This goes way
 13 beyond the scope of any examination that I conducted
 14 about this particular study.
 15 MR. WEIR: Well, I disagree.
 16 Q. You can answer the question, Mr. Ouzts.
 17 A. The results of this investigation is
 18 essentially where it marked group wearing normal
 19 clothing illustrates reduction and exposure.
 20 So essentially the way that I interpret
 21 that is, is that if they use -- you know, wear the
 22 proper clothes and increase care as far as exposure
 23 in the discipline with hygiene that basically they
 24 could reduce the overall exposure limit.

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1 with self-propelled equipment as opposed to backpack
 2 applications?
 3 A. Yes, sir, I do. That was the Meyer
 4 study, I believe, 1995.
 5 Q. Why don't we -- why don't we take a
 6 look at that study.
 7 So just for the record, that's
 8 Exhibit 7. It is the 1995 Meyer study entitled,
 9 "Paraquat Worker Exposure During Mixing, Loading,
 10 and Application of Gramoxone Extra to Pecans Using
 11 Vehicle-Mounted Ground Boom Equipment," and it bears
 12 the Bates numbers Syngenta-PQ-01806986.
 13 Do you have that document available,
 14 Mr. Ouzts?
 15 A. I think so. I'm looking right now.
 16 MR. WEIR: Or, Steve, if someone from
 17 your team is able to put it up on eDepoze. I don't
 18 know if you guys were able to figure that out.
 19 MR. TILLERY: We cannot at this point,
 20 Counsel.
 21 THE WITNESS: So, Mr. Weir, that was
 22 01564998? Is that the first page of the title page?
 23 BY MR. WEIR:
 24 Q. I may have a different stamped version.

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<p>1 A. Yes, sir.</p> <p>2 Q. All right. And based on this table,</p> <p>3 did those Individuals have any detectable amount of</p> <p>4 paraquat in their system?</p> <p>5 A. According to these tables, no, sir,</p> <p>6 they did not.</p> <p>7 Q. Okay. And of these individuals, what</p> <p>8 does this table tell you about which Individuals had</p> <p>9 detectable amounts of paraquat or not?</p> <p>10 A. Essentially, I'm looking there were 6</p> <p>11 out of 17 that did show detects. And if I remember</p> <p>12 correctly, I think the majority of those did not</p> <p>13 wear gloves or either did not have long-sleeve</p> <p>14 shirts on at the time.</p> <p>15 Q. Okay. So, for instance, just so we're</p> <p>16 clear for the jury and the court, the Individuals</p> <p>17 who had paraquat detected would be 4201, 4203, 4206,</p> <p>18 4208, 4210, and 4214. Is that – Is that the right</p> <p>19 way to read this table?</p> <p>20 A. That's the way I interpret the data,</p> <p>21 yes, sir. A total of six.</p> <p>22 Q. Okay. Well, let's – let's take a</p> <p>23 look, then, at what those specific individuals wore</p> <p>24 while applying or mixing and loading the paraquat.</p>	<p>1 Q. So this individual wore – wore no</p> <p>2 gloves, no face mask, no – nothing protective</p> <p>3 during mixing and loading; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. All right. Back on Table 3, the next</p> <p>6 individual who had a detectable amount of paraquat</p> <p>7 in their system was 4206.</p> <p>8 Do you see that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. All right. We go now to Table 6. We</p> <p>11 see that 4206 wore jeans, T-shirt, boots, and a cap</p> <p>12 during application and no additional clothing worn</p> <p>13 during mixing and loading.</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. So this individual again did not wear</p> <p>17 any protective equipment like gloves or a face</p> <p>18 shield during mixing and loading; is that right?</p> <p>19 A. That's right.</p> <p>20 Q. Let's go back to Table 3. The next</p> <p>21 individual that had a paraquat detection in their</p> <p>22 system as 4208.</p> <p>23 Do you see that?</p> <p>24 A. Yes, sir.</p>
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<p>1 So we'll start with 4201, and if we go to Table 6,</p> <p>2 which is the 21st page of the report, it indicates</p> <p>3 there that 4201 wore long pants, jeans, short-sleeve</p> <p>4 T-shirt, cap, and boots during application. And</p> <p>5 then no additional clothing worn during mixing and</p> <p>6 loading.</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. So does that indicate that this</p> <p>10 individual didn't wear anything like rubber gloves</p> <p>11 or a face mask for mixing and loading?</p> <p>12 A. The indications are, yes, that all that</p> <p>13 he had was what was indicated in the middle column.</p> <p>14 Q. Okay. And if we go back to the</p> <p>15 Table 3, and we're looking now at individual 4203 is</p> <p>16 another one that had a detect; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. All right. Now, if we go back to</p> <p>19 Table 6, 4203 wore long pants with a short-sleeve</p> <p>20 shirt, work boots, cap, no gloves or protective gear</p> <p>21 and eyeglasses during application, and no additional</p> <p>22 clothing worn during mixing and loading.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	<p>1 Q. All right. And back on Table 6, could</p> <p>2 you describe for the record what clothing 4208 wore</p> <p>3 during application?</p> <p>4 A. Sure. Jeans, short-sleeve shirt,</p> <p>5 rubber and leather boots, long-sleeve shirt, had</p> <p>6 long-sleeve shirt on for part of the morning. As</p> <p>7 far as the additional clothing during mixing and</p> <p>8 loading, there were none.</p> <p>9 Q. Okay. So did – to your knowledge, did</p> <p>10 4208 wear any rubber gloves during mixing and</p> <p>11 loading?</p> <p>12 A. No. The only rubber reference was</p> <p>13 associated with his boots.</p> <p>14 Q. And how about a face shield during that</p> <p>15 same loading? Was there any type of protective –</p> <p>16 A. No. No face shield or any protective</p> <p>17 eye equipment.</p> <p>18 Q. All right. Let's go now to – back on</p> <p>19 Table 3. The next individual who had a detectable</p> <p>20 amount of paraquat was 4210.</p> <p>21 Do you see that?</p> <p>22 A. I do.</p> <p>23 Q. All right. And if we go back to</p> <p>24 Table 6, 4210, can you read into the record what</p>

<p style="text-align: right;">Page 241</p> <p>1 4210 was wearing during application? 2 A. Jeans, long-sleeve shirt, leather 3 shoes, cap, and vest under shirt. Additional 4 clothing for mixing and loading were none; so -- 5 which indicates no rubber gloves, face shield, 6 et cetera, associated with the mixing and loading. 7 Q. Okay. Back to Table 3, the last 8 individual that had detectable paraquat was trial 9 subject number 4214; is that right? 10 A. Correct. 11 Q. All right. And if we go back to 12 Table 6 now, could you read into the record what 13 clothing 4214 wore? 14 A. Long trousers, short-sleeve shirt, 15 glasses, leather shoes, hat. 16 So again, no rubber gloves, no face 17 mask or additional PPE as far as for mixing and 18 loading. 19 MR. TILLERY: I'm going to move to 20 strike as a volunteered statement. There's no 21 question on the table for that comment. 22 BY MR. WEIR: 23 Q. Did 4215 wear any additional clothing 24 during mixing and loading such as a face shield or</p>	<p style="text-align: right;">Page 243</p> <p>1 BY MR. WEIR: 2 Q. You can answer, Mr. Ouzts. 3 A. As far as if I looked at the Table 3 as 4 compared to Table 6 where you had exposure limits, 5 the trend in these data and this test shows that a 6 person who did not use rubber gloves or additional 7 PPE at the mixing and loading escalated his 8 potential for exposure, and the numbers showed that 9 there were detect limits as far as from those six 10 subjects. 11 Q. And how about the individuals who did 12 wear the full PPE as required by the label? 13 MR. TILLERY: Same objection. Lack of 14 foundation for him to offer those opinions, and it 15 also goes beyond the scope of the 211.02 16 examination. 17 MR. WEIR: Just to be clear for the 18 record, you asked Mr. Ouzts precisely about this 19 study and these tables. 20 Q. You can answer, Mr. Ouzts. 21 A. Those who wore the additional 22 protective equipment on -- showing on here on 23 Table 6 did not show a detect as far as on Table 3. 24 Q. I'm going to go to page 15 of this</p>
<p style="text-align: right;">Page 242</p> <p>1 rubber gloves? 2 MR. TILLERY: If you're conceding that 3 and you're moving -- that your repetitious question, 4 either the court strikes this question and answer or 5 the preceding question and answer. 6 MR. WEIR: I'm just trying to cure the 7 objection. 8 Q. You can go ahead, Mr. Ouzts. 9 MR. TILLERY: It has to happen one way 10 or the other. 11 BY MR. WEIR: 12 Q. You can go ahead, Mr. Ouzts. 13 A. The indication was no rubber gloves, 14 face mask, as far as in the additional clothing for 15 mixing and loading. 16 Q. Okay. So these -- these tables that we 17 just looked at, Table 3 and Table 6, and the 18 differences between the individuals who had 19 detections and who did not, what do you interpret 20 that to mean? 21 MR. TILLERY: I object that it's beyond 22 the scope of the 211.02 examination, and I object to 23 the form of the question. It's -- it calls for 24 speculation.</p>	<p style="text-align: right;">Page 244</p> <p>1 document now, which is the document ending in 2 Bates -- it looks like 7000. And if you just go 3 down to "Conclusions," it says "This study 4 demonstrates that under conditions which are 5 considered to have maximized the potential for 6 exposure (one person who mixes, loads, and applies 7 paraquat in an open-cab tractor using a 8 vehicle-mounted sprayer), no more than 9 .00044 milligrams paraquat per kilogram of body 10 weight per day will be absorbed while wearing -- 11 while wearing minimal protective equipment." 12 Do you see that? 13 A. I do. 14 Q. Okay. And what does that number mean 15 to you? The .00044 milligrams of paraquat per 16 kilogram of body weight per day? 17 MR. TILLERY: You're calling for him to 18 give an opinion for which he has not been qualified. 19 He's not been qualified on the directives. 20 If you're -- if you're designating him 21 as one of your experts, that's another matter. But 22 I also think this goes beyond the scope of the 23 211.02 exam, and it's improper in form. 24 MR. WEIR: Your record has been made</p>

<p style="text-align: center;">Page 245</p> <p>1 again. Just to clarify for the record, these are – 2 this is a study that Mr. Tillery asked about. You 3 asked about many aspects of this study but not about 4 the conclusions, and so I'm clarifying that for the 5 record. 6 Q. You can answer the question, Mr. Ouzts. 7 A. As far as looking at this number, the 8 detection limit is very, very, very small. I mean, 9 that's – I mean, I take away from it – I would 10 yield as far as, you know, the dose makes the 11 poison. I'm not sure that this – you know, there 12 is a detect, but I can't say that there would be a 13 problem here. But it's – it's an extremely small 14 number, and this is related to wearing minimal 15 protective equipment. 16 Q. Okay. All right. I'd like to just 17 move on quickly through. Do you recall earlier 18 today – I'm going to stop sharing this screen here. 19 Do you recall earlier today when 20 Mr. Tillery was asking you questions about the 21 practices of the individual plaintiffs in this case? 22 So, for instance, whether they – the boots they 23 wore or whether they handled nozzles without gloves. 24 Do you recall that questioning?</p>	<p style="text-align: center;">Page 247</p> <p>1 In a field that had been treated with paraquat and 2 there were still wet paraquat on the weeds? Would 3 you say that that activity was consistent with 4 Syngenta's instructions and warnings for paraquat 5 use? 6 A. No, sir. We have required restricted 7 entry levels as far as when you can return to the 8 field. And if one was to do it before that level 9 entry interval was up, they would need to be wearing 10 proper PPE. 11 Q. Okay. And what if an individual was 12 driving through spray mist? Would you say that that 13 individual was acting consistent with Syngenta's 14 warnings and instructions for paraquat use? 15 A. That would not be advised by us. If 16 they're feeling mist as far as a detection 17 physically on their body, we would recommend that 18 they stop or make adjustments so that they would not 19 be exposed. 20 Q. Okay. What if an individual was not 21 wearing gloves during mixing and loading? Would 22 that be consistent with Syngenta's instructions and 23 warnings for paraquat use? 24 A. No.</p>
<p style="text-align: center;">Page 246</p> <p>1 A. Yes, sir, I do. 2 Q. Okay. And I just want to go through a 3 few things and ask you whether certain practices 4 with respect to paraquat would be consistent with 5 Syngenta's warnings and its instructions. 6 And so the first one, would you say 7 that clearing a spray nozzle without gloves is 8 consistent with Syngenta's warnings and instructions 9 with respect to paraquat use? 10 A. No, sir, it's not. 11 Q. Would you say that blowing out spray 12 nozzles with one's mouth is consistent with 13 Syngenta's instructions and warnings for paraquat 14 use? 15 A. No, sir. The potential risk should not 16 be done. 17 Q. Would you say that if an individual 18 gets paraquat on – on their skin and doesn't wash 19 that off as quickly as possible, would you say that 20 that practice would be consistent with Syngenta's 21 warnings or instructions for paraquat use? 22 A. No, sir. We would recommend to wash 23 immediately the exposed area. 24 Q. How about if an individual was to walk</p>	<p style="text-align: center;">Page 248</p> <p>1 Q. Okay. And what about not wearing a 2 face shield during mixing and loading? Would that 3 be consistent with Syngenta's instructions and 4 warnings for paraquat use? 5 A. No, sir. 6 MR. WEIR: Those are all the questions 7 I have. Thank you, Mr. Ouzts. 8 MR. TILLERY: Let's take a five-minute 9 break. Okay? 10 THE VIDEOGRAPHER: We're going off – 11 we're going off the record. The time is 2:19. This 12 ends media unit number 6. 13 (Recess taken.) 14 THE VIDEOGRAPHER: We're going back on 15 the record. The time is 2:28. This begins media 16 unit number 7. 17 FURTHER EXAMINATION 18 BY MR. TILLERY: 19 Q. So during the cross-examination by your 20 counsel, you were asked questions and you 21 volunteered a statement. You kept saying, "The dose 22 makes the poison." It's kind of a recurring theme 23 of Syngenta in this case. Did somebody tell you to 24 use that term?</p>

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1 A. To use that term? No, sir. I mean,
2 that was some of the training we learned as far as
3 in just toxicology, some of the videos that were
4 used just in teaching as far as over -- you know, it
5 was many years ago. But, I mean, it was just
6 talking about, you know, how much of a particular,
7 you know, chemical product or whatever that could --
8 could be toxic.

9 Q. I move to strike your answer as
10 nonresponsive.
11 Listen to my question, please. Did
12 somebody tell you to use the term "The dose makes
13 the poison"? That's all I'm asking.

14 A. To use the term? No.

15 Q. Okay. Now, you started asking
16 questions about detect limits and all this. Do you
17 claim an expertise in understanding how paraquat's
18 mode of action impacts tissues? Is that something
19 now that you've suddenly become an expert on
20 cross-examination? Because I want to ask you some
21 questions, if you do.

22 MR. WEIR: Objection. It's
23 argumentative. Misstates the testimony.
24

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1 BY MR. TILLERY:
2 Q. I'm not arguing with you. I just want
3 to know what the rules are.
4 I thought you were telling me that you
5 really weren't a scientist when I asked --
6 questioned you. Now are you telling me you now know
7 all about redox cycling properties of this chemical?
8 Odds ratio increases? Do you know those things?

9 MR. WEIR: Same objections. Misstates
10 testimony.

11 THE WITNESS: No, sir, I do not.

12 BY MR. TILLERY:
13 Q. Well, let's just test a few just to
14 find out if we -- the jury should listen to a single
15 thing you said when he asked you. Okay?
16 Tell the court and jury what redox
17 cycling is vis-a-vis paraquat.

18 A. Tell the court -- I don't know what
19 that is, sir. I just answered the question.

20 Q. Well, how in the world can you use
21 words like "The dose makes the poison," and talk
22 about detects limits being real small if you don't
23 understand redox cycling?

24 MR. WEIR: Objection. It's

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1 argumentative.
2 BY MR. TILLERY:
3 Q. How can you do that?
4 A. Sir, just because I don't understand
5 the way that the chemical works, I mean, I can look
6 at numbers and show that that number is a really
7 small number.
8 I don't know if it has an impact on
9 human safety. I mean, that was the way that I
10 thought the question was is that what does that
11 number mean? It means it's a very small number.

12 Q. Well, when you couple it with the fact
13 that you say "The dose makes the poison," it might
14 mislead somebody into thinking that you have to have
15 a certain amount of the chemical in your brain in
16 order for it to cause mischief, neurological damage.
17 Do you understand me?
18 A. I understand that there's --
19 MR. WEIR: I don't know if that's a
20 question or not.

21 BY MR. TILLERY:
22 Q. All I'm asking is this: Tell me this:
23 Tell the court and jury how redox cycling applies
24 when this chemical gets into the bloodstream and

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1 then into the brain?
2 MR. WEIR: Objection. It's been asked
3 and answered. It's argumentative.
4 THE WITNESS: Yeah. I answered that
5 question earlier, sir, and I told you that I don't
6 have an answer. I don't know that process.

7 BY MR. TILLERY:
8 Q. Okay. Tell me how little or how much
9 you need in the brain of paraquat before it will
10 cause redox cycling?
11 A. I don't know.
12 MR. WEIR: Objection. Again, it's been
13 asked and answered. You're arguing with the witness
14 now.

15 BY MR. TILLERY:
16 Q. Now, tell me how much dose you need in
17 the brain -- as you said, "The dose makes the
18 poison." How much of a dose do you need in the
19 brain to cause redox cycling and cause harm,
20 oxidative stress, to the dopaminergic neurons in the
21 brain?
22 MR. WEIR: Same objections.
23 THE WITNESS: I don't know, sir. I
24 stated that earlier.

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1 BY MR. TILLERY:
 2 Q. What is a dopaminergic neuron?
 3 MR. WEIR: Same objection, Steve.
 4 You're just arguing and badgering the witness now,
 5 Steve.
 6 BY MR. TILLERY:
 7 Q. What is a dopaminergic neuron?
 8 A. Well, I know it's a nerve. But other
 9 than that, I don't know what -- what it is
 10 specifically, sir.
 11 Q. What is its role with respect to this
 12 little bit of paraquat that gets into your brain?
 13 MR. WEIR: Same objections.
 14 THE WITNESS: I answered your question
 15 earlier, sir. I don't know.
 16 BY MR. TILLERY:
 17 Q. Okay. So when you talked about dose
 18 versus the poison or dose makes the poison, you have
 19 no idea how much paraquat you need to get in the
 20 brain to cause harm, do you, sir?
 21 MR. WEIR: Same objections.
 22 THE WITNESS: No, sir.
 23 BY MR. TILLERY:
 24 Q. Do you know that paraquat accumulates

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1 A. Accumulation means it is in the -- in
 2 the tissue or in that particular point. So you --
 3 it could -- depending on the amount, it -- it could
 4 increase. That's what accumulation means.
 5 Q. Does it mean that it gets higher than
 6 what's in the systemic system through the
 7 circulatory system and the blood?
 8 MR. WEIR: Objection. It's vague and
 9 ambiguous. Outside the scope.
 10 THE WITNESS: I think based on that
 11 paper that's what it stated, sir.
 12 BY MR. TILLERY:
 13 Q. All right. Do you know if it
 14 accumulates in the brain?
 15 MR. WEIR: Same objections.
 16 THE WITNESS: I do not, sir.
 17 BY MR. TILLERY:
 18 Q. Do you know that Dr. Botham has
 19 testified that a single molecule of paraquat is
 20 capable because of the redox cycling characteristics
 21 and mode of action to perpetually function so long
 22 as there's present molecular oxygen in the mid
 23 brain? Did you know of that --
 24 MR. WEIR: Object.

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1 in tissues? We looked at a study to say -- and you
 2 looked at it and agreed with me that that study done
 3 by Syngenta scientists shows that, at least with
 4 respect to the lung tissues, paraquat accumulates in
 5 those tissues.
 6 MR. WEIR: Object. We're outside
 7 the --
 8 BY MR. TILLERY:
 9 Q. Do you remember reading that?
 10 MR. WEIR: Object. We're outside the
 11 scope again.
 12 BY MR. TILLERY:
 13 Q. Do you remember that, sir?
 14 A. Yes, sir. I do remember reading that.
 15 And I misspoke also because I said brain, but it was
 16 lungs in that.
 17 Q. All right. Do you know what that means
 18 if it accumulates?
 19 A. Well, it means that it's --
 20 accumulation is --
 21 MR. WEIR: Objection. Vague and
 22 ambiguous. I'm sorry.
 23 BY MR. TILLERY:
 24 Q. You can answer, sir.

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1 BY MR. TILLERY:
 2 Q. -- In this case?
 3 MR. WEIR: Objection. It's beyond the
 4 scope. It's -- I believe it misstates the testimony
 5 as well.
 6 THE WITNESS: No, sir, I did not.
 7 BY MR. TILLERY:
 8 Q. Would that be significant to you as --
 9 as to your statement, "The dose makes the poison"?
 10 MR. WEIR: Same -- object. You're
 11 being argumentative again.
 12 THE WITNESS: Sir, the amount -- I
 13 don't know that -- that amount. All I was referring
 14 to when I said, "Dose makes the poison," was just
 15 there's a certain limit that would have to be
 16 present in order to create toxicity or harm. And
 17 that was what I was referring to. Finite numbers, I
 18 don't have those, sir.
 19 BY MR. TILLERY:
 20 Q. Well, you said there is a finite
 21 amount. That would mean -- let's see what you said.
 22 Yeah. Your answer was there's a
 23 certain limit that would have to be present in order
 24 to create toxicity or harm in your answer. What's

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1 the limit that has to be present in the brain to
 2 cause toxicity or harm?
 3 A. Sir, I was not speaking specifically as
 4 far as to the brain. I was stating that in a very
 5 general term. There is a limit. I don't know what
 6 that limit is.
 7 Q. I am – I need for us to reach some
 8 accord before we go forward.
 9 Do you know what the limit of amount is
 10 in the brain that can cause oxidative stress and
 11 damage to the neurons in the substantia nigra
 12 portion of the brain do you know that?
 13 A. No, sir, I do not.
 14 Q. All right. Were you suggesting that a
 15 jury or judge who heard your testimony should
 16 somehow believe that that means you can get a small
 17 amount in the brain and be perfectly fine? Were you
 18 suggesting that?
 19 MR. WEIR: Objection. It's
 20 argumentative.
 21 THE WITNESS: Sir, my statement was I
 22 did not know what that amount was. There is an
 23 amount that could – can cause a problem. I did not
 24 state that there was an amount. So I'm not sure of

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1 what that amount is.
 2 BY MR. TILLERY:
 3 Q. You don't know if it's one molecule or
 4 if a teaspoonful, do you? You have no idea, do you?
 5 MR. WEIR: Same objections.
 6 THE WITNESS: No, sir, I don't know
 7 what that limit is.
 8 BY MR. TILLERY:
 9 Q. When it – when it comes to this dose
 10 versus the poison – makes the poison, should –
 11 should I be able to argue to a jury that you're not
 12 claiming that any of that should be believed by them
 13 in terms of the amount of this chemical that can get
 14 in the brain safely?
 15 MR. WEIR: Objection. Vague.
 16 Ambiguous. Confusing.
 17 THE WITNESS: I did not make a
 18 reference to safely. I was making a reference to at
 19 a point that causes harm.
 20 BY MR. TILLERY:
 21 Q. All right. Okay. And you don't know
 22 what that point is, do you?
 23 A. No, sir.
 24 Q. All right. Now, at the end of your

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1 examination, opposing counsel asked you whether or
 2 not certain things would be consistent with the
 3 warnings and instructions. And he talked about
 4 things like blowing out nozzles or taking off
 5 nozzles without gloves or getting the chemical on
 6 the skin or walking in fields or driving through
 7 spray mists or not using gloves during mixing and
 8 loading.
 9 Do you remember that?
 10 A. Yes, sir.
 11 Q. And you said at that time that those
 12 were not consistent with the – I think the warnings
 13 or instructions of Syngenta, right?
 14 A. Yes, sir.
 15 Q. Now, you – without me going through
 16 this, would you agree with me that that Meyer study
 17 in 1995 that Syngenta undertook of farmers in the
 18 United States driving tractors showed very clearly
 19 that every single one of the things he mentioned,
 20 those people did?
 21 MR. WEIR: Objection to the form.
 22 BY MR. TILLERY:
 23 Q. If you don't remember it, I'll go
 24 through the whole exam with you again.

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1 MR. WEIR: I object. I think it
 2 misstates what the document says.
 3 THE WITNESS: The document was
 4 referencing as far as what and how they made
 5 applications.
 6 BY MR. TILLERY:
 7 Q. Right.
 8 A. What I was referring to is the
 9 recommendations that we have around how to properly
 10 apply. That, in my opinion, did not align with
 11 proper application, proper handling.
 12 Q. And what I'm asking you is – is this,
 13 did that Meyer study indicate to you that people who
 14 were asked to come and do their job the way they do
 15 it every day. Isn't that what they were told?
 16 A. The study said come with your normal
 17 application equipment.
 18 Q. That study – that study showed that
 19 these people did exactly what – not all of them,
 20 but some several of them did exactly what opposing
 21 counsel asked you about with respect to the conduct
 22 of people applying this chemical, didn't they?
 23 MR. WEIR: Object. It's ambiguous,
 24 confusing.

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1 THE WITNESS: My understanding was that
 2 an acceptable recommendation of what we would tell
 3 people to do. That was the way I interpreted his
 4 question, sir. And my answer to him was it was not.
 5 BY MR. TILLERY:
 6 Q. Well, I move to strike your answer as
 7 unresponsive.
 8 Let me ask in the Meyer study, were
 9 workers observed blowing out nozzles?
 10 A. Yes, sir.
 11 Q. Were workers, several of them, observed
 12 taking the nozzles out without gloves?
 13 A. Yes, sir.
 14 Q. Were several of the workers seen
 15 getting this on their skin, one actually using his
 16 hand to mix diluted material? Do you remember?
 17 A. My memory says, yes, sir, I remember
 18 that.
 19 Q. Several of them are seen walking in
 20 fields, right?
 21 A. I think that's correct, yes.
 22 Q. Okay. And several were seen not
 23 wearing gloves during mixing and loading, right?
 24 A. Correct.

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1 Q. So whether or not Syngenta felt that
 2 these were consistent or inconsistent with your
 3 rules or directions, Syngenta knew at least at the
 4 time of this study and earlier – you told me today
 5 probably in the '60s with respect to some of this
 6 conduct – that you could anticipate that mixers,
 7 loaders, and applicators would do exactly the things
 8 that you were asked about.
 9 MR. WEIR: I'll object to the form.
 10 BY MR. TILLERY:
 11 Q. Is that a fair statement?
 12 MR. WEIR: I object to the form.
 13 Compound. Vague and ambiguous.
 14 THE WITNESS: I understand the
 15 question, sir, and there would be some that would
 16 perform just as you – you indicated.
 17 BY MR. TILLERY:
 18 Q. And you knew that? It was anticipated
 19 and it was foreseeable, wasn't it?
 20 MR. WEIR: Object to form.
 21 THE WITNESS: I don't know if it was
 22 anticipated, but you could – you could glean that
 23 from the research paper.
 24

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1 BY MR. TILLERY:
 2 Q. That it was foreseeable that some of
 3 them were going to do it?
 4 MR. WEIR: Same objection.
 5 BY MR. TILLERY:
 6 Q. Correct?
 7 A. Based on that, yes, sir.
 8 Q. All right. Do you know what an odds
 9 ratio increase is?
 10 A. A what ratio, sir? I'm sorry.
 11 Q. Odds ratio increase.
 12 A. Oz as in o-z?
 13 Q. No. O-d-d-s.
 14 A. O-d-d-s. Odds ratio. I don't think
 15 so.
 16 Q. Okay. So do you know what studies have
 17 shown with respect to increases in the odds of
 18 getting Parkinson's disease if workers are exposed
 19 to paraquat?
 20 MR. WEIR: Object. We're both beyond
 21 the scope of the redirect as well as beyond the
 22 scope of the topics we noticed him for.
 23 THE WITNESS: No, sir, I'm not familiar
 24 with that.

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1 BY MR. TILLERY:
 2 Q. So you don't know, for example, if a
 3 person is in eight days – eight days a year, eight
 4 days – no, eight days in their entire life of
 5 exposure to paraquat, what additional odds they have
 6 of getting Parkinson's disease?
 7 MR. WEIR: Same objections. It also
 8 assumes facts not in evidence.
 9 THE WITNESS: No, sir.
 10 BY MR. TILLERY:
 11 Q. You talked about 5 percent or less are
 12 backpack sprayers in the United States, right?
 13 A. That was just an estimate, yes, sir.
 14 Q. Now, what did you base that on?
 15 A. Based just on my understanding as far
 16 as looking at the number of questions, calls, that
 17 we have. I don't have any statistics on that, sir.
 18 That's just --
 19 Q. You don't have a basis for that, do
 20 you? That was a guess, wasn't it?
 21 A. It was an estimate.
 22 MR. WEIR: Objection. Misstates
 23 testimony.
 24

1 BY MR. TILLERY:
 2 Q. It was an estimate. What was it based
 3 on? If it's an estimate, it's based on something.
 4 If it's a guess, it's just you dragging it out of
 5 the air. Tell me what you based it on.
 6 A. I based it on my experience as far as
 7 what I've seen over the years as far as applications
 8 made by backpack sprayers as opposed to what has
 9 been made using self-propelled or aerial application
 10 equipment.
 11 Q. But you really don't -- you're talking
 12 about the times you went to Jacksonville and saw
 13 some person applying this commercially or went to
 14 Texas and saw an airplane apply it. That's what
 15 you're talking about?
 16 MR. WEIR: Objection.
 17 BY MR. TILLERY:
 18 Q. Do you have any surveys or statistics
 19 or anything else that tells you the number?
 20 MR. WEIR: Objection. You're arguing
 21 with the witness. You're testifying. He gave you
 22 his answer.
 23 BY MR. TILLERY:
 24 Q. Go ahead, sir.

1 A. Sir, I answered your question earlier.
 2 I base that on experience. I did not base it on any
 3 of the statistics there.
 4 Q. Well, see, when I go into court and
 5 say, "Hey, I don't think this guy really has a good
 6 basis for this," I need you to tell me now what your
 7 basis is so we can quarrel with the court about
 8 whether you should be involved in this opinion.
 9 So what would that be? What did you
 10 base it on?
 11 MR. WEIR: Objection. It's been asked
 12 and answered.
 13 THE WITNESS: I answered your question,
 14 sir. I said it's been based on experience of what I
 15 have observed over the years as far as working with
 16 customers in the field and conversations as far as
 17 over that period of time.
 18 BY MR. TILLERY:
 19 Q. Okay. And you told me about those
 20 experiences this morning, didn't you?
 21 A. That was just an example, sir. I mean,
 22 I -- there's --
 23 Q. I didn't mean it to be an example if
 24 you took it that way. I asked you specifically

1 what's your basis for observation of spraying was,
 2 so just so you're clear.
 3 But let's -- let's do it this way: How
 4 many people use canister sprayers in the
 5 United States?
 6 A. I don't have a number for that, sir.
 7 Q. What percentage of people use aerial
 8 spraying?
 9 A. I couldn't give you the exact number,
 10 sir.
 11 Q. Okay. What percentage use spray-boom
 12 spraying?
 13 A. I'm sorry. Use what, sir? What type?
 14 Q. Traditional tractor-pulled boom sprayer
 15 in a field. What percentage of spraying of paraquat
 16 is done in that -- by that means?
 17 A. The actual number? I don't have a
 18 number for you, sir.
 19 Q. The only one you know is the one that's
 20 the backpack sprayer, right?
 21 MR. WEIR: Objection. That misstates
 22 his testimony. It's argumentative.
 23 BY MR. TILLERY:
 24 Q. Is that right?

1 A. As I stated earlier, sir, it was based
 2 on experience.
 3 Q. Okay. Now, you talked about being
 4 involved with this technical support team for
 5 12 years. Okay? Do you remember?
 6 A. Yes, sir.
 7 Q. And you had eight full-time people
 8 there, right?
 9 A. A total of eight. Including myself,
 10 seven.
 11 Q. Total of eight -- or seven full-time
 12 and then you, eight.
 13 So you were there for -- I'm trying to
 14 calculate how many. We have 16,000 hours of
 15 discussions with Syngenta customers times 12, right?
 16 A couple hundred-thousand hours?
 17 MR. WEIR: Objection. What -- what's
 18 the number based on?
 19 BY MR. TILLERY:
 20 Q. Well, you had -- you had eight people
 21 working a couple thousand hours a year times 12
 22 years while you were there. I'm trying to calculate
 23 how many years -- how many hours this went on.
 24 A. It depends. I mean, that's -- you

<p style="text-align: right;">Page 269</p> <p>1 consider – you're considering 100 percent 2 conversation the whole time. I mean, there's 3 obviously dead air time there, sir. 4 Q. Okay. So at least tens of thousands of 5 hours, right? Would you agree with me? 6 A. That's fair. 7 Q. In all of those tens of thousands of 8 hours, how many times did you tell anyone of these 9 customers using paraquat that it was neurotoxic? 10 MR. WEIR: Objection. Assumes facts 11 not in evidence. 12 THE WITNESS: At the time we didn't 13 tell them – make that statement that it was a 14 neurotoxin because based on the data that we were 15 informed with, it was not believed to be. 16 BY MR. TILLERY: 17 Q. And you know that it was wrong, and 18 you've known since 1995 from the worldwide head of 19 product development or safety, Philip Botham, that 20 they've known since 1990s that it gets into the 21 brain of applicators of paraquat, right? You know 22 that now today, you told me? 23 MR. WEIR: Objection. I think that 24 misstates testimony. It's also confusing the way</p>	<p style="text-align: right;">Page 271</p> <p>1 marked in the Ouzts deposition, do you see that, 2 sir? 3 A. Yes, sir. 4 Q. All right. Let's go to page 2 and go 5 to the specific line that opposing counsel asked you 6 questions about. Do you remember where it says, "We 7 know that"? 8 A. Okay. 9 Q. Okay. So I wanted to understand 10 something, what you were telling us. And then you 11 read – or he read in the quote, "We know that the 12 expansion of the use of Diquat may lead to more 13 human exposure through food residues. Establishing 14 the effect of Diquat either provides reassurance 15 because it does not damage the neuroma cells in the 16 brain or because the risk assessment is consistent 17 with the safe use of the product." 18 Now, that first sentence, did I 19 understand you to tell me that expanding the use of 20 Diquat may lead to more health issues from people 21 eating products that have been contaminated by it? 22 Is that what you said? 23 A. The way – I was not referring to 24 Diquat. I mean, essentially what – with that –</p>
<p style="text-align: right;">Page 270</p> <p>1 you asked that question. 2 THE WITNESS: Based on your question 3 and that comment, "It got into the brain," I'm not 4 clear as far as if it was a neurotoxin. 5 BY MR. TILLERY: 6 Q. Okay. So in all of those years, in all 7 those tens of thousands of hours, did you ever tell 8 anybody it gets into the brain? 9 MR. WEIR: Object. I'll withdraw the 10 objection. 11 THE WITNESS: No, sir. 12 BY MR. TILLERY: 13 Q. Now, let's go to – if we can to an 14 exhibit that your attorney looked at, and I think 15 it's this one. Do you see this one here? Do you 16 see the exhibit, sir? 17 A. I don't see anything yet, sir. 18 Q. Sorry. They're pulling it up. 19 MR. WEIR: Do you have an exhibit 20 number? A certain of these, we can just pick out of 21 eDepoze. 22 MR. TILLERY: They've got it right now. 23 Q. I want to clear something up on the 24 record, if we can. On this one, which is Exhibit 23</p>	<p style="text-align: right;">Page 272</p> <p>1 with the human exposure through food residue, I was 2 just speaking to what could happen within the 3 increase. I mean, that was – I was just taking 4 that from -- from that statement, sir. 5 Q. So you're thinking that this Diquat 6 might cause more people to get sick – right? – 7 from eating food that's contaminated by it. Is that 8 what you're saying? 9 MR. WEIR: Objection. That misstates 10 testimony. 11 BY MR. TILLERY: 12 Q. Are you telling the world that – 13 through this deposition they shouldn't be eating 14 food that's contaminated by Diquat? 15 MR. WEIR: Objection. That misstates 16 testimony. It's argumentative. It's misleading. 17 THE WITNESS: No, sir. I was speaking 18 to where it said, "May lead to human exposure 19 through food residues." I was speaking to the food 20 residues. I don't know what that effect would be, 21 sir. 22 BY MR. TILLERY: 23 Q. Well, let's make sure. Are you telling 24 us this makes it unsafe to use? That sentence –</p>

<p style="text-align: right;">Page 273</p> <p>1 does it make Diquat unsafe to use? 2 MR. WEIR: Again, objection. It 3 misstates testimony. It's argumentative. It's 4 misleading. 5 BY MR. TILLERY: 6 Q. Go ahead, sir. 7 A. It doesn't state the unsafety. It just 8 says there could be a potential for exposure. I 9 don't know what that would be. 10 Q. Are you still selling Reglone – 11 Reglone? 12 A. Yes, sir. 13 Q. Have you told people that expansion of 14 the use may lead to more human exposure through food 15 residues? 16 A. No, sir, because we're not doing it. 17 Q. Okay. So -- oh, so just a little bit 18 of it is okay, but you don't want to get too many 19 people sick? 20 MR. WEIR: Objection. It's 21 argumentative, Counsel. 22 THE WITNESS: That's not what I said, 23 sir. 24</p>	<p style="text-align: right;">Page 275</p> <p>1 limits that are currently set as far as by EPA. 2 MR. TILLERY: Well, let me ask you 3 this: If you're going to get one or the other in 4 your system, paraquat or Diquat through food 5 residues, which one would you rather eat? 6 MR. WEIR: Objection, Counsel. It's 7 misleading. It's argumentative. It's outside the 8 scope of redirect and -- 9 BY MR. TILLERY: 10 Q. All right. Let's -- maybe I should 11 withdraw the question. 12 Which one would you want one of your 13 family members to consume? 14 MR. WEIR: Same objections, Counsel. 15 BY MR. TILLERY: 16 Q. Foods that contains residues of Diquat, 17 or foods that contains residues of paraquat? Which 18 one. 19 MR. WEIR: Same objections. 20 THE WITNESS: I don't know that I have 21 an answer for that. 22 BY MR. TILLERY: 23 Q. Okay. So probably neither, right? 24 MR. WEIR: Objection. Same --</p>
<p style="text-align: right;">Page 274</p> <p>1 BY MR. TILLERY: 2 Q. Well, I need to understand what you 3 mean by this. I need you to explain to the court 4 and jury what you meant by that sentence, "We know 5 that the expansion of the use of Diquat may lead to 6 more human exposure through food residues." 7 What did you mean? Does that make it 8 less desirable to expand its use because it could 9 potentially make a lot of people sick? Is that what 10 you're saying? 11 MR. WEIR: Object again, Counsel. 12 You're just arguing with the witness. Now you're 13 badgering the witness. He's already answered this 14 question. 15 THE WITNESS: I made the statement just 16 on that one sentence. I don't have information as 17 far as to support or deny as far as the safety. 18 That is -- I was making reference to if it 19 increased, if there could be exposure for more 20 residues. 21 I don't know what that -- exactly that 22 meant, sir, as far as potential safety. I was 23 referring that to the amount of residues that could 24 show up in crops if they increase based on the</p>	<p style="text-align: right;">Page 276</p> <p>1 BY MR. TILLERY: 2 Q. Would that be a fair statement? 3 A. The preference would be neither. 4 Q. That's right. 5 A. And as well as any other chemicals 6 potentially out there as far as, you know, 7 obviously, it's -- you're going to be cautious with 8 exposure to that. 9 Q. One of the first things you were asked 10 on cross-examination was the differences between 11 Diquat and -- and paraquat in how fast the chemical 12 acted. 13 Do you remember that? 14 A. Yes, sir. 15 Q. Do you know why it acts differently in 16 terms of how fast it kills the plants or cells? 17 Let's say cells. 18 MR. WEIR: I'll object. It's 19 confusing. When you say "it," what are you 20 referring to? 21 MR. TILLERY: Paraquat. I'll rephrase 22 the question. 23 Q. One of the questions you were asked on 24 cross-examination by your counsel was the difference</p>

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1 between Diquat and paraquat in terms of the speed of
 2 action, the way in which it reacted and killed
 3 plants.
 4 Do you recall that?
 5 A. Yes, sir.
 6 Q. All right. Now, do you know why it is
 7 that paraquat structurally causes plants to die
 8 faster than Diquat?
 9 MR. WEIR: I'll object. It's outside
 10 the scope. I believe it's already been asked and
 11 answered earlier in the deposition as well.
 12 THE WITNESS: No, sir, I don't
 13 understand overall -- the mechanism as far as in the
 14 plant, why one would be faster than the other.
 15 BY MR. TILLERY:
 16 Q. Okay. Do you know why it kills certain
 17 cells faster --
 18 MR. WEIR: Same objections.
 19 BY MR. TILLERY:
 20 Q. -- than Diquat?
 21 A. No, sir. I mean, that's just the
 22 mechanism. I don't know the reason of why it would
 23 work faster.
 24 Q. Do you know if redox cycling is what

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1 BY MR. TILLERY:
 2 Q. Okay. So what I'm saying to you is the
 3 characteristic that causes penetration and death of
 4 plant cells also causes penetration and death of
 5 mammalian cells. Do you understand that?
 6 MR. WEIR: Same objection. It's been
 7 asked and answered several times already.
 8 THE WITNESS: Well, I understand what
 9 you're saying as far as the mechanism is similar,
 10 yes.
 11 BY MR. TILLERY:
 12 Q. And the fact that it acts faster is an
 13 indication of the way in which through its mode of
 14 action that it causes oxidative stress to cells and
 15 cell death in mammalian species. Did you know that?
 16 MR. WEIR: Same objections. It's
 17 outside the scope. It's been asked and answered.
 18 Lacks foundation.
 19 THE WITNESS: To a deep level, no, sir,
 20 I did not.
 21 BY MR. TILLERY:
 22 Q. So would you think that speeding up the
 23 process of killing a plant would justify increasing
 24 the toxicity of a chemical when it attacks brain

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1 causes that to occur?
 2 MR. WEIR: Same objections. He's
 3 already spoken that he doesn't know what redox
 4 cycling is.
 5 THE WITNESS: Yeah. I don't know if
 6 that would have an effect, as I mentioned earlier,
 7 sir.
 8 BY MR. TILLERY:
 9 Q. Do you know if the attack that paraquat
 10 has on mammalian cells is, in general, the same type
 11 of attack it has on plant cells?
 12 MR. WEIR: Same objections.
 13 THE WITNESS: I don't know for a fact.
 14 No, sir, I don't.
 15 BY MR. TILLERY:
 16 Q. Do you know if the characteristic that
 17 you pointed out that made it maybe a little better
 18 is exactly the characteristic that accounts for it
 19 being more caustic in the human brain?
 20 MR. WEIR: Same objections. Assumes
 21 facts not in evidence. It's argumentative.
 22 THE WITNESS: Sir, I don't know that.
 23 I'll accept your comment there.
 24

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1 tissue?
 2 MR. WEIR: Same objections.
 3 THE WITNESS: Could you restate your
 4 question, sir? Because I don't think I can answer
 5 it the way you stated it.
 6 BY MR. TILLERY:
 7 Q. Would you think that speeding up the
 8 process of killing a plant would justify increasing
 9 the toxicity of a chemical like paraquat when it
 10 attacks brain tissue?
 11 MR. WEIR: Same objections.
 12 THE WITNESS: Sir, I don't think the
 13 justification was increasing toxicity or -- in order
 14 to have better weed control.
 15 BY MR. TILLERY:
 16 Q. Well, do you know whether that's the
 17 net effect?
 18 MR. WEIR: Same objections.
 19 THE WITNESS: I do not.
 20 BY MR. TILLERY:
 21 Q. So if you ultimately agreed with me
 22 that Diquat doesn't act that way nor as fast, would
 23 you agree with me that having a plant killer that
 24 doesn't work quite as fast is certainly justified if

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1 it doesn't cause mammalian cell death in the same
 2 way?
 3 MR. WEIR: I'll object. It's vague and
 4 ambiguous. Confusing. Compound. Lacks foundation.
 5 BY MR. TILLERY:
 6 Q. Would you agree with that, sir?
 7 A. Potential justification. However, the
 8 quality control and how fast it works or how it
 9 controls the plant also has direction as far as use
 10 of a production. And I don't understand your point.
 11 Q. All I'm trying to say is, is that when
 12 balancing the toxicity and human health risk, the
 13 fact that it acts a little faster killing plants is
 14 not a real justification for choosing it, is it?
 15 MR. WEIR: Objection. It's
 16 argumentative. It's also vague and ambiguous.
 17 THE WITNESS: Sir, I think there's a
 18 balance as far as in how do you properly apply and
 19 the risk of -- the risk using proper equipment,
 20 proper handling application methods.
 21 I think all of that plays in the
 22 balance as opposed to just one facet of that
 23 chemistry.
 24

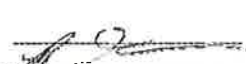

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1 THE WITNESS: I don't know. I don't
 2 know, sir.
 3 MR. TILLERY: Okay. No further
 4 questions.
 5 MR. WEIR: Nothing further from me.
 6 THE VIDEOGRAPHER: This concludes the
 7 video-recorded deposition of Clark Ouzts. And if
 8 you guys want, you can release your witness and
 9 Renee will take some orders.
 10 THE REPORTER: Did everybody on want a
 11 copy?
 12 MR. TILLERY: Yes.
 13 MR. WEIR: Whatever our standard order
 14 is, please.
 15 THE REPORTER: Jennifer, did you need
 16 one?
 17 MS. CECIL: Yes. We'll take a copy of
 18 the final.
 19 (Whereupon, signature was not
 20 waived and the witness was
 21 excused at 3:03 p.m.)
 22 --oOo--
 23
 24

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1 BY MR. TILLERY:
 2 Q. When you're assessing human health
 3 risks and the possibility that this chemical causes
 4 neurotoxicity, brain injury, and ultimately
 5 Parkinson's disease, do you think that one of the
 6 variables in balancing this is how fast it kills
 7 plants?
 8 MR. WEIR: Objection. It's a
 9 misleading question. It assumes facts not in
 10 evidence.
 11 THE WITNESS: I think there's many
 12 things that balance the overall determination of a
 13 product moving forward, sir.
 14 BY MR. TILLERY:
 15 Q. Let me read the question. I'm moving
 16 to strike your answer as nonresponsive.
 17 When you're assessing human health
 18 risks and the possibility that this chemical causes
 19 neurotoxicity, brain injury, and ultimately
 20 Parkinson's disease, do you think that one of the
 21 variables in this balance is how fast it kills
 22 weeds?
 23 MR. WEIR: Same objections. It's been
 24 asked and answered as well multiple --

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1 CERTIFICATE OF REPORTER
 2 I, RENEE COMBS QUINBY, a Registered
 3 Diplomate Reporter, Certified Realtime Reporter,
 4 Certified Court Reporter (MO), Certified Court
 5 Reporter (IL), and Notary Public within and for the
 6 State of Missouri, do hereby certify that the
 7 witness whose testimony appears in the foregoing
 8 deposition was duly sworn by me to testify to the
 9 truth and nothing but the truth; that the testimony
 10 of said witness was taken by stenographic means by
 11 me to the best of my ability and thereafter reduced
 12 to print under my direction.
 13 I further certify that I am neither
 14 attorney nor counsel nor related nor employed by any
 15 of the parties to the action in which this
 16 deposition was taken; further, that I am not a
 17 relative or employee of any attorney or counsel
 18 employed by the parties hereto or financially
 19 interested in this action.
 20 My Commission expires April 9, 2021
 21 
 22 
 23 Renee Combs Quinby, RDR, CRR, CCR (MO) #1291,
 24 CSR (IL) #084-004867

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1 ALARIS LITIGATION SERVICES
 2
 3 October 8, 2020
 4
 5 Thomas Weir, Esq.
 6 Kirkland & Ellis, LLP
 7 1301 Pennsylvania Avenue NW
 8 Washington, D.C. 20004
 9
 10 IN RE: DIANA HOFFMANN, individually and as
 11 Independent Administrator of the Estate of
 12 THOMAS R. HOFFMANN, Deceased, et al. v.
 13 SYNGENTA CROP PROTECTION, LLC, et al.
 14
 15 Dear Mr. Weir:
 16
 17 Please find enclosed your copies of the deposition of
 18 CLARK OUZTS taken on September 28, 2020 in the
 19 above-referenced case. Also enclosed is the original
 20 signature page and errata sheets.
 21
 22 Please have the witness read your copy of the
 23 transcript, indicate any changes and/or corrections
 24 desired on the errata sheets, and sign the signature
 page before a notary public.
 Please return the errata sheets and notarized
 signature page to our office at 711 N 11th Street, St.
 Louis, MO 63101 for filing prior to trial date.
 Sincerely,
 RENEE COMBS QUINBY
 Enclosures

Page 287

1 STATE OF _____)
 2
 3 COUNTY OF _____)
 4
 5 I, CLARK OUZTS, do hereby certify:
 6 That I have read the foregoing deposition;
 7 That I have made such changes in form
 8 and/or substance to the within deposition as might
 9 be necessary to render the same true and correct;
 10 That having made such changes thereon, I
 11 hereby subscribe my name to the deposition.
 12 I declare under penalty of perjury that the
 13 foregoing is true and correct.
 14 Executed this ____ day of _____,
 15 20____, at _____.
 16
 17
 18 _____
 19 CLARK OUZTS
 20
 21 _____
 22 NOTARY PUBLIC
 23 My Commission Expires:
 24

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1 ERRATA SHEET
 2 Witness Name: CLARK OUZTS
 3 Case Name: DIANA HOFFMANN, individually and as
 4 Independent Administrator of the Estate of
 5 THOMAS R. HOFFMANN, Deceased, et al. v.
 6 SYNGENTA CROP PROTECTION, LLC, et al.
 7 Date Taken: SEPTEMBER 28, 2020
 8
 9 Page # _____ Line # _____
 10 Should read: _____
 11 Reason for change: _____
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 23 Reason for change: _____
 24 Witness Signature: _____

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