

Powell

EXHIBIT 6

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.)	
HOFFMANN, Deceased, et al.,)	No. 17-L-517
)	
Plaintiffs,)	
)	
vs.)	
)	
SYNGENTA CROP PROTECTION,)	
LLC, et al.,)	
)	
Defendants.)	

- - - - -

VIDEOCONFERENCE DEPOSITION OF DAVID POWELL, PhD

Wednesday, June 10, 2020 - 9:13 a.m.

Peoria, Illinois

Reported By:

Marjorie Peters, FAPR, RMR, CRR

Job No: 27569

VIDEOCONFERENCE DEPOSITION OF DAVID POWELL, PhD,
a witness herein, called by the Plaintiff for
examination, taken pursuant to the Illinois Supreme
Court Rules 206, as amended by the April 29, 2020
Corrected Order of the Illinois Supreme Court
204(a)(3) and 201(l), by and before Marjorie Peters,
a Registered Merit Reporter, Certified Realtime
Reporter and Notary Public in and for the
Commonwealth of Virginia, at Heyl Royster Voelker &
Allen, PC, 300 Hamilton Boulevard, Peoria, Illinois,
on Wednesday, June 10, 2020, at 9:13 a.m.

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<div>Page 7</div> <div> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: This is the tape</p> <p>3 number one of the videotaped deposition of Dr. David</p> <p>4 Powell, in the matter of Diana Hoffmann versus</p> <p>5 Syngenta Crop Protection, et al., in the Circuit</p> <p>6 Court of the 20th Judicial Circuit of St. Clair</p> <p>7 County Illinois. Case Number 17-L-517.</p> <p>8 This deposition is being held at 300</p> <p>9 Hamilton Boulevard in Peoria, Illinois, on June 10,</p> <p>10 2020, at approximately 9:13 a.m.</p> <p>11 My name is Jean-Louis Ziesch from</p> <p>12 the firm of TransPerfect, and I am the certified</p> <p>13 legal video specialist. The Court Reporter is</p> <p>14 Marjorie Peters, in association with TransPerfect.</p> <p>15 Will counsel please introduce</p> <p>16 yourself.</p> <p>17 MR. HOPP: Anthony Hopp,</p> <p>18 representing Growmark.</p> <p>19 MR. TILLERY: Steve Tillery is</p> <p>20 representing the Plaintiffs.</p> <p>21 MR. NARESH: Ragan Naresh,</p> <p>22 representing the Syngenta Defendants.</p> <p>23 MS. SCHEIDERER: Megan Scheiderer,</p> <p>24 representing Chevron USA, Inc.</p> <p>25 MR. TILLERY: Mr. Powell, are you</p> </div>	<div>Page 9</div> <div> <p>1 have an opportunity to speak off the record at the</p> <p>2 appropriate time, as this -- as if this were a</p> <p>3 deposition taking place where all of the attorneys</p> <p>4 representing their respective clients were in the</p> <p>5 same room with you.</p> <p>6 However, in this setting, the</p> <p>7 expectation is that counsel there with you will not</p> <p>8 be communicating with you during the deposition via</p> <p>9 text, e-mail or other electronic means, or vice</p> <p>10 versa, while we're on the record.</p> <p>11 It's also my understanding that the</p> <p>12 deponent is not with anyone else physically in the</p> <p>13 room other than Mr. Hopp and the Videographer.</p> <p>14 So if anyone else is present with</p> <p>15 the deponent at any time, let's put them on the</p> <p>16 record, and the deponent should make us aware of</p> <p>17 that.</p> <p>18 Do you understand those statements,</p> <p>19 sir?</p> <p>20 A. Yes.</p> <p>21 Q. All right.</p> <p>22 Would you tell me where you live?</p> <p>23 A. I live in Edwardsville, Illinois.</p> <p>24 Q. Okay. And how long have you lived</p> <p>25 there?</p> </div>

1 A. Approximately two years.
 2 Q. Who are you employed by?
 3 A. I'm employed by Growmark.
 4 Q. What is your date of birth?
 5 A. August 16, 1987.
 6 Q. And your home address?
 7 A. 6941 Drew Drive, Edwardsville,
 8 Illinois --
 9 Q. And your --
 10 A. -- 62025.
 11 Q. All right. Your business address?
 12 A. 1701 Towanda Avenue, Bloomington,
 13 Illinois.
 14 (Powell Plaintiff's Exhibit 9, Powell CV, was marked
 15 for identification.)
 16 Q. We have been provided a curriculum vitae
 17 for purposes of this deposition, and it looks like
 18 it ended in 2014 because there's an expected
 19 completion date of your PhD for that.
 20 Has this CV been updated?
 21 A. Yes, I did update that CV at some point,
 22 yes.
 23 Q. Okay. So assuming this stops at 2013,
 24 I'll go through some of the questions. What else
 25 has happened in terms of education, starting there

1 first, since 2014?
 2 A. Since 2014, I completed my PhD at
 3 Michigan State University, and that is the -- would
 4 be the end of my education.
 5 Q. And when did you complete that?
 6 A. I completed that and graduated in May of
 7 2014.
 8 Q. Okay. And what was the PhD awarded in?
 9 It references here subject matter, "Plant, soil, and
 10 microbial sciences." What is the PhD awarded in?
 11 A. That is the department that the PhD is
 12 awarded in.
 13 Q. So PhD is basically a PhD in weed
 14 science?
 15 A. Yeah, that would be a subtopic. That
 16 would have been my focus area, yes.
 17 Q. Okay. Are the publications, as far as
 18 you know, on this CV up-to-date? The last one that
 19 we have is a Multi-Resistant Palmer Amaranth Control
 20 in Michigan; is that the last one?
 21 A. Yes, sir, that's the last one.
 22 Q. 2015?
 23 A. I -- I believe -- I believe so. That --
 24 even in the updated one, that would be the last one.
 25 Q. All right. And where is Powell Farms

1 located?
 2 A. Medora, Illinois.
 3 Q. Okay. Is that a family farm?
 4 A. That is a family farm, yes, sir.
 5 Q. Is that where you grew up?
 6 A. That is where I grew up.
 7 Q. Did you grow up using paraquat?
 8 A. No. We did not grow up using paraquat
 9 while I currently lived at the farm.
 10 Q. Did your family ever use paraquat?
 11 A. Since -- yes, we have used paraquat in
 12 the last, I'm going to say five or six years,
 13 paraquat has been used at some point.
 14 Q. And did you apply it yourself?
 15 A. Yes, sir.
 16 Q. You personally, you did that?
 17 A. I personally applied it, yes, sir.
 18 Q. Anybody else in your family?
 19 A. No, sir.
 20 Q. Just you.
 21 And that's been -- and that's been
 22 since you started at Growmark Corporation, right?
 23 A. Yes, sir.
 24 Q. Where did you buy it?
 25 A. Bought it from my local member company,

1 FS.
 2 Q. Where -- which one of them?
 3 A. Medora FS.
 4 Q. Okay. And how did you apply it?
 5 A. We applied it broadcast with a -- with a
 6 sprayer.
 7 Q. What kind of implement were you using to
 8 spray it?
 9 A. It was a tractor that pulled a -- an
 10 implement, a sprayer behind it.
 11 Q. Okay. So we'll come back to that later,
 12 okay?
 13 No one else in your family or
 14 anybody else on your farm had used it up until five
 15 years ago, right?
 16 A. That is correct.
 17 Q. Okay. And what was your first date of
 18 employment with Growmark?
 19 A. It was -- I'm not sure of the specific
 20 date, but it was in May of 2014.
 21 Q. Five years ago, six years ago?
 22 A. Six years ago, yes, sir.
 23 Q. So you started using paraquat after you
 24 started your employment at Growmark, correct?
 25 A. On our family farm, that would be

1 correct. I had used it previous to that as well.

2 Q. Okay. What did you use as a burndown in
3 lieu of paraquat in the years preceding your -- your
4 use of paraquat?

5 A. Are you talking specifically about my
6 family farm or in general?

7 Q. Yes, sir. Medora family farm.

8 A. As I -- you know, I am not privy to all
9 those details, as that's not my operation. I am
10 someone who would help out there.

11 Generally speaking, before
12 resistance issues, glyphosate was a big part of that
13 program.

14 Q. Okay. So you used glyphosate?

15 A. Yes, sir.

16 Q. Okay. What did you do at Shipman
17 Elevator Company?

18 A. I was an intern for two different
19 summers, and I spent most of my time looking in
20 field for pest problems and reporting back.

21 Q. What kind of pest problems were you
22 looking for?

23 A. It could have been weed issues. It
24 could have been, you know, a lot of insect issues.
25 We also scouted for diseases, primarily, as well as

1 anything that just looked out of the ordinary and
2 the crop was not growing the way we thought it
3 should.

4 Q. Okay. Your CV says you "attended
5 several agronomy sessions as well as corn and
6 soybean placement tours."

7 What types of agronomy sessions did
8 you attend?

9 A. Those -- are you referring to my time at
10 Shipman Elevator; is that what it said?

11 Q. 2007, 2008; that's right.

12 A. Right. So those would have been
13 sessions, typically field days, where, again, there
14 was some focus on seed and seed placement, but there
15 may have been an agronomic topic surrounding
16 anything in agriculture. Maybe it was row spacing
17 to nutrient management to pesticide usage.

18 Q. Did you conduct those sessions?

19 A. I was a participant at those sessions.

20 Q. Were any of them conducted by Growmark?

21 A. No, this was a competitor to Growmark.

22 Q. Okay. And that's a -- Shipman Elevator
23 Company you're talking about?

24 A. Yes, sir.

25 Q. Okay. Are they still a competitor?

1 A. They have been purchased or taken up by
2 CHS.

3 Q. What does CHS stand for?

4 A. You asked me a question that I -- I
5 don't know anymore. So, sorry.

6 Q. Okay. And then you became a research
7 assistant at Southern Illinois University-Carbondale
8 in 2008, right?

9 A. That would be correct.

10 Q. And what did you do there?

11 A. Those were mostly greenhouse operations
12 for the weed science department at SIU, and that
13 would have primarily included watering plants,
14 transplanting plants and general greenhouse upkeep.

15 Q. Okay. And you never did any weed
16 science testing while you were there?

17 A. There were tests that would have taken
18 place, but I was not a part of those tests.

19 Q. Did your work always take place on the
20 campus or adjacent to that in Carbondale?

21 A. As an intern, no. There were several
22 offsite locations. I don't exactly remember where
23 they would be, but I had -- I did go to a few other
24 locations a few other times to help typically stake
25 plots or flag areas for future research.

1 (Off the record.)

2 BY MR. TILLERY:

3 Q. Did you ever work at the test plots near
4 Belleville associated with SIU-E --

5 A. During --

6 Q. -- at any point?

7 A. At SI -- for SIU-C, I worked at those
8 during graduate school, yes.

9 Q. And where were they located?

10 A. They were located outside of Belleville,
11 Illinois, I believe.

12 Q. All right. And what was your work
13 there?

14 A. It was generally weed efficacy research
15 trials.

16 Q. And did those include paraquat?

17 A. I don't know that for sure. I assume
18 that at some point, paraquat has been applied on
19 that farm, yes.

20 Q. And which companies were participating
21 in those trials?

22 A. There were numerous companies that
23 participated; typically, probably anybody that -- in
24 the industry.

25 Q. Okay. In other words, they were

1 providing their chemical products or their
2 herbicides, and they were coordinating with the weed
3 science department and the studies there at that --
4 at that farm, right?

5 A. It was contracted work out for research
6 that was conducted by the university, yes.

7 Q. When you say "the university," you're
8 talking about Southern Illinois University at
9 Edwardsville or at Carbondale?

10 A. At Carbondale.

11 Q. Okay. So you were doing them from
12 Carbondale in that same location as well?

13 A. Yes, sir.

14 Q. All right. Now, how long do you know
15 those studies have been going on?

16 A. Um, you know, I would be -- I would be
17 speculating. I know that there were things other
18 than pesticides, you know, long-term tillage studies
19 that had been going on for in excess of 30 years, so
20 a long time.

21 Q. Right. And was SIU-Edwardsville also
22 participating in those field studies in that same
23 location?

24 A. Not to my knowledge.

25 Q. Okay. How many people from

1 SIU-Carbondale were participating?

2 A. It would be hard to -- hard to know as
3 many different departments were participating in
4 research from, you know, the weed science department
5 to pathology to fruit and vegetables. I would hate
6 to speculate on how many people had research at that
7 farm.

8 Q. And how big a farm is it?

9 A. It's a few hundred acres. I don't know
10 exactly how many acres, but I would say at least a
11 couple hundred.

12 Q. What manages the farm?

13 A. Ron Krausz retired, but he was -- he --
14 he managed the farm until his retirement I'd say at
15 least 12 months ago.

16 Q. And do you know who he was employed by?

17 A. He was employed by SIU-Carbondale.

18 Q. Was there any other work you did in 2008
19 and '9, as an undergraduate research assistant at
20 Southern Illinois University-Carbondale, we haven't
21 talked about?

22 A. I would say, no, we pretty well covered
23 it all.

24 Q. And then in 2009 through '11, you were a
25 graduate research assistant in the weed science

1 department, Southern Illinois University-Carbondale,
2 working under the guidance of Dr. Bryan Young,
3 right?

4 A. Yes, sir.

5 Q. And how did your work responsibilities
6 change during that assignment?

7 A. My work responsibilities shifted to
8 research, specifically on my graduate research,
9 looking at resistant waterhemp and how to manage it
10 in soybeans.

11 Q. Did you work with paraquat?

12 A. Yes, I worked with paraquat during those
13 years.

14 Q. Okay. In what way?

15 A. There would have been not in my personal
16 research, but as part of a teamwork, we would have
17 sprayed paraquat on some plots for some research
18 weed efficacy trials.

19 So we were looking at weed control
20 with paraquat.

21 Q. Were you doing those trials in
22 Belleville as well?

23 A. Again, I can't say for sure, but I know
24 that we would have applied paraquat in those years.

25 Q. I know, but in Belleville; that's what

1 I'm asking.

2 A. Again, I don't know during those years
3 if I applied -- if paraquat was applied.

4 Q. So from 2009 and 2011, you don't know if
5 you were working in Belleville or not, if you ever
6 went there those years?

7 A. I was there many times. We had many
8 other research locations, but I cannot for sure say
9 that paraquat was applied in Belleville, I do not
10 recall, between '09 and '11.

11 Q. It could have been, right; you just
12 don't remember?

13 A. It is -- it is possible, yes.

14 Q. Okay. Well, why don't you tell me what
15 you do remember the field where you applied it.

16 A. In fields where we typically applied it,
17 you know, paraquat was one of many of the hundreds
18 of pesticides we might have -- might have applied.

19 So typically, we used paraquat in
20 any trial that we would have done to manage our
21 resistant weed species, typically marestail or
22 waterhemp would have been the two species.

23 Q. Right. The question I asked you,
24 however, was tell me the specific location if you
25 can't remember Belleville. You said you're having

1 trouble remembering from 2009-2011, where you
2 applied in a test context paraquat.

3 I'm asking you, where do you
4 specifically remember applying it?

5 A. I know that there was paraquat applied
6 in De Soto, our De Soto location.

7 Q. Was that owned by -- by the university
8 of -- let's say SIU-C?

9 A. That was a grower cooperator.

10 Q. Okay. That's the only one you remember
11 for sure?

12 A. For sure, yes, sir.

13 Q. Okay. And what assignments or research
14 were you doing specifically with paraquat during
15 that time frame?

16 A. You know, I -- I can't say for sure.
17 Our duties were to typically spray -- help spray the
18 plots, and to get those applications made. And
19 sometimes if workload necessitated it, we might rake
20 those for weed control. But details surrounding
21 anything further than that, I don't have that
22 knowledge.

23 Q. Okay. From 2008 to 2011, in that
24 three-year period, in all the times that you did any
25 type of weed science research with paraquat, did you

1 ever look into human hazards or neurotoxicity as it
2 relates to paraquat?

3 A. No, we did not do that.

4 Q. Did that ever even come up in any
5 discussion?

6 A. At that time, weed control efficacy was
7 our focus.

8 Q. Yeah. Could you answer my question
9 directly, sir, or we're going to have a long day.

10 I asked you, did it ever come up in
11 a conversation; that's my question.

12 A. No.

13 Q. All right. Now, did you ever talk to
14 Syngenta folks?

15 A. Yeah, passing, in that time, yes.

16 Q. Who did you talk to?

17 A. I don't remember any names.

18 Q. Okay. Do you remember any positions;
19 what they were there for, what their responsibility
20 was?

21 A. They were typically meeting with my
22 major professor, Bryan Young, to establish and
23 create those research trials that we previously
24 discussed. And other than saying hi in the hall or,
25 you know, introducing ourselves, that would have

1 been the limit to our meetings.

2 Q. Did they ever give you any kind of
3 protocols that they wanted to use for tests of their
4 products?

5 A. They would have been given to Bryan
6 Young, and then those protocols, when complete and
7 approved, would have been housed, and I would have
8 had access to those, yes.

9 Q. All right. And they would have been
10 posted in a way where you would have been able to
11 see them during that three or four-year period you
12 were there, right?

13 A. Yes, sir.

14 Q. All right. Did any of those protocols
15 ever include testing neurotoxicity of paraquat?

16 A. No.

17 Q. Did any of them ever test human hazard
18 from the use of paraquat?

19 A. No.

20 Q. Would I be safe in assuming that every
21 single one of the criteria or protocols that you
22 used were to test the efficacy of paraquat in
23 killing weeds?

24 A. Yes, sir.

25 Q. All right. Now, from 2011, and this

1 says, "To present," I assume that is not -- you're
2 not still associated with Michigan State University,
3 are you?

4 A. No, I completed that in May of 2014.

5 Q. Okay. All right.

6 What did you do as a graduate
7 research assistant at Michigan State University in
8 terms of fieldwork?

9 A. So, we -- we tested the efficacy of
10 herbicides to control weeds in corn, soybeans and --
11 corn, soybeans, sugar beets and dry beans.

12 Q. Which chemical, again?

13 A. No, the crops. We tested many chemicals
14 for crops. Corn, soybeans, sugar beets and dry
15 beans.

16 Q. Did you ever test paraquat?

17 A. I am sure paraquat was used. I do not
18 remember testing it specifically.

19 Q. It probably, you think, could have been
20 part of --
21 (Clarification requested by the Court Reporter.)
22 (Off the record.)

23 Q. Resuming, Dr. Powell.

24 Assuming that paraquat was involved,
25 what kind of test would you have been undertaking

1 with paraquat?

2 A. Again, that would be an assumption, but
3 it would probably be weed -- it would be weed
4 control to -- for control of probably marehail,
5 would have been the weed species, that we were
6 testing its efficacy.

7 Q. And for purposes of the Court and jury's
8 understanding of what that means, efficacy, you're
9 really at that time testing to see how effective the
10 chemicals were, including paraquat, for killing
11 weeds, right?

12 A. Yes. We were testing to see if the
13 herbicide managed the weed problem that we had, yes.

14 Q. Now, did you make some kind of
15 determination as to which ones would do a job in
16 certain categories of effectiveness?

17 A. You know, that was the overall goal of a
18 lot of the trials, was to determine which ones were
19 effective and which ones weren't.

20 So, yes, we would do that.

21 Q. Okay. Did you ever test neurotoxicity
22 in any of those field trials?

23 A. No, sir.

24 Q. Did you ever test human hazards from
25 application for any paraquat trial?

1 notification up there, no.

2 MR. HOPP: Yeah, so we're not seeing
3 anything or -- but we're hearing it.

4 MR. TILLERY: Okay.

5 BY MR. TILLERY:

6 Q. What was your job when you started with
7 Growmark?

8 A. I started as the insect and plant
9 disease technical manager in 2014.

10 Q. And could you tell me what your
11 responsibility was at that job, Dr. Powell?

12 A. My responsibility was to educate our
13 crop specialists on ways to manage insects and
14 diseases, and to help them identify any problem
15 areas that they would have for their customers.

16 Q. Okay. I had a little cut-out there at
17 the end.

18 Now, did your work include any
19 specific herbicides?

20 A. At that time, no.

21 Q. Did you work with paraquat at that time
22 at all?

23 A. I did not, no.

24 Q. How has your position changed at
25 Growmark over this period of time?

1 A. No.

2 Q. Did you ever test any aspect of safety
3 for the applicator in terms of making them
4 potentially safe, from any of those trials?

5 A. Specifically, tests, no, but we
6 definitely wore the PPE required.
(Sound interference.)

7 MR. TILLERY: Do we know what the
8 particular cause of that sound is that's
9 interfering?

10 THE VIDEOGRAPHER: We've not --

11 MR. HOPP: We're not -- we can't --

12 THE VIDEOGRAPHER: We have turned
13 off everything.

14 MR. HOPP: We have turned off
15 everything in the room, Steve. I don't know where
16 it's coming from.

17 You don't have your phone out, do
18 you?

19 THE WITNESS: It's not my -- I don't
20 know if it's the computer. If there's something in
21 the background.

22 MR. HOPP: Do you see a note -- are
23 you getting a notification.

24 THE WITNESS: I'm not getting a

1 A. From late 2014, roughly October, through
2 February of 2018, I was the weed science technical
3 manager.

4 And then from roughly February
5 2000 -- 2018, I -- I am the senior agronomy services
6 manager.

7 Q. Okay. In the first job, what was your
8 responsibility?

9 A. In my -- it was to help -- help our --
10 educate our member companies' crop specialists how
11 to manage the weed problems that they had in their
12 fields, and overall, general education on weed
13 science as it relates to killing weeds.

14 Q. And could you tell me in a more
15 practical way what you were doing in that job?

16 A. Sometimes --

17 Q. Hold -- let me rephrase it so you
18 understand exactly what I'm getting at.

19 Day-to-day, what were you doing in
20 that job?

21 A. Day-to-day, it would have been either --
22 you know, in agriculture, days -- there is no
23 day-to-day, but it would have been either preparing
24 presentations for education, or it would have been
25 answering questions from member companies, and

1 trying to find solutions to their problems
2 surrounding weed control.

3 Q. When you say "member companies," you're
4 talking about member cooperative companies, right?

5 A. And more specifically, typically, the
6 crop specialist at that member cooperative, yes.

7 Q. And would you, for the record, tell --
8 describe what a crop specialist is?

9 A. A crop specialist is an individual
10 who -- who works with growers to provide all the
11 inputs and necessary tools to get the crop -- to
12 produce a crop.

13 So they would sell and advise on
14 nutrient-related things, as well as any sort of
15 herbicide, insecticide, fungicide, as well as any
16 other agronomic -- any other agronomic program or
17 process that would help our growers increase their
18 yield.

19 Q. Okay. And did those discussions include
20 discussions of paraquat?

21 A. Oh, yeah. Yes, sir.

22 Q. Okay. And tell me the kinds of
23 discussions you would have or the type of work you
24 did with respect to paraquat?

25 A. You know, as far as the discussions

1 surrounding paraquat, you know, those discussions
2 were generally that it is one of the tools that you
3 can use to manage weeds, and when they were certain
4 situations, you know, that warranted it, it may have
5 been one of the recommendations to help that problem
6 field, for instance.

7 Q. In other words, you would be describing
8 how it could be used in certain applications to
9 control certain types of weeds, right?

10 A. That would be accurate, yes.

11 Q. Did you ever discuss the hazards
12 associated with using it?

13 A. You know, there are some specific
14 trainings that we have done, talking about -- our
15 applicator trainings, where we would have talked
16 about safety and hazards with all pesticides,
17 paraquat included. But you know, we always talk
18 about making sure that we take a look at the label
19 to make sure that we're following those -- those to
20 a T.

21 Q. Okay. And besides that, did you ever
22 have specific hazard warnings regarding paraquat
23 that you told these crop specialists about?

24 A. Information that they would have
25 received would have had some of that. It would

1 have, you know, showed that it's a restricted-use
2 pesticide. Every jug they see says, "Acute
3 toxicity." There's probably other materials that
4 would come that would have paraquat on it and show
5 that it's restricted use. That would probably be
6 the most common.

7 Q. You're talking about the label or the
8 handout that goes with it. What I'm talking about
9 is your job during that period.

10 When you had these conversations
11 with these crop specialists, did you tell them about
12 the hazards associated with the use of paraquat?

13 A. My recommendations were generally based
14 on weed control.

15 Q. So the answer would be, no, you didn't,
16 right?

17 A. Generally, no. Yes.

18 Q. Okay. Is there one single time that you
19 can remember where you advised them about neurotoxic
20 effects of paraquat?

21 A. No.

22 Q. Okay. All right. Then you said --
23 strike that.

24 Have we covered your
25 responsibilities during that period preceding your

1 job that you have now?

2 A. Yes, I think so, yes.

3 Q. Okay. So, your day-to-day would be to
4 resolve issues, talk to crop specialists from the
5 member cooperatives to assist them in the more
6 appropriate use of the chemicals that Growmark
7 provided for sale and distribution to those -- to
8 those member cooperatives, correct?

9 A. Can you repeat that question for me,
10 please.

11 Q. Absolutely.

12 Your job day-to-day would have been
13 to work with, to answer questions from crop
14 specialists and to assist them in the use of the
15 different products that Growmark supplied and sold
16 to them?

17 A. Yes, sir.

18 Q. All right. Now, in the job that you
19 took -- that you have now, how do your
20 responsibilities differ?

21 A. My responsibilities stay the same, in
22 regards to I still do the previous things that we
23 talked about in the weed science role, but I also
24 manage our technical team, which includes another
25 weed scientist, another -- a soil fertility

1 specialist, and an insect and plant disease person;
2 all doing similar things to me, but in their own --
3 staying within their own area of expertise.

4 Q. Why did you move to Edwardsville?

5 A. You know, I have a territory that's
6 closer to the territory that I live in for Growmark,
7 as well it's closer to our family farm for family.

8 Q. So this was something that you were
9 permitted to do, to move into this area and still do
10 your job?

11 A. Yes, sir.

12 Q. In other words, it wasn't mandated by
13 Growmark that you work out of this location?

14 A. Correct.

15 Q. Okay. Does Growmark have a weed science
16 laboratory?

17 A. No.

18 Q. Did it ever have one?

19 A. Not to my knowledge.

20 Q. Did FS have one, FS Services?

21 A. To my knowledge, we don't have any
22 research laboratories.

23 Q. I'm say -- I'm saying, did they ever
24 have one?

25 A. To my knowledge, no.

1 Q. Okay. Have you in the last four years
2 of, let's say -- strike the question.

3 Have you in the period of time that
4 you have been working with Growmark ever worked at
5 the Belleville test fields that you had seen there
6 near Scott Air Force Base?

7 A. Since my employment at Growmark, I have
8 not been there, no.

9 Q. Does Growmark participate in any weed
10 science testing there?

11 A. Currently, we do not.

12 Q. Have you in the past?

13 A. I believe at some point in the past,
14 there was, but not since my employment for sure.

15 Q. Okay. And when you -- you say you
16 believe there was. What do you base that belief on?

17 A. Just passing conversations about --
18 about things that we've done in the past to make
19 sure that we're using the right products.

20 Q. Okay. With whom did you have those
21 conversations?

22 A. The only one that I can specifically
23 think of would have been with Jeff Bunting, our --
24 our crop protection division manager.

25 Q. Is there any other person at Growmark

1 that you think might have been involved in such
2 testing?

3 A. Not that I know of.

4 Q. And where would reference of that type
5 of testing be housed at Growmark?

6 A. I don't know for certain. We -- I would
7 have to ask Jeff about that.

8 Q. How do you spell Jeff's last name?

9 A. B-U-N-T-I-N-G.

10 Q. What is his job title?

11 A. Crop protection division manager.

12 Q. Where is his office; Bloomington?

13 A. Yes, sir.

14 Q. Have you had any other job we haven't
15 talked about already?

16 A. No, sir.

17 Q. Does Syngenta -- sorry. Strike that.

18 Does Growmark sell any paraquat
19 product other than that produced by Syngenta?

20 A. Yes, sir, we have.

21 Q. Which product?

22 A. The trade name would be Parazone, is the
23 one that I'm thinking of for sure.

24 Q. And who makes that?

25 A. I believe that's -- that's Adama, I

1 believe.

2 Q. And when did Growmark purchase that
3 product?

4 A. I -- I don't know.

5 Q. Have they purchased Parazone since
6 you've been at Growmark?

7 A. Yes, sir.

8 Q. In the last five years, six years?

9 A. Yes, sir.

10 Q. In terms of the quantity or volume of
11 paraquat formulated products, what percentage is
12 represented by Parazone, in general terms?

13 A. I don't have that information.

14 Q. Okay. Have we covered all of the work
15 that you did in connection with paraquat before
16 joining Growmark?

17 A. Yes.

18 Q. Do you understand that you're testifying
19 today as the corporate designee of Growmark, Inc., a
20 defendant in a case in St. Clair County, Illinois?

21 A. Yes.

22 Q. Do you understand what your role is as a
23 corporate designee for Growmark?

24 A. Yes.

25 Q. Okay. Have you ever testified before?

1 A. No, sir.
 2 Q. You understand that Growmark designated
 3 you for a number of different topics, right?
 4 A. Yes.
 5 Q. You've seen that list of topics that
 6 were appended to a deposition notice, I assume,
 7 right?
 8 A. Yes, sir.
 9 Q. You went over those with counsel; they
 10 talked to you about those topics, right?
 11 (Clarification requested by the Court Reporter.)
 12 Q. They talked to you about those topics,
 13 correct?
 14 A. Yes, we talked about those topics.
 15 Q. Okay. What did you do to prepare for
 16 today's deposition?
 17 A. I talked with, met with counsel, and I
 18 also spoke with previous safety managers, Danny Best
 19 and Doug DeFilippo.
 20 Q. And were they in the same position
 21 you're in today?
 22 A. No, sir.
 23 Q. What were their jobs?
 24 A. They were in the safety division. So
 25 they were looking at safety.

1 Q. And when you say "safety division," how
 2 would that responsibility be different than yours?
 3 A. Their goal -- their primary -- one of
 4 their primary goals was to ensure safety of all
 5 things regarding anything from potential fuels to
 6 oils to any herbicides, insecticides, fungicides for
 7 their position.
 8 Q. When you say "safety," are you talking
 9 about hazards from human exposure?
 10 A. I'm talking about making sure that we're
 11 taking the proper safety precautions to prevent
 12 undue exposure.
 13 So things like getting together
 14 MSDSs and things of that nature.
 15 Q. Well, do they have responsibility for
 16 pointing out hazards from the use of certain
 17 products?
 18 A. Yes. Generally speaking, yes, they did.
 19 Q. And would that include paraquat?
 20 A. Paraquat was one of the many things that
 21 they looked at, yes.
 22 Q. So it is included within the scope of
 23 the topics, correct?
 24 A. Can you repeat that, please.
 25 Q. It's included within the scope of the

1 things that they would do day-to-day, is to take
 2 care of the safety issues of the --
 3 A. Yes.
 4 Q. Okay.
 5 And are they trained to deal with
 6 those issues as well?
 7 A. They train other individuals. So, yes,
 8 they had to be trained.
 9 And primarily, we look at the label
 10 and the MSDSs. They provide that training material
 11 on the potential hazards and ways to mitigate them
 12 from becoming a problem, by utilizing PPE.
 13 Q. Do they have a more specific knowledge
 14 of hazard associated with the use of paraquat than
 15 you do?
 16 A. I -- you know, that would be speculation
 17 on my part, but from my conversations, they were --
 18 they were -- they would pass along labeled
 19 information, we -- as Growmark, as a distributor, we
 20 looked at labels and tried to make sure that folks
 21 were following the label.
 22 Q. Well, the reason I'm asking is you --
 23 you consulted with them on these topics for a
 24 reason, presumably, right?
 25 A. Correct.

1 Q. You consulted with them because you
 2 thought they had a greater level of knowledge about
 3 these topics than you do; is that right?
 4 A. I would say it was to -- to affirm the
 5 robust safety culture that Growmark had; that was
 6 the reason that I spoke with them. Both of these
 7 individuals are retired, and this -- these folks,
 8 some of them started in the middle -- mid-to late
 9 '70s, and Doug retired in 2012.
 10 So it was to give a full picture of
 11 the robust safety culture within Growmark.
 12 Q. So where does Doug live?
 13 A. I do not know where Doug lives.
 14 Q. How did you find him?
 15 A. Through -- counsel provided us that --
 16 with that information, with a phone call, is how we
 17 communicated.
 18 Q. This was set up by the lawyers
 19 representing you today, right?
 20 A. Correct.
 21 Q. And what about the other gentleman;
 22 where does he live? What's his name and where does
 23 he live?
 24 A. Dan Best is his name, and I do not know
 25 where he lives.

1 Q. How did you reach him?
 2 A. Through the same means.
 3 Q. Okay. And when you say "the same
 4 means," you mean Mr. Hopp or his firm or other
 5 counsel representing you or in-house counsel for
 6 Growmark set up a meeting where you could talk to
 7 this gentleman, correct?
 8 A. That's correct.
 9 Q. And when did you have those discussions
 10 with those gentlemen?
 11 A. I don't have specific dates. They were
 12 both in the month of May.
 13 Q. And what was the discussion about with
 14 each one?
 15 A. The discussion -- like I mentioned
 16 before, the discussion was around the robust safety
 17 culture that we had, and some of the things that we
 18 would do to -- to educate our crop specialist, and
 19 make sure that they were following the label and
 20 the -- and the SDSs now.
 21 Q. Did your or their role with respect to
 22 advice, as you say, concerning hazards extend beyond
 23 the label on the product?
 24 A. Within Growmark, we always focus on the
 25 label and the -- and the SDSs.

1 Q. And what is an SDS?
 2 A. So, it's a safety data sheet. That's
 3 what they are called today. They were MSDSs prior,
 4 material safety data sheets.
 5 Q. And who provides SDSs to you?
 6 A. So that information is widely available,
 7 but it is -- we get that information through the
 8 EPA, and some of that information is provided by the
 9 registrants to the EPA.
 10 Q. When you say "registrant," you're
 11 talking about the primary registrant of a particular
 12 chemical?
 13 A. Of a particular herbicide, yes.
 14 Q. Or herbicide.
 15 So for example, do you know who the
 16 primary registrant of paraquat is?
 17 A. Currently, today, Syngenta.
 18 Q. Do you know if it's ever been any other
 19 entity besides Chevron, ICI, Zeneca or Syngenta?
 20 A. I don't know of any others.
 21 Q. Do you know what Zeneca is?
 22 A. Zeneca -- I know -- I believe is now --
 23 was -- is now or was a part, and Syngenta bought
 24 them or purchased them or something at some point.
 25 I don't know exactly.

1 Q. I agree with you, okay?
 2 All right. Do you know who ICI is
 3 or was?
 4 A. Not -- not really. Nothing other than
 5 the history books of that was a product of theirs.
 6 Q. And you understood that ICI ultimately
 7 became part of companies that ultimately wound up
 8 being known as Syngenta; did you know that?
 9 (Clarification requested by the Court Reporter.)
 10 (Off the record.)
 11 MR. TILLERY: Being known as
 12 Syngenta.
 13 A. I am not exactly sure how -- how that
 14 came to be. I just know the previous registrants.
 15 Q. Okay. The previous registrants?
 16 A. I just know that prior to Syngenta, ICI
 17 and Chevron were the registrants of paraquat?
 18 Q. How did you know that?
 19 A. Through materials that I would have
 20 looked at preparing for this.
 21 Q. Okay. Let's talk about that.
 22 What materials did you look at to
 23 prepare for this deposition?
 24 A. We looked at, generally, paraquat
 25 materials that would have -- regarding our training,

1 and many of the labels that -- through history,
 2 throughout time, of paraquat-containing products.
 3 Q. And you looked at materials regarding
 4 training; training of whom?
 5 A. It could be training of crop
 6 specialists, but typically, we do applicator
 7 trainings to make sure that applicators are applying
 8 these products in the appropriate ways.
 9 Q. And do you conduct those applicator
 10 training sessions yourself?
 11 A. I was one of many people who
 12 participated in those trainings, yes.
 13 Q. And how long has Growmark been doing
 14 those training sessions?
 15 A. You know, there are many different kinds
 16 of trainings. The specific applicator trainings
 17 have been going on for well over a decade.
 18 Q. Were those applicator training sessions
 19 in connection with restricted-use pesticides?
 20 A. They would have included restricted-use
 21 pesticides and any pesticide -- any herbicide,
 22 specifically, that we would become a focus due to
 23 increased use, or something.
 24 Q. Were there any particularly different
 25 guidelines or protocols in your applicator training

1 that related to paraquat?

2 A. There were a few that specifically
3 talked about paraquat, yes.

4 Q. And how was the training different when
5 it involved paraquat?

6 A. Each training is unique. The training
7 specifically that was done most recently was on the
8 package change, and how -- how we went to a
9 closed-loop system, and how to -- how to go about
10 that, making sure that we got those products in a
11 closed-loop system.

12 Q. Did your training at Michigan State
13 involve any hazards associated with use of
14 chemicals?

15 A. You know, with Growmark, with SIU, with
16 Michigan State, you know, the training that would be
17 associated with hazards would be we always had to
18 have a restricted-use pesticide license, where we
19 would go through and have to pass that we able to
20 understand what we needed to do to mitigate
21 potential issues.

22 Q. So let me move to strike your answer as
23 completely unresponsive, and let's start over.

24 At your education in Michigan State
25 University, did you have specific training on

1 hazards from the use of herbicides, like paraquat,
2 other than your testing to get a permit to buy
3 restricted-use pesticides?

4 A. No.

5 Q. Now, back to an SDS, a safety data
6 sheet; where do you get yours from when they apply
7 to Gramoxone?

8 A. I utilize digital tools. So CDMS.net is
9 typically where I would go to look up any herbicide
10 label and SDS.

11 Q. CDS?

12 A. MS.

13 Q. NS dot --

14 A. M as in mom.

15 Q. Oh, I'm sorry, sir.

16 CDMS. What does it stand for?

17 A. I do not know. It's right on the
18 website, though.

19 Q. Do you do a lot of website-type work for
20 this kind of thing, checking things out?

21 A. You know, at Growmark, we think the
22 label is -- is so important that we always reference
23 the label.

24 So this is one of the many places
25 that we could go.

1 herbicide safety or hazard issues?

2 A. Mr. Tillery, I -- education is more than
3 just the classes, so specifically at Michigan State,
4 I would have had to take my exam for restricted-use
5 pesticides, and therefore, I would have had some
6 safety training.

7 Q. So did you take your exam at Michigan
8 State University for restricted use of pesticides?

9 A. I don't know it was -- I don't know if
10 it was on-campus or not, the exam.

11 Q. Okay. Well, let's, then, say since you
12 don't know whether it was even affiliated with the
13 university. Let's take that out of the phrase.

14 Did you ever have a class at
15 Michigan State University that dealt with human
16 hazards associated with the use of certain
17 pesticides?

18 A. No, sir.

19 Q. Okay. Have you ever had any formal
20 training associated with it?

21 A. I would consider the restricted use test
22 and the exam materials that go along with that as
23 training.

24 Q. Okay. Is there any other training
25 you've undertaken to acquaint you with potential

1 Q. Okay. So I move to strike your answer
2 as unresponsive.

3 Do you do website research at --
4 while you're working at Growmark?

5 A. For websites we trust, yes.

6 Q. Which ones do you trust?

7 A. Well, specifically, I gave you CDMS, and
8 that is one trusted source.

9 Q. Okay. Is there anything else that you
10 can think of that you would consult?

11 A. Online, you have to be careful. So
12 there's a select few things that I utilize, and that
13 is the primary one that I would use.

14 Q. You're a published author of articles,
15 right?

16 A. Every single individual thing that you
17 saw, those were all speaking. So none of them were
18 published research articles.

19 Q. Are these speaking engagements?

20 A. They are speaking engagements with the
21 exception of the -- each of the dissertation -- each
22 of the dissertations that were completed.

23 Q. So on your CV, you refer to them as
24 publications. There are seven of them. But none of
25 them were publications; is that what you're telling

1 us?

2 A. The abstracts are a part of the
3 speaking. And so the -- that would be the limit to
4 their -- the written record.

5 Q. All right. Can you just answer me,
6 please. Were any of these things -- seven -- I can
7 read them all in the record. There's seven on your
8 CV. Were any of these published in any kind of a
9 journal?

10 A. No.

11 Q. Okay. Why did you call them
12 publications, then?

13 A. That is -- that is typically how we
14 would do it in our field.

15 Q. You would just make something up and put
16 on your CV?

17 MR. HOPP: Objection. I object to
18 the form of the question.

19 Q. Can you answer me?

20 A. Um.

21 Q. Would you just make it up? Would you
22 just make that up? That's not truthful, is it?

23 A. That --

24 MR. HOPP: Objection to the form of the
25 question.

1 A. I would say that's very truthful.

2 Q. Yeah. Well, you know what I think of as
3 a publication? I think of it as a piece of paper
4 you send into a journal, and they publish it.

5 If it's a speech, that's something
6 else. So these could have been represented as
7 speeches.

8 You didn't do that, did you?

9 MR. HOPP: Objection to the form.

10 A. No.

11 Q. Who did you give this CV to; what was
12 this for?

13 A. I gave it for this, is where I --

14 Q. Yeah. Right. All right.

15 Now, anything else you would
16 consider to be a representative or useful research
17 tool on the internet?

18 A. I mean, typically, we would go to any
19 sort of our university extension for weed control,
20 and that would be where we would go, other than
21 CDMS.

22 Q. So do you know what PubMed is?

23 A. Yes.

24 Q. Do you look at PubMed?

25 A. You know, we typically looked at just

1 weed control issues. So we're looking for something
2 very specific in that.

3 Q. So -- yeah. Can you answer my question?

4 A. No, I don't use it.

5 Q. Do you use PubMed?

6 A. I do not use it.

7 Q. Oh. Have you ever used it?

8 As a PhD, you're telling me you went
9 through a PhD program at Michigan State University
10 and you never used or consulted the most widely used
11 method in the world for checking scientific
12 articles?

13 MR. HOPP: Object to the form of the
14 question.

15 You can answer.

16 A. I would say that PubMed was not used
17 during my master's or PhD.

18 Q. Okay. So not even by any of the people
19 who taught you?

20 A. I -- I do not know the answer to that.

21 Q. Okay. So if I went and talked to your
22 PhD sponsor, they would -- they would confirm that
23 you never were asked to or as part of any of your
24 you studies consult PubMed; is that what you're
25 telling me?

1 MR. HOPP: Object to the form.

2 A. I would say they never specifically
3 asked me to look at PubMed, correct.

4 Q. Okay.

5 Now, who is the host of CDMS.net?

6 A. I don't know.

7 Q. Are you prepared to testify for Growmark
8 on the designated topics based on information known
9 or reasonably available to Growmark today?

10 A. Yes.

11 Q. Do you believe your preparation has
12 given you a sufficient base of information to
13 testify for Growmark on each of the designated
14 topics?

15 A. Yes.

16 Q. Okay. Do you understand that in
17 testifying for Growmark on the designated topics,
18 the matter on which you are required to testify is
19 not limited to the period since the formation of
20 Growmark, but covers the entire period from the
21 first sale of paraquat in 1965 to the present?

22 A. Yes.

23 Q. And you've done enough of your own
24 research to be able to give the best answers to
25 those questions, correct?

1 A. Yes.
 2 Q. Do you understand that in testifying for
 3 Growmark on the designated topics, the matters under
 4 which you are required to testify are not limited to
 5 the knowledge and actions of Growmark, but also
 6 include the knowledge and actions with respect to
 7 Growmark of Growmark's predecessor companies, like
 8 FS Services, Farm Supply Services; you understand
 9 that?
 10 A. Yes.
 11 Q. I didn't hear you, sir.
 12 A. Yes.
 13 Q. Okay.
 14 If I refer later during the course
 15 of this deposition to Growmark's predecessors or to
 16 Growmark, you will understand that I mean with
 17 respect to paraquat business, not only Growmark,
 18 Inc., as it exists, but FS Services or Farm Supply
 19 Services as well, correct?
 20 A. Yes.
 21 Q. Did you review documents in preparation
 22 for the deposition which were not listed on your
 23 reliance site?
 24 A. No.
 25 Q. What documents or data did you rely upon

1 purposes in answering them. It's not a memory game.
 2 The deposition is not for that purpose. It's trying
 3 to get the correct answer, okay? Do you understand
 4 me?
 5 A. Yes, sir.
 6 Q. More than willing to allow you to have
 7 him help you or direct you to something. That's not
 8 a problem for me, all right, okay?
 9 A. Okay.
 10 Q. All right.
 11 If you don't understand any of my
 12 questions, I would ask you to stop me and make sure
 13 you do. So we're not using different directions
 14 with respect to the question, okay?
 15 A. Okay.
 16 (Clarification requested by the Court Reporter.)
 17 MR. TILLERY: Directions for them.
 18 BY MR. TILLERY:
 19 Q. Did you talk to anybody else in
 20 preparation for the deposition, besides lawyers and
 21 besides the two gentlemen you mentioned on the
 22 record?
 23 A. No.
 24 Q. Was there any more to those
 25 conversations that you haven't told us?

1 to prepare for answering questions?
 2 A. All of the reliance documents provided,
 3 including labels, and some internal documents on our
 4 Quick Guides, our safety sheets.
 5 Q. Well, how many documents did you look
 6 at?
 7 A. I -- many documents.
 8 Q. Hundreds?
 9 A. Yes.
 10 Q. Okay. Are there among them particular
 11 ones that you think that you will be consulting or
 12 relying upon to answer my questions?
 13 MR. HOPP: Object to the form of the
 14 question.
 15 A. I -- not unless something in particular
 16 shows up, no.
 17 Q. Do you have them there in front of you?
 18 A. They're sitting beside me, yes, down on
 19 the floor.
 20 Q. I want you to understand that at any
 21 time, you can feel free to consult those to answer
 22 them.
 23 And I also want you to know that you
 24 can reach out to Mr. Hopp to assist you in finding
 25 those and locating those references for your

1 A. You know, primarily, what we talked
 2 about was how we were focused on safety, and we were
 3 putting together, at that time, MSDS sheets prior to
 4 the OSHA regulation that required us to do so, and
 5 giving that to all the member companies as a form
 6 of -- a way to make sure that the safety -- that our
 7 employees were safe. And that happened prior to
 8 that 1988 time period.
 9 Q. MSDS sheets; that's what you did, right?
 10 A. That's one of the things that they did,
 11 yes.
 12 Q. Okay. And you have copies of the ones
 13 you handed out, right?
 14 A. You know, verbal -- verbal is what I
 15 have. At one point, they even told me they had a
 16 computer hooked up to the internet, and this was a
 17 little bit later, specifically dedicated so that any
 18 member company could get -- log on and look at MSDSs
 19 as well.
 20 We also put out Quick Guides that
 21 also showed the required PPE to make sure that our
 22 users were safe.
 23 Q. Do you have copies of the -- have you
 24 turned over copies of the MSDS sheets that you
 25 provided to the member cooperatives?

1 A. I'm unsure. I mean, I know I have a
2 bunch of MSDSs that were provided, but I don't know
3 specifically if those were the ones that were
4 provided to member companies.

5 Q. Okay. What I'm asking is, when you
6 prepared for this deposition, did you see MSDS
7 sheets that you believe were handed out to the
8 member cooperatives?

9 A. I believe that the MSDSs that I reviewed
10 would have been provided to member companies.

11 Q. Okay. And what were the ages of those
12 or dates of those documents?

13 A. We can take a look at this -- at some of
14 the materials, if you would like. Is that what
15 would you like to do?

16 Q. What I'm looking for is the type of
17 information you believe was -- and then I'm going to
18 find out what your belief is based on.

19 A. I mean, these documents just have MSDS
20 sheets in them, that would have been provided. The
21 other type of documents would be the Quick Guides
22 that we provide.

23 Q. Okay. Let's just start after -- let's
24 start first with MSDS sheets. And then you said
25 Quick Guides. We'll go to those next.

1 Give us a reference to an MSDS sheet
2 that was handed out to member cooperatives.

3 MR. HOPP: Steve, let me -- let me
4 just chime in here. I think we've provided him here
5 in the room with the labels, and with some of the
6 reliance materials he got, but we don't -- we don't
7 have all the MSDSs that he looked at. And to be
8 quite honest, in terms of the stuff he looked at for
9 the deposition, the MSDSs themselves are a limited
10 number. So...

11 MR. TILLERY: I didn't -- Tony, I
12 didn't hear the very end, the MSDSs.

13 MR. HOPP: Let me get closer.

14 With the reliance materials in the
15 room, we have a select -- selection of those --
16 sorry.

17 (Clarification requested by the Court Reporter.)
18 (Off the record.)

19 MR. HOPP: The MSDSs here, we have
20 them -- I don't know that we have them in his
21 binders here in the room. We gave him a select --
22 you know, a subset of them. Most of what we gave
23 him, what he has here in the room are labels and
24 some training materials.

25 So, you know, we can -- we can dig

1 back and see what the MSDSs are, but we -- to be
2 frank and maybe save you time, we did not give
3 Mr. Powell a comprehensive set of MSDSs going back
4 historically. We did that for labels.

5 MR. TILLERY: Okay. So were any of
6 those provided to us in the reliance materials?

7 MR. HOPP: Yes. There were some
8 MSDSs on the list of reliance materials.

9 MR. TILLERY: At the break or over
10 lunch, would you be so kind as to identify the Bates
11 range of those documents so that I can explore the
12 topic with Mr. Powell.

13 MR. HOPP: Sure. Yes. We'll dig
14 those out.

15 MR. TILLERY: All right.

16 BY MR. TILLERY:

17 Q. Now --

18 MR. HOPP: Steve, just -- we've been
19 at this almost an hour-and-a-half. When you find a
20 convenient breaking point, could we take a quick few
21 minutes.

22 MR. TILLERY: Anytime. Anytime.

23 And Mr. Powell, I should have told
24 you this, my fault. At any time you need a break,
25 all you have to do is signal to us, and he we can

1 control that. Okay? So we'll take a break right
2 now for about five minutes.

3 THE WITNESS: Thank you.

4 THE VIDEOGRAPHER: It is 10:21 a.m.
5 We are going off the record.
6 (RECESS, 10:21 a.m. - 10:31 a.m.)

7 THE VIDEOGRAPHER: This is the
8 beginning of tape number two of the testimony of
9 Dr. Powell. It is 10:32 a.m. We are back on the
10 record.

11 BY MR. TILLERY:

12 Q. As we left off, we discussed the fact
13 that you would provide the MSDS sheets later on, so
14 we can discuss them before the end of the
15 deposition. Is that okay with you, Dr. Powell?

16 A. Yes, sir.

17 Q. What about the Quick Guides; do you have
18 those there?

19 A. Yes.

20 Q. All right. And could you give us a
21 Bates range of Quick Guides?

22 A. So we have Quick Guide, and the number
23 is 00112412. And then there are -- there are
24 multiple ones, and they're not -- they're not all in
25 order. I don't know if you want me to go through

1 all of these or not.

2 Q. How many are there?

3 A. I believe I counted 17.

4 Q. Okay. Do they have sequential dates
5 ranges?

6 A. Yes, sir. 2001 to 2017.

7 MR. HOPP: Sorry to -- sorry to
8 interrupt. I think the question is the Bates
9 ranges. He just gave you dates, Steve. Years.

10 MR. TILLERY: Oh, okay.

11 BY MR. TILLERY:

12 Q. So now you have the Quick Guides from
13 the years 2001 through the years 2017, correct?

14 A. Yes. Yes, sir.

15 Q. Do you have -- for those 17, do you have
16 Bates ranges that are sequential; are they all
17 together, are they different?

18 A. No, sir. They are different. They're
19 not sequential.

20 MR. TILLERY: Have these all been
21 produced, Tony?

22 MR. HOPP: Yes. Yeah yes.

23 MR. TILLERY: All right.
24 (Powell Plaintiff's Exhibit 8, Quick Guides, was
25 marked for identification.)

1 BY MR. TILLERY:

2 Q. Okay. So let's start off with the first
3 one. And that's 2412. What year is that?

4 A. 2001.

5 Q. And what is this Quick Guide?

6 A. So this Quick Guide is taking a look
7 at-- the goal of this Quick Guide is to provide
8 safety to our members as they're applying this. And
9 so this is information taken directly off of a label
10 and boiled down to some very important things that
11 they would need to know and safety precautions they
12 would need to take for many herbicides and
13 pesticides.

14 Q. All right. So you said, for your
15 members. Was this designed to be sent to your
16 cooperative members?

17 A. Yes, sir.

18 Q. Was it designed to be sent to the end
19 user applicators?

20 A. I believe this was for our member
21 companies.

22 So, no, I don't believe it was for
23 end users.

24 Q. No. So this was sent to the -- to the
25 entities like your local Growmark-related FS

1 cooperatives in southwestern Illinois, correct?

2 A. Yes. All over Illinois.

3 Q. All right. Did they use this when they
4 applied the chemical as well?

5 A. That is the intention; however, we
6 always, even on this page, say, hey, the label is
7 where you need to go to get all of your information.

8 So this is to help boil it down, but
9 we still refer them to the label to get all of the
10 information they need.

11 Q. Now, for example, this 00112412; this is
12 a 2001 Quick Guide.

13 Who created that?

14 A. That is part of the safety department,
15 and that's one of the reasons why I talked to the
16 previous individuals. At that time, Doug DeFilippo
17 would have been employed during that time. So I
18 don't know if he specifically was the only one, but
19 he played a part in creating these.

20 Q. So the short answer is this would have
21 been created by Growmark employees?

22 A. Yes.

23 Q. Okay. So -- and that would apply to all
24 of the Quick Guides, correct?

25 A. Yes, sir.

1 Q. They would have been -- they would have
2 been generated by the Growmark -- some -- what
3 department was that?

4 A. It was either safety insurances or
5 safety, and then it merged at one point to safety
6 and insurance.

7 So it might cover multiple
8 conglomerations there.

9 Q. Okay. What is the next one of those
10 guides for 2002?

11 A. The next one for 2002 is 00112426.

12 Q. And for -- let's just pick 2010?

13 A. 00112157.

14 Q. And for 2017.

15 A. I apologize for an error I made. I have
16 through 2016.

17 Q. Okay. 2016.

18 A. 00037856.

19 Q. Have there been any specific portions of
20 those Quick Guides dealing with paraquat?

21 A. Yes, sir.

22 Q. Which ones apply directly to paraquat?

23 A. We would have to take a look
24 individually, but I'm making assumption that each
25 one of them has -- contains paraquat in these Quick

1 Guides.
 2 Q. And does it reference paraquat in the
 3 guide?
 4 A. It references -- it shows trade name and
 5 active ingredient, yes, paraquat.
 6 Q. And tells you specific details of how to
 7 handle paraquat?
 8 A. It talks about specific things on the
 9 label of paraquat.
 10 Q. Okay. Why don't you pull up the first
 11 one, 2412, okay?
 12 A. Okay. I have it up.
 13 Q. Tell us where, on what page paraquat is
 14 referenced.
 15 A. Page number 7.
 16 Q. Okay. And tell us what the subject
 17 heading is for that on page 7?
 18 A. Subject heading is Crop Protection
 19 Products 2001 Quick Guide.
 20 Q. Okay. And then read the portion
 21 applicable to paraquat specifically.
 22 A. This is an Excel spreadsheet, so there
 23 are cells. And so this tells you that we have
 24 Glyphosate Extra -- or Gramoxone Extra and Gramoxone
 25 Max, are the two paraquat-containing products.

1 Q. Okay.
 2 A. They show the EPA number. They show the
 3 signal word. They show if it's restricted-use
 4 pesticide. They show what kind of notification.
 5 They show REI, which --
 6 Q. What is REI?
 7 A. Re-entry interval.
 8 Q. Okay. Re-entry interval into the field?
 9 A. The time you must wait after making an
 10 application before you can go into the field.
 11 Q. Okay.
 12 A. And the PPEs, personal protective
 13 equipment for applicators and handlers -- handlers.
 14 Q. What does it say for paraquat?
 15 A. So paraquat, so you have to go to the
 16 page at the bottom and read the codes.
 17 So A, must need a long-sleeve shirt
 18 and pants.
 19 C, you need coveralls, cotton,
 20 cotton-polyester blend or Tyvec.
 21 D, you need chemical-resistant apron
 22 or Tyvec coveralls.
 23 F, waterproof gloves.
 24 H, protective eyewear, face-sealing
 25 goggles and face shield.

1 I, chemical-resistant footwear plus
 2 socks.
 3 J, chemical-resistant headwear and
 4 overhead exposure.
 5 K, dust/mist, MSHA or NIOSH
 6 approved, number prefix TC-21;3M 8710 or 8715 series
 7 respirator.
 8 Q. Okay. Is that all, for that one?
 9 A. For that one, yes.
 10 Q. Okay. Now --
 11 A. And I should, I guess, note since you
 12 had -- there's also another column that shows what
 13 PPE is required for early entry, is another column,
 14 the last column on the page.
 15 Q. And all that is set out in those
 16 documents and those spreadsheets for each one of
 17 them?
 18 A. Yes. And on the bottom of each page, it
 19 does mention that, hey, we tried, you know, a
 20 more -- it says, we tried to provide you with this
 21 accurate information, but you need to refer to the
 22 label for all of the PPE requirements as well.
 23 Q. So were your member cooperatives, then,
 24 in the business of applying this chemical as well?
 25 A. They applied this chemical, yes, this

1 herbicide.
 2 Q. How would they have applied it?
 3 A. They were -- excuse me. Let me get
 4 these out of my way so the -- they were applying
 5 these chemical broadcast by ground -- self-propelled
 6 ground unit.
 7 Q. And not by aerial spray?
 8 A. That would be correct.
 9 Q. Do you know if they ever used an aerial
 10 spray?
 11 A. I mean, that would just be speculation,
 12 but not to my knowledge.
 13 Q. Okay. Speculation because your birth
 14 date -- birth year was 1987, right?
 15 A. And there's many different individuals
 16 from that time period, yes. So that as well.
 17 Q. So if from 19 -- you were born,
 18 literally, 22 years after they started applying this
 19 stuff, right?
 20 A. Yes.
 21 Q. All right. So the question I have is,
 22 does -- these instructions and these spreadsheets
 23 and these Quick Guides were intended for your
 24 members, correct?
 25 A. Yeah. They were for the benefit of our

1 members, yes.
 2 Q. Did they -- did you have a policy, a
 3 written policy about whether these are to be
 4 distributed to the people who actually buy the
 5 product, farmers, as opposed to member applicators?
 6 A. To my knowledge, no.
 7 Q. Were you made aware of the fact that
 8 these quick notes or guides were never given to the
 9 farmers, applicators who bought the product
 10 themselves?
 11 A. Again, that would be speculation. I --
 12 at some point, probably a grower got one. I'm not
 13 saying that every grower got one. I don't know.
 14 Q. You're not saying it was the policy of
 15 the cooperative to give them out, either, right?
 16 A. That -- that is correct.
 17 Q. All right. Now, the MSDS reports, okay,
 18 did the MSDS reports, were they created by Growmark?
 19 A. No, they were not created -- MSDSs are
 20 not created by Growmark.
 21 Q. Those were created by the primary
 22 registrant of the chemical, weren't they?
 23 A. And approved by the EPA, yes.
 24 Q. And approved by the EPA.
 25 Now, how were they distributed?

1 A. They are distributed -- they must be
 2 with -- with the label. They also get the MSDS as
 3 well, or the SDS today, with the product.
 4 Q. When you say "they get it," who gets it?
 5 A. The member company gets it as they
 6 receive product.
 7 Q. So the member company would get the MSDS
 8 report along with the shipment of, for example,
 9 Gramoxone?
 10 A. Yes. There's a label affixed to each
 11 container, yes.
 12 Q. Right. And is it required that the MSDS
 13 report be delivered to the farmer applicator if he
 14 buys the product?
 15 A. I would have to dig deeper into that,
 16 but I know that they have to have access to label
 17 information, and I would -- I would -- I would have
 18 to speculate on the MSDS, but I --
 19 Q. You don't -- you don't have any
 20 information that the farmers themselves were given
 21 MSDS reports, do you?
 22 A. I don't have that information with me,
 23 no.
 24 Q. And you can't answer me one way or
 25 another on it, can you?

1 A. That would be accurate.
 2 Q. So to be clear, the only thing that
 3 Growmark -- and when I say "you" in this deposition,
 4 I'm referring to Growmark because you're speaking
 5 for Growmark on these topics, okay? Do you
 6 understand that?
 7 A. Yes, sir.
 8 Q. All right. Now, the only thing that you
 9 know for sure that the farmer applicators got about
 10 the product was the product label that was affixed
 11 to the container of paraquat they bought?
 12 A. I know that every -- every product would
 13 have had the label, yes.
 14 Q. So the answer would be yes; that's the
 15 only thing you could be sure about, right?
 16 A. Yes.
 17 Q. That they got. Yeah.
 18 Now, some of the topics that
 19 Growmark designated you to speak on were Topics 11
 20 through 16, and 26 through 28.
 21 Do you remember those?
 22 A. Not -- not specifically, but I'm --
 23 MR. HOPP: Do you want me to put it
 24 in front of him, Steve?
 25 MR. TILLERY: No. He will recognize

1 these questions as related to those topics.
 2 MR. HOPP: Sure.
 3 BY MR. TILLERY:
 4 Q. But I just was pointing out for the
 5 record that they designated you for a number of
 6 different topics, and some of which include 11
 7 through 16, and 26 through 28.
 8 And before we get started on these
 9 topic questions, is there anybody else that you can
 10 think of at Growmark who's better suited to answer
 11 these questions in those topics?
 12 A. No.
 13 Q. You're the guy, right?
 14 A. I am a guy, yes.
 15 Q. And you understand that you have access
 16 in answering these questions to any kind of research
 17 you want to do, which would be historical-type
 18 research or anything else that you need to do to be
 19 able to answer the questions, right?
 20 A. Yes.
 21 Q. All right. Is Growmark in possession of
 22 any medical or scientific studies investigating the
 23 health effects or safety of paraquat, or any
 24 paraquat product formulation?
 25 A. No.

1 Q. Does Growmark have a library?
 2 A. No.
 3 Q. Does Growmark have an electronic
 4 repository of scientific studies?
 5 A. No.
 6 Q. Has it ever had a library?
 7 A. Not to my knowledge, no.
 8 Q. Has there ever been a division that just
 9 deals with science?
 10 A. I would say that we deal with science
 11 based upon applied science of applying pesticides,
 12 but not any research science, no.
 13 Q. And when it comes to -- well, strike
 14 that.
 15 Is Growmark aware of any medical or
 16 scientific studies investigating the health effects
 17 or safety of any paraquat formulation?
 18 A. No.
 19 Q. Has Growmark ever discussed whether it
 20 should attempt to learn about such studies?
 21 A. No.
 22 Q. When was the first time that you ever
 23 heard any claim or assertion that paraquat was
 24 neurotoxic?
 25 A. The first time I heard that claim was --

1 A. We are a distributor of -- of products,
 2 and we distribute those products, any legally
 3 approved product that has a label for a herbicide or
 4 in this case.
 5 Q. And in other words, if it's approved by
 6 the US government, and the primary registrant has
 7 gone through -- jumped through the hoops necessary
 8 to get that product registered for sale, even if
 9 it's a restricted-use pesticides, that is good
 10 enough for Growmark; is that what you're telling me?
 11 A. We rely on EPA to approve, and we rely
 12 on the registrants to provide accurate information.
 13 Q. If the registrant doesn't supply
 14 accurate information, that upsets the reliance that
 15 you're placing on the process; would you agree?
 16 MR. HOPP: Object to the form of the
 17 question.
 18 You can answer.
 19 A. I -- I -- I would -- I would -- I would
 20 say yes, but they would be lying to all of us, and
 21 that's why, hopefully, the EPA would -- is taking a
 22 look at that information as well before they approve
 23 it.
 24 Q. Well, how could they take a look at
 25 something that hasn't been turned over to them?

1 was from this -- being prepared for this deposition,
 2 so this...
 3 Q. Okay. So you didn't know about it up
 4 until the time that the counsel got ahold of you and
 5 told you there was a lawsuit involving this, right?
 6 A. That's correct.
 7 Q. In all the years you worked at the
 8 testing laboratories, testing field site, and at
 9 SIU-Carbondale and at Michigan State and anyplace
 10 else, you had never heard about neurotoxic issues
 11 associated with paraquat, correct?
 12 A. That's correct.
 13 Q. And no one in the farming community had
 14 told you about that, either, right?
 15 A. I would say that's accurate.
 16 Q. Has anybody at Growmark ever told you
 17 anything about neurotoxicity potential of paraquat?
 18 A. No.
 19 Q. Okay. Now, has Growmark ever questioned
 20 whether it should attempt to learn about
 21 neurotoxicity studies from the application of
 22 paraquat?
 23 A. We do not feel that that's our role.
 24 Q. Okay. And what do you think your role
 25 is?

1 A. They cannot do that, sir.
 2 Q. All right. So if the US EPA is one of
 3 the people -- one of the entities and groups that
 4 have been lied to, then your reliance upon the EPA
 5 approval certainly doesn't get you much, does it?
 6 MR. HOPP: Object to the form of the
 7 question.
 8 You can answer, if you understand.
 9 A. I guess I don't understand the question.
 10 Q. We'll get there.
 11 Now, Growmark, then, apparently does
 12 not believe it has the responsibility as a
 13 distributor of paraquat formulated products to learn
 14 about potential effects to human health from
 15 paraquat; is that right?
 16 MR. HOPP: Object to the form.
 17 You can answer.
 18 A. We -- we look at the label, and if the
 19 label has any of that information, we follow the
 20 label.
 21 So that's where we focus.
 22 Q. And you would never feel the need or
 23 have an obligation to check out the hazards of the
 24 chemical beyond what's stated on that label?
 25 A. You know, the label is a legal document,

1 and we don't -- we don't think that that is really
2 our role.

3 Q. Okay.

4 A. Again, it's the registrant's role.

5 Q. Could you answer my question directly.

6 You don't believe you have any
7 responsibility as a distributor of paraquat
8 formulated products to learn about the potential
9 effects to human health from paraquat; is that
10 right?

11 MR. HOPP: Object to the form.

12 You can answer.

13 A. I -- no, I guess.

14 Q. That isn't right?

15 A. I don't -- I don't understand the
16 question.

17 Q. I'm asking you whether Growmark has a
18 belief that it has no responsibility as a
19 distributor of paraquat formulated products to learn
20 about potential effects to human health from
21 paraquat?

22 A. We believe we learn that information
23 from the labels.

24 Q. Okay. And beyond the label, you have no
25 obligation to do anything, right?

1 A. Correct.

2 Q. All right. Now, I want to direct your
3 attention to -- pull up KT515.

4 MS. BRUMITT: 511?

5 MR. TILLERY: 511.

6 THE WITNESS: I guess I click open
7 new exhibit.

8 MR. TILLERY: Oh, he has the
9 control, not us.

10 Okay. Hit join. Who's controlling
11 the exhibit? You are? Okay.
12 (Plaintiff's Exhibit 1, Distributorship and
13 Marketing Services Agreement,
14 Growmark-Hoffmann_00168793, was marked for
15 identification.)

16 BY MR. TILLERY:

17 Q. Do you see this document, sir, this is a
18 document we'll refer to as Plaintiffs' Deposition
19 Exhibit Number 1, and it's
20 Growmark-Hoffmann_00168793.

21 It's listed in the group of reliance
22 materials that were provided us for the three
23 depositions occurring this week, okay?

24 A. Okay.

25 Q. And it's entitled Distributorship and

1 Marketing Services Agreement.

2 Do you see that?

3 A. Yes.

4 Q. And it's dated October 1, 2004, and it's
5 by and between Syngenta Crop Protection, Inc., and
6 Growmark, Inc.; do you see that?

7 A. Yes.

8 Q. And if you look at Number 3, Paragraph
9 Number 3, it says, "Sale and purchase of products."
10 Do you see that?

11 A. Yes.

12 Q. And that says, "Requirements." So if
13 you look at this, you will see this is a
14 requirements contract, right?

15 A. I -- I believe so. I'm not a contracts
16 expert, but yes.

17 Q. In other words, whatever Growmark needs
18 in this business, it's going to buy them through
19 Syngenta for those products; that's what I'm saying?

20 MR. HOPP: Object to the form of the
21 question.

22 Q. And if you don't understand it, fine.
23 You can say I don't know.

24 A. Yeah. I don't understand it, no.

25 Q. That's not really where I'm going.

1 Now, if you'd look at number 4,
2 which is at the bottom of the page.

3 MR. TILLERY: Skip down, please,
4 Juanita. What, there's no bottom of the page?
5 (Off the record.)

6 MR. TILLERY: Tony, if you have that
7 document there handy, you could just hand it to him,
8 and we could go through it together.

9 MR. HOPP: Yeah. Steve, this isn't
10 one of his reliance documents, so I don't know that
11 I have it handy in the room right now.

12 MR. TILLERY: It isn't. It didn't
13 get the end of it? It didn't print it?

14 MS. BRUMITT: No, it's there, but
15 and it's end of presentation and my screen is blank.

16 MR. TILLERY: I see.

17 MS. BRUMITT: He can control it
18 himself, if he opens it.

19 BY MR. TILLERY:

20 Q. Okay. If you open it yourself now, sir,
21 I think you can control the document. Okay. There
22 we go.

23 And if you look at -- on the screen,
24 I can see that it says, "Warehousing."

25 A. Yes.

1 Q. And "from time to time, Syngenta may
2 ship and place packaged products on consignment at
3 any of the distributors' warehouse locations in
4 Schedule 3 of the marketing area."
5 You see that?
6 A. I see that, yes.
7 Q. Does -- to your knowledge, does Syngenta
8 have a consignment relationship with Growmark with
9 respect to some of its products?
10 A. I don't believe so.
11 Q. Okay. So they never did that; they
12 never warehoused the products with you?
13 A. Not to my knowledge.
14 Q. Okay. Now, if you would go, and I think
15 this is -- you need the schedule number.
16 MR. TILLERY: Is that one right
17 there? All right.
18 MS. BRUMITT: I have it. You want
19 799?
20 MR. TILLERY: 799, if you'd pull
21 that up.
22 Little technical difficulties.
23 We're getting there.
24 (Off the record.)
25 BY MR. TILLERY:

1 Q. What we're showing you is from that same
2 document, a schedule of authorized products, which,
3 for counsel on the deposition, is
4 Growmark-Hoffmann_00168799. She is pulling that up
5 for you now.
6 Do you see that Schedule 1, sir?
7 A. Yes.
8 Q. And it says, "Authorized products"?
9 A. Yes.
10 Q. And you look at the first column towards
11 the end?
12 A. Yes.
13 Q. Yeah. This distribution and marketing
14 agreement encompasses Gramoxone Max, right?
15 A. Correct.
16 Q. You understand that to be a paraquat
17 formulated product, right?
18 A. Correct.
19 Q. Are there any others on that list that
20 include paraquat?
21 A. I didn't see any others.
22 Q. Okay. Now, if we can, let's go to 795.
23 And if you would direct your
24 attention to Section 5, Product Stewardship. Do you
25 see that section?

1 A. Yes.
2 Q. What does "stewardship" mean in the
3 business that you are in?
4 A. You know, stewardship has many means to
5 many individuals, so...
6 Q. What does -- what does it mean to you?
7 A. So -- so I would say proper handling.
8 That is a brief definition that I would say.
9 Q. So stewardship would be proper -- safe
10 and proper handling? Is that --
11 A. I just said, proper handling, yes.
12 Q. Okay. Now, in that paragraph, it says,
13 "Policy, 5.1. Syngenta is committed to the safe and
14 proper handling of its products in an
15 environmentally responsible manner and will sell its
16 products only to distributors that share their
17 commitment."
18 So does Growmark share that
19 commitment?
20 A. You know, I say that we do want to be
21 safe and proper handle those products, yes.
22 Q. Okay.
23 A. Any product.
24 Q. Have you seen this document before?
25 A. No, sir.

1 Q. All right. Now, look under 5.2,
2 Required Stewardship. It says, "As a condition of
3 this agreement, distributor" -- do you understand
4 that to be Growmark?
5 A. Yes.
6 Q. Okay. "Shall perform all of the
7 services below."
8 Do you see that?
9 A. Mm-hmm.
10 Q. And it says, under (a), "Be informed and
11 inform its employees, agents, contractors and
12 customers of hazards and precautionary" measures --
13 "procedures with respect to the handling,
14 transportation, use and disposal of any product or
15 material made from the products, which is delivered
16 or otherwise transferred to distributor or its
17 retail customers hereunder."
18 Do you see that?
19 A. Yes, sir.
20 Q. What did you understand that obligation
21 to be?
22 A. That -- I understand that obligation to
23 be to primarily make sure that a label is attached
24 to each container, because that -- that has all the
25 required information regarding hazards and

1 precautionary procedures, to handling transportation
2 and disposal and use of that product.

3 Q. So you just -- as long as you don't take
4 the label off of it, because you know it comes with
5 a label, right? You don't put the label on the
6 product, right?

7 A. No.

8 Q. It comes from Syngenta with a label.

9 So effectively, you -- you
10 understand this to mean you do nothing; you just
11 deliver it without taking the label off, right?

12 A. Yeah. We have to make sure the label is
13 affixed to the container, yes.

14 Q. Oh, okay. So when you see here where it
15 says, to "be informed and inform its employees,
16 agents, contractors and customers of hazards and
17 precautionary procedures with respect to handling,
18 transportation, use and disposal of any product or
19 material made from the products," you mean that all
20 you do is deliver the product with the label on it
21 and you're done, right?

22 A. We also provide them with the material
23 safety data sheets as well that have any and all of
24 that information on it.

25 Q. You just told me that that went to your

1 member cooperatives.

2 A. We -- once it gets to -- we -- our -- we
3 consider our retail customers to be our member
4 cooperative.

5 Q. Okay. So when they hear -- when they're
6 saying in this list their customers, contractors,
7 agents, employees, you don't include the people who
8 are on this like Mr. Niebruegge, Mrs. Rowan,
9 Mr. Schmidt; you don't include any of them.

10 Your customers are the member
11 cooperatives on there, right?

12 A. My interpretation of this is that
13 that -- that is the way I personally interpret this
14 document, as it stands today.

15 Q. Okay. So is there any other document
16 that you think tells you that you have to get
17 information about the hazards of this herbicide to
18 the people who are buying it, like Mr. Niebruegge or
19 Mr. Schmidt or Mr. Mills or Mr. Rowan; are you aware
20 of any other requirement that you get that
21 information to them?

22 A. They would have access to all of that
23 information due to paraquat being restricted use,
24 which means they would have to have their
25 applicator's license, and they know, because they

1 have their applicator's license, that they're
2 required to read the label and understand all of the
3 hazards or precautionary procedures for all of this.

4 Q. Yeah. I move to strike your answer as
5 unresponsive.

6 MR. TILLERY: Miss Reporter, would
7 you read back my question, please.

8 (Clarification requested by the Court Reporter.)

9 (The record was read back by the reporter.)

10 BY MR. TILLERY:

11 Q. My question is this: Other than the
12 label that appears on the product that is shipped to
13 you from Syngenta, is there any other way or
14 document that you convey information to the farmer
15 applicators about safety hazards from applying
16 paraquat?

17 A. I -- I do not know what our member
18 companies would supply to a grower.

19 Q. Okay. Now, do you know that you sell
20 directly to farmers?

21 A. The only direct sale to farmers would be
22 our retail divisions.

23 Q. Okay.

24 A. That I know of.

25 Q. And when you're testifying here, let's

1 make it clear, you're testifying on behalf of and
2 speaking for Growmark, not your personal beliefs,
3 okay? You understand that?

4 A. Yes.

5 Q. All right.

6 So what I'm trying to clarify is
7 this: When a farmer buys the product from one of
8 your retail stores, let's try that, do you tell
9 those farmers about the hazards of paraquat?

10 A. In this case, we would have to get the
11 restricted-use pesticide license number, and then we
12 would give them the product. And that would be the
13 end of that potential relationship, unless questions
14 arose.

15 Q. So the answer is, no, you would not give
16 them any more information about the hazards from
17 using or applying paraquat; is that correct?

18 MR. HOPP: Object to the form.

19 You can answer.

20 A. Yeah, that's correct.

21 Q. All right. And you have no information
22 that any of your member cooperatives give any more
23 information about the hazards of paraquat to the
24 people that they sell directly to, retail, do you?

25 A. I don't have information either way, no.

1 Q. And that means that, in all these
2 conversations for many years with the people who
3 serve as crop specialists that you're dealing with
4 every day, you're telling the Ladies and Gentlemen
5 of the Jury and the Court that you've never thought
6 to ask them whether or not they tell the farmers who
7 buy the product about the hazards of using paraquat,
8 right?

9 MR. HOPP: Object to the form of the
10 question.

11 A. I -- we feel we provide that information
12 in the label.

13 Q. Now, can you answer my question?

14 A. No.

15 Q. You do not talk to them about it, right?

16 A. That's -- that would be accurate.

17 Q. Have you ever told a single one of these
18 crop specialists who work for these member
19 cooperatives who are stockholders of Growmark, have
20 you ever told them to share their knowledge of the
21 hazards of paraquat with the farmers who buy your
22 product?

23 A. Our crop specialists are routinely
24 sharing all the knowledge that they have, and I'm --
25 my assumption is that some -- some information

1 A. Yes.

2 Q. Not human hazards or neurotoxicity,
3 right?

4 A. Correct.

5 Q. You've never told anybody to tell them,
6 in any conversation, that paraquat is potentially
7 neurotoxic, have you?

8 A. No, because the label does not tell us
9 that information is accurate.

10 Q. I -- let me strike your -- move to
11 strike your answer as unresponsive.

12 Have you ever told a crop specialist
13 to warn of any neurotoxic hazard from the use of
14 paraquat?

15 A. No.

16 Q. Have you ever told a crop specialist who
17 works for any of the member cooperatives to warn
18 farmer applicators who buy the product that it could
19 cause Parkinson's disease?

20 A. No.

21 Q. Have you ever told any crop specialist
22 to tell a farmer, purchaser or any farmers operation
23 they service to warn about potential long-term
24 health effects from the use of paraquat?

25 A. As being that we sell these to member

1 regarding paraquat has been shared. I don't know
2 what that information is.

3 Q. Have you ever talked to them; has anyone
4 ever asked you about it?

5 A. Specifically asked me about what?

6 Q. Of the hazards of using paraquat.

7 A. I think that -- people know the hazards
8 of using paraquat due to its restricted-use -- being
9 a restricted-use pesticide, and it says, "Acute
10 toxicity," on the top of the label.

11 Q. I move to strike your answer as
12 unresponsive.

13 Have you ever been asked any
14 specific information about how they address
15 questions of paraquat toxicity with the farmer
16 applicators?

17 MR. HOPP: Object to the form.

18 You can answer.

19 A. We would -- growers would be shared with
20 information specifically on how, if they don't use
21 it correctly, that there could be toxicity to plants
22 downwind of that application, and that would be the
23 conversation that is had.

24 Q. It would be concerning drift of plants
25 in other fields, right?

1 companies, we do train on proper use of PPE to limit
2 exposure, so...

3 Q. Can you answer my question?

4 A. I don't understand your question.

5 Q. All right. Let me -- let's -- I'll
6 repeat it.

7 Have you ever told a crop specialist
8 who works with or for member cooperatives to warn
9 the farmer applicator, retail purchasers who -- that
10 paraquat can cause Parkinson's disease?

11 A. No.

12 Q. Have you ever told any crop specialist
13 to tell a farmer purchaser about long-term health
14 effects from the use of paraquat?

15 A. No.

16 Q. Growmark has always relied upon third
17 parties, like Syngenta, to assess the threats to
18 human health from paraquat products it distributes;
19 is that a fair statement?

20 A. We rely on them and the EPA to approve a
21 label, yes.

22 Q. Do you understand the methodology to be
23 that the EPA goes to them and asks them to produce
24 science about it, if they're the primary registrant?

25 A. That -- that is my understanding.

1 Q. Okay. So you're relying upon Syngenta
2 or Chevron, in the case of their production of this
3 product, to honestly produce scientific information
4 to the EPA, right?

5 A. That is correct.

6 Q. And if they don't do that, then your
7 reliance is misplaced; would you agree with that?

8 MR. HOPP: Object to the form of the
9 question.

10 You can answer.

11 A. I would say we're all in the same boat
12 with misinformation in that case, yes.

13 Q. What does that mean, you're all in the
14 same boat?

15 A. You know, anyone who uses or -- the
16 product would be -- would not have accurate
17 information in that case.

18 Q. A person like Bud Schmidt or Carol Rowan
19 or Ronald Niebruegge or Mr. Mills, to the extent
20 that they bought this product in reliance upon
21 honest reports to the US EPA, would be the victims,
22 wouldn't they?

23 MR. HOPP: Object to the form of the
24 question.

25 A. I would assume that -- we assume that

1 plan to do those trials ourselves. I -- you know, I
2 honestly don't know how we would come by that
3 information.

4 Q. Okay.

5 A. And know its validity.

6 Q. Right.

7 So what you're doing is objecting or
8 disagreeing with what I told you to assume. And I'm
9 telling you to assume that, in fact, certain
10 scientific information relating to neurotoxicity was
11 not disclosed.

12 Now, if you found out it wasn't
13 disclosed, whether it's paraquat or whether it's any
14 other chemical, and it related directly to the
15 hazards associated with its use, would Growmark
16 continue to sell that product?

17 MR. HOPP: Object to the form of the
18 question.

19 A. As long as it is a registered product by
20 the EPA, we would continue to sell that product.

21 Q. Okay. So you -- it wouldn't matter what
22 you found out, as long as the EPA gave it approval,
23 you'd be okay with it, wouldn't you?

24 A. We would be concerned about the validity
25 of the information we were getting, if it did not

1 that information is correct, and -- can you rephrase
2 the question, please.

3 Q. Do you assume -- do you assume, sir,
4 that scientific information in the hands of the
5 primary registrant of the chemical that relates to
6 the safety or neurotoxicity of that chemical has
7 been fully disclosed to the US EPA?

8 A. We assume that all scientific material
9 has been provided to the EPA, and the EPA has
10 reviewed that, and there is a legal document in the
11 label in which Growmark follows.

12 Q. Now, if I ask you to assume that
13 scientific information relating to neurotoxicity of
14 paraquat wasn't disclosed to the US EPA, and that
15 there was a delay of some period of time, let's say
16 15 or 16 years in this, and some never fully
17 disclosed, and you found out at Growmark that a
18 product you're selling was being registered based
19 upon incomplete information relating to
20 neurotoxicity, what would Growmark do; if it became
21 aware of that, and it conducted its own
22 investigation and found that out, what would it do?

23 MR. HOPP: Object to the form.

24 A. We had assumed that all of that
25 information is accurately provided, and we do not

1 come from the EPA.

2 Q. Right. So if the EPA didn't -- even
3 though they didn't know about it, if the EPA
4 approved it, the information was never given, and
5 you found out about this, for example, through your
6 counsel in this case, you would continue to sell
7 this product, right?

8 MR. HOPP: Object to the form of the
9 question.

10 A. As long as it's an EPA-approved product
11 with a current label, we would sell the product.

12 Q. Has Growmark ever asked Syngenta for any
13 studies regarding the health effects or safety of
14 paraquat?

15 A. No, because we believed that
16 information's on the label.

17 Q. Let me move to strike your answer as
18 unresponsive.

19 Has Growmark ever asked Syngenta or
20 Chevron for studies regarding the health effects or
21 safety of paraquat?

22 A. No, not to my knowledge.

23 Q. Has Growmark ever asked Syngenta for
24 studies which prove that paraquat is safe to use?

25 A. Can you repeat the question, please.

1 Q. Yes.
 2 Has Growmark ever asked Syngenta for
 3 studies which prove that paraquat is safe to use?
 4 A. I don't believe so.
 5 Q. Has Growmark ever investigated whether
 6 such studies exist?
 7 A. We don't believe that's our role.
 8 Q. Move to strike your answer as
 9 unresponsive.
 10 Has Growmark ever investigated
 11 whether such studies exist?
 12 A. No.
 13 Q. Do you know how at Growmark you would
 14 even do an investigation or a study to determine
 15 whether a product like Gramoxone is safe to use?
 16 A. Not -- not enough to give you a good
 17 answer, no.
 18 Q. Would you agree that if Growmark, as the
 19 distributor of paraquat formulated products in
 20 Illinois, is unaware of such safety studies, or
 21 studies regarding the health effects or safety of
 22 paraquat, it wouldn't be reasonable to expect the
 23 Plaintiffs in this case to be aware of them, either,
 24 would it?
 25 MR. HOPP: Object to the form of the

1 question.
 2 You can answer, if you understand
 3 it.
 4 A. I -- I don't understand the question.
 5 Q. Well, I'm asking you if you don't know
 6 anything about the safety or health effects of any
 7 studies of paraquat, do you believe the people like
 8 Mr. Niebruegge or Mr. Schmidt or Mr. Rowan or
 9 Mr. Mills who purchased it from one of your member
 10 cooperatives, that they should have more knowledge
 11 of those safety studies than Growmark?
 12 A. I -- I believe the label provides
 13 outcomes from the safety studies, and ways to
 14 mitigate issues.
 15 Q. Now, so, I move to strike your answer as
 16 unresponsive.
 17 Do you want me to go over this
 18 again? You're having trouble understanding the
 19 thing.
 20 So if you're having -- if you're
 21 having trouble, and you want to answer something
 22 else, and you don't want to answer me directly, this
 23 process isn't going to work, and I'm going to --
 24 we're going to break here in a few minutes. I'm
 25 going to ask you to consult with your counsel and

1 see if you want to continue this, because I'm not
 2 going to play the game with you.
 3 So what I'm going to do is ask that
 4 we do this with the judge involved who can rule on
 5 whether or not you need to be ordered to directly
 6 answer questions.
 7 I will, after lunch, if you do it
 8 again, we'll terminate the dep, that's what's going
 9 to happen.
 10 Now, I'm asking you to give me
 11 straight answers. I'm giving you fair questions.
 12 Can we have agreement that you're
 13 going to answer my questions?
 14 A. Mr. Tillery, I believe I'm answering
 15 your questions to the best of my ability right now.
 16 Q. Okay. I'll ask this one: Would --
 17 would you agree that if Growmark, as a distributor
 18 of paraquat formulated products in Illinois, is
 19 unaware of studies regarding the health effects or
 20 safety of paraquat, it would be unreasonable to
 21 expect the Plaintiffs in this case to be aware of
 22 them?
 23 A. Yes.
 24 Q. Is Growmark aware of epidemiological
 25 studies of possible disease clusters or

1 above-average incidence of Parkinson's disease among
 2 persons living or working in a specific geographic
 3 area where paraquat products are used?
 4 A. No.
 5 Q. So the agricultural study that was done
 6 about ten years ago, the so-called ag study, you
 7 never read that in school?
 8 A. No, sir.
 9 Q. Okay. That was not part of your
 10 curriculum at Michigan State University?
 11 A. No, sir.
 12 Q. Okay. Is there anybody else at Growmark
 13 who is more attuned to the science of these issues
 14 than you?
 15 MR. HOPP: Object to the form of the
 16 question.
 17 You can answer.
 18 A. I don't believe so.
 19 Q. Now, with respect to the epidemiological
 20 studies, we can focus on the agricultural study done
 21 about ten years ago, has Growmark ever researched
 22 whether such studies even exist?
 23 A. No.
 24 Q. Has Growmark ever discussed whether it
 25 should even research the studies?

1 A. No.
 2 Q. In your department where you're involved
 3 with the science, how many people are employed?
 4 A. Four.
 5 Q. Who are they, and what are their roles?
 6 A. I have Dr. Victoria Kleczewski, she's
 7 our insect and plant disease technical manager.
 8 I have Mike Gill, he's our crop
 9 nutrients technical manager.
 10 Then there is Rhett Stolte, weed
 11 science technical manager.
 12 As well as myself.
 13 Q. Would it be fair to say that Growmark
 14 relies entirely on third parties like Syngenta to do
 15 epidemiology studies regarding paraquat?
 16 A. I would say that's accurate.
 17 Q. Do you know what studies Syngenta has
 18 conducted?
 19 A. No, sir.
 20 Q. Have you ever asked for them?
 21 A. I don't believe so.
 22 Q. Is Growmark in possession of studies
 23 regarding occupational health and safety related to
 24 paraquat, including any assessment of workers'
 25 exposures at paraquat manufacturing plants?

1 spray a significant, large number of acres, and we
 2 have many, many what we call custom applied acres.
 3 Q. And is there a record of that
 4 application?
 5 A. There's a record of all applications for
 6 two years.
 7 Q. Okay. Is Growmark aware of any studies
 8 regarding occupational health and safety relating to
 9 paraquat, including any assessment of workers'
 10 exposure at any paraquat storage or distribution
 11 facility?
 12 A. We don't do those studies, no.
 13 Q. No. That wasn't what I asked you, was
 14 it, sir?
 15 A. I -- I believe it was. Can you repeat
 16 the question.
 17 Q. That question was: Is Growmark aware of
 18 any studies regarding occupational health and safety
 19 related to paraquat, including any assessment of
 20 workers' exposure at any paraquat storage or
 21 distribution facility?
 22 A. No, I do not believe so.
 23 Q. Is Growmark aware of any other studies
 24 regarding or the health effects of workers from
 25 exposure to paraquat?

1 A. I don't know that information because we
 2 don't produce paraquat.
 3 Q. But have you ever asked for it?
 4 A. I don't know the answer to that
 5 question.
 6 Q. Okay. Do you ever mix paraquat?
 7 A. Before it's applied to a field, paraquat
 8 is mixed, yes.
 9 Q. So who mixes it; the member
 10 cooperatives, your customers?
 11 A. The member cooperative, typically. The
 12 end user.
 13 Q. Okay. The end user, namely, you call
 14 the end user being the member cooperative?
 15 A. I would say, again, that's making
 16 assumption, but I would say most of it is used by
 17 the member cooperative.
 18 Q. So you think that the -- most of the
 19 material that would be sold as a paraquat formulated
 20 product is applied onto fields not by farmers, but
 21 by the cooperatives themselves?
 22 A. While that's an assumption, yes.
 23 Q. And what do you base that assumption on?
 24 A. That we spray a significant number of
 25 acres across the -- we, as a member company, would

1 A. We know of the studies based upon -- we
 2 know the results of those studies based upon label
 3 and what the MSDS says, and that's our -- the limit
 4 for us.
 5 Q. So then tell me what they are, if you
 6 know what they are. What are those studies that
 7 have been done?
 8 A. You know, typically, they're acute
 9 toxicity studies, is what we can find.
 10 And we can find pounds -- or
 11 milligrams per kilogram of body weight and LD50s on
 12 certain animals, in that case, that I believe they
 13 use to get exposure limits.
 14 Q. And where do you find those studies?
 15 A. I -- I only have the outcomes -- what
 16 the outcomes of what those studies are in regards to
 17 safety.
 18 Q. I mean, have you ever gone on the EPA
 19 website to look at paraquat?
 20 A. I don't believe so.
 21 Q. Okay. So you don't know what studies
 22 have actually been done, is what you're saying?
 23 A. That would be correct.
 24 Q. Have you ever gone on the internet, just
 25 Google, and looked up paraquat?

1 A. In regards to something specific, yes.
 2 Not just paraquat, enter.
 3 Q. Okay. What specifically did you look
 4 up?
 5 A. You know, I can only assume and give you
 6 examples of the types of things, but how large of
 7 waterhemp would paraquat manage; or is paraquat --
 8 can paraquat -- is paraquat good on marestail; or
 9 things of that nature on very specific things.
 10 Q. Okay. Have you --
 11 A. Efficacy.
 12 Q. Have you looked it up in Wikipedia; has
 13 that been the source?
 14 A. No. No. Typically, I go to Google and
 15 I would try to find what university information pops
 16 up.
 17 Q. Okay. So you've never looked up the
 18 Wikipedia site on paraquat, ever?
 19 A. Oh, I'm sure that that has probably been
 20 clicked on at some point, yes.
 21 Q. Okay. And you've read it. When would
 22 you have done that?
 23 A. Um -- I -- it could have been as long
 24 ago as, well, graduate school. It could have been
 25 two months ago.

1 So there's questions that come up
 2 every day, so...
 3 Q. Do you know what it says about
 4 neurotoxicity of paraquat?
 5 A. I do not, no.
 6 Q. That part, do you think you didn't read
 7 to the last paragraph?
 8 A. I don't know if I read anything
 9 regarding that.
 10 Q. Okay. All right.
 11 Is Growmark aware of any other
 12 studies regarding the health effects on workers from
 13 exposure to paraquat?
 14 A. No, I don't believe so.
 15 Q. Has Growmark ever investigated whether
 16 such studies exist?
 17 A. I don't believe so.
 18 Q. Did Growmark know that paraquat is a
 19 highly toxic poison?
 20 A. We know that "Danger: Poison" is on the
 21 label.
 22 Q. Did Growmark know that if you swallow a
 23 very small quantity of it, it will kill you?
 24 A. The labels do say, "One sip can kill,"
 25 so, yes.

1 Q. Does Growmark believe it has any
 2 responsibility as a distributor of paraquat
 3 formulated products to its member cooperatives to
 4 learn about occupational health and safety threats
 5 from the use and application of paraquat beyond what
 6 is on the label?
 7 MR. HOPP: Object to the form of the
 8 question.
 9 You can answer.
 10 A. Not what is beyond the label, no.
 11 Q. Okay. Does Growmark rely entirely on
 12 third parties such as Syngenta and Chevron to assess
 13 occupational safety studies regarding paraquat?
 14 A. That would be accurate.
 15 Q. Has Growmark ever asked Syngenta or
 16 Chevron for any studies regarding occupational
 17 safety of paraquat?
 18 A. I can't be sure, but I don't believe so.
 19 Q. And you would agree that if Growmark, as
 20 the distributor of paraquat formulated products in
 21 Illinois, is unaware of such studies, it would be
 22 unreasonable to expect the Plaintiffs in this case
 23 to be aware of them; is that correct?
 24 MR. HOPP: Object to the form.
 25 A. That would be correct.

1 Q. Growmark is not in possession of studies
 2 regarding an association between exposure to
 3 paraquat and any neurological injury or disease in
 4 any given organism, correct?
 5 A. Can you repeat that question, please.
 6 Q. Sure.
 7 Growmark is not in possession of any
 8 studies regarding an association between exposure to
 9 paraquat and any neurological injury or disease in
 10 any living organism, including Parkinson's disease
 11 in humans, correct?
 12 A. That is correct.
 13 Q. Is Growmark aware of any studies
 14 regarding an association between exposure to
 15 paraquat and any neurological injury or disease?
 16 A. No.
 17 Q. Has Growmark ever investigated whether
 18 such studies exist?
 19 A. I don't believe so.
 20 Q. And as long as the product is available
 21 for sale and approved for sale, it's Growmark's
 22 position that it needs not conduct any such
 23 investigation; is that correct?
 24 MR. HOPP: Object to the form.
 25 A. We would rely on the registrants and the

1 approved label, and we would encourage everyone to
2 still follow the label, yes.

3 Q. And you're relying entirely upon the
4 honesty and integrity and completeness exposure --
5 of disclosure to the US EPA, correct?

6 A. That would be correct.

7 Q. Is paraquat neurotoxic to some
8 applicators when it is used as intended?

9 A. We don't have that information.

10 Q. Have you ever been told by anybody that
11 it is?

12 A. No.

13 Q. You've never read anywhere, from any
14 source, that paraquat, when used as intended, is
15 neurotoxic to the applicators, to at least some of
16 them, right?

17 A. That would be -- That would be correct.

18 Q. Growmark does not believe that it has
19 any responsibility as a distributor of paraquat
20 formulated products to learn about any possible
21 association between exposure to paraquat and any
22 neurological injury or disease; is that right?

23 MR. HOPP: Object to the form of the
24 question.

25 A. We don't believe that's our role,

1 correct.

2 Q. Okay. Growmark relies entirely on third
3 parties like Syngenta or Chevron to assess whether
4 there is an association between exposure to paraquat
5 and any neurological disease like Parkinson's
6 disease, correct?

7 A. And provide that information to the EPA,
8 yes.

9 Q. You would agree with the statement,
10 correct, the question?

11 A. Repeat it one more time for me to make
12 sure.

13 Q. Growmark relies entirely on third
14 parties such as Syngenta or Chevron to assess
15 whether there's an association between exposure to
16 paraquat and any neurological disease like
17 Parkinson's disease, correct?

18 A. Yes.

19 Q. Has Growmark ever asked Syngenta or
20 Chevron for any studies regarding the potential
21 neurotoxicity of paraquat?

22 A. Not to my knowledge.

23 Q. Do you know if such studies exist?

24 A. I do not know. Not with my knowledge,
25 no.

1 Q. Is Growmark aware of a series of studies
2 performed about 15 years ago by Dr. Louise Marks of
3 Syngenta?

4 A. I don't believe so, no.

5 Q. Have you ever heard of those studies
6 being done involving -- I'll refer them to paraquat
7 dichloride hydrate, that's --

8 A. I --

9 Q. -- that's entitled "Investigating
10 reported paraquat neurotoxicity in the Charles River
11 C57 black mouse. The neurochemical and pathological
12 effects on the dopaminergic system of three, weekly
13 injections of 1,1 dimethyl, 1,1,4 bipyridinium
14 paraquat," and the study title is "XM7258 Research
15 Report?"

16 Have you ever heard of that study?

17 A. No, sir.

18 Q. Do you have a copy of it?

19 A. No, sir.

20 Q. No counsel has ever given it to you?

21 A. No, sir.

22 Q. To your knowledge, Growmark has never
23 been afforded a copy of that study? You're hearing
24 about it right now for the first time, right?

25 A. This is the first time I've heard of it,

1 yes, sir.

2 Q. Did you know that in that study,
3 Dr. Louise Marks found a statistically significant
4 reduction in dopaminergic neurons in the substantia
5 nigra of mice after the administration of doses of
6 paraquat?

7 MR. HOPP: Object to the form of the
8 question.

9 You can answer.

10 A. I don't have any information on that,
11 no.

12 Q. The answer to the question is, no, you
13 don't know, correct?

14 A. I -- I believe -- you would have to
15 repeat the question, if you would like to.

16 Q. Did you know that Dr. Marks's study
17 found a statistically significant reduction in
18 dopaminergic neurons in the substantia nigra of mice
19 after the administration of doses of paraquat?

20 A. No.

21 Q. Is that information that Growmark would
22 have wanted to know about one of the products it
23 distributes?

24 MR. HOPP: Object to the form of the
25 question.

1 You can answer.
 2 A. We -- we think we are following the
 3 label, so I guess if it's -- if it's a labeled
 4 product, we're going to use it in -- we're going to
 5 follow the label.
 6 Q. So you want to try to answer my question
 7 instead of whatever it was you were imagining? Do
 8 you want to try again?
 9 A. Mr. Tillery, I don't think I understand
 10 the question.
 11 Q. Okay. Then I'll re-ask it.
 12 Is that information, what I told you
 13 about that study, information that Growmark would
 14 have wanted to know about one of the products it
 15 distributes, paraquat; is that something your
 16 corporation would want to know about?
 17 MR. HOPP: Object to the form.
 18 You can answer.
 19 A. I would believe we would want that
 20 information to go to a source such as the EPA.
 21 Q. Right. Well, I'm going to tell you
 22 right now it didn't. They didn't turn it over.
 23 So you wanted it to go there. Why
 24 did you want it to go there?
 25 A. I would want all information about all

1 couldn't validate it ourselves.
 2 Q. Okay. Move to strike your answer as
 3 unresponsive.
 4 You want the question read back to
 5 you? You know --
 6 A. Um.
 7 Q. You know the question. Do you want to
 8 try answering it again?
 9 A. We'd -- no, we would still sell the
 10 product.
 11 Q. You'd still sell it. All right.
 12 Do you know what a FIFRA Section
 13 6(a)(2) obligation is?
 14 A. I am somewhat familiar.
 15 Q. Would you give us and the Ladies and
 16 Gentlemen of the Jury and the Court your
 17 understanding of what a 6(a)(2) FIFRA obligation is?
 18 A. You know, so I believe what you're
 19 probably referring to is if we would have to -- or
 20 who has to provide information regarding exposure;
 21 would that be correct?
 22 Q. It's -- it's a statutory reference that
 23 says what it says. I just want to know if you
 24 understand what it means.
 25 A. I have read part of it. I can't say

1 products that we use.
 2 Q. Okay. Now, I'm representing to you that
 3 I wrote to Syngenta's counsel in this case in
 4 December 2019, and demanded that they send this in a
 5 letter, and it wasn't until just a matter of a few
 6 months ago that this report was even sent to the US
 7 EPA.
 8 Did you know that?
 9 A. No, sir.
 10 Q. Is that information that's important to
 11 Growmark?
 12 A. If deemed important by the EPA, then --
 13 and the label changed, then yes.
 14 Q. But as long as that EPA -- if that label
 15 change stays, you don't really care about whether or
 16 not Dr. Louise Marks found in this study, XM7258,
 17 that the administration of doses of paraquat caused
 18 brain injury, the loss of dopaminergic neurons; you
 19 wouldn't care, would you?
 20 MR. HOPP: Object to the form of the
 21 question.
 22 You can answer.
 23 A. I don't think we can validate that
 24 study. That's not what we do, and that's why -- we
 25 wouldn't be able to do much with that, because we

1 that I have read every single word, but I understand
 2 some parts of it.
 3 Q. Do you understand that it requires the
 4 principle registrant, when it comes along -- comes
 5 upon scientific information, certain scientific
 6 information, not all, to report it to the US EPA?
 7 A. That is my understanding, yes.
 8 Q. And it has criminal sanctions for
 9 non-compliance; are you aware of that, too?
 10 A. I would assume that to be true, but I
 11 don't know that for certain. I would have to read
 12 the whole thing.
 13 Q. Would these neurotoxic findings be
 14 things that you would want disclosed to the EPA?
 15 MR. HOPP: Object to the form of the
 16 question.
 17 A. Um...
 18 Q. Or you think it's okay for Syngenta to
 19 keep them secret?
 20 A. No, we would want all the information.
 21 So the answer is yes.
 22 Q. Did you ever ask Jeff Bunting who he
 23 works with about the dangers of paraquat?
 24 A. No, sir.
 25 Q. Bunting was a field biologist who came

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1 to Growmark from Zeneca; did you know that?

2 A. I may have knew that in the past, but --

3 it's kind of familiar now. That's all I'll say.

4 Q. Okay. And how did it get familiar?

5 A. Probably just through passing

6 conversations, and you bringing it right back up

7 today.

8 Q. Okay. Now you're remembering.

9 All right. So what did he do at

10 Zeneca?

11 A. I -- I don't know.

12 Q. Do you think he might have known a

13 little bit about paraquat?

14 A. If it was during the time that, you

15 know, that paraquat was sold by Zeneca, I would have

16 to make an assumption that, yes.

17 Q. Well, let me ask you something. Are you

18 aware of any day in the entire existence of Zeneca

19 when it didn't sell paraquat products?

20 A. I don't know the history of Zeneca.

21 Q. Okay. Was Growmark ever advised of the

22 existence of Dr. Marks's study, XM7258?

23 A. I don't believe so, no.

24 Q. Okay. Now, let's move to another study.

25 And this is a study by Dr. Louise

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1 Marks, and it's called "Paraquat dichloride hydrate.

2 Investigating reported paraquat-induced dopaminergic

3 neurotoxicity in the Charles River C57 black mouse.

4 The neurochemical, neuropathological and

5 neurobehavioral effects of increasing the dosing

6 frequency of 1,1'-dimethyl-bipyridinium paraquat,

7 XM7371, research report."

8 Have you ever heard of that study?

9 A. No, sir.

10 Q. Did Growmark know that the purpose of

11 this study was to investigate whether the loss of

12 dopaminergic neurons in the substantia nigra

13 observed in her second study, that's the one we

14 talked about before, which we referred to as XM7258,

15 could be further enhanced by increasing the

16 frequency of paraquat doses; were you aware of that?

17 A. No, sir.

18 Q. Do you know where dopaminergic neurons

19 are located in the brain?

20 A. No, sir.

21 Q. Do you know what the substantia nigra

22 is?

23 A. No, sir.

24 Q. Do you know what Parkinson's disease is?

25 A. No, not really, sir.

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1 Q. Do you know what causes Parkinson's

2 disease?

3 A. No, sir.

4 Q. Do you know if Growmark has ever asked

5 to get on a phone call with a neurologist at any

6 time in its history and ask them, what causes or

7 what is known in the group of causes for Parkinson's

8 disease?

9 A. I don't believe we have.

10 Q. Have you ever asked a neurologist in

11 your area whether Parkinson's disease can be related

12 to neurotoxins, including paraquat?

13 A. I don't believe so, no.

14 Q. Was Growmark aware that paraquat is

15 regarded as the most probable toxicant for --

16 environmental toxicant for Parkinson's disease in

17 the United States?

18 MR. HOPP: Object to the form of the

19 question.

20 You can answer.

21 A. No.

22 Q. Have you ever heard any word about that,

23 given the fact that you sell enormous amounts of

24 paraquat every year throughout the United States?

25 MR. HOPP: Object to the form of the

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1 question.

2 A. Enormous is -- I don't know if we -- I'd

3 say enormous, but we do sell paraquat. And, no, I

4 do not know that information.

5 Q. And you never tried to get it, either,

6 have you?

7 A. We just didn't think that's our role,

8 no.

9 Q. Because as long as it's --

10 A. We --

11 (Clarification requested by the Court Reporter.)

12 MR. TILLERY: It was a bad question.

13 I'll withdraw it.

14 BY MR. TILLERY:

15 Q. I want you to assume that Syngenta did

16 not report that study to the US EPA, and that

17 Dr. Marks's study demonstrated further scientific

18 evidence of dosing of paraquat causing neuronal

19 damage in the mid-brain, the same area of the brain

20 that causes Parkinson's disease.

21 Is that the kind of information you

22 think that should have been disclosed to the US EPA?

23 MR. HOPP: Object to the form of the

24 question.

25 A. Yes.

1 MR. TILLERY: Let's take our lunch
2 break, now. Tony, I have a court hearing in four
3 minutes. Okay?

4 MR. HOPP: Okay.

5 MR. TILLERY: All right. So be
6 back --

7 THE VIDEOGRAPHER: This is the end
8 of tape one. It is 11:51 a.m. We are going off the
9 record.

10 (RECESS, 11:51 p.m. - 12:54 p.m.)

11 THE VIDEOGRAPHER: This is the
12 beginning of tape number three of the testimony of
13 David Powell. It is 12:54 p.m. We are back on the
14 record.

15 BY MR. TILLERY:

16 Q. I want to ask you about another study by
17 Dr. Marks. Are you aware of a study by Dr. Marks,
18 and for a point of reference, this is
19 Syngenta-produced document 00492785, entitled
20 "Paraquat dichloride hydrate, investigating the time
21 portion and reversibility of dopaminergic cell loss
22 in the Charles River C57 mouse following
23 administration of paraquat." It's XM7480 research
24 report.

25 Have you ever heard of that study?

1 demanded that it do so, Syngenta did not file any of
2 that information with the US EPA.

3 I also want you to assume that for
4 the 14 years until the Plaintiffs in this case
5 demanded it to do so, Syngenta did not report to the
6 U -- to the EPA that its own experts had conducted
7 three separate studies with paraquat in which the
8 loss of dopaminergic neurons in the substantia nigra
9 of the black mouse was comparable to the findings
10 reported in the public literature.

11 Based on those assumptions, is that
12 the kind of scientific information Growmark would
13 want to know about the paraquat formulated products
14 that it sells in Illinois?

15 MR. HOPP: Object to the form of the
16 question.

17 You can answer.

18 A. I -- I don't know exactly what was in
19 that article, as I've not read it myself, to know
20 the validity of that.

21 Q. That's not -- what I've told you to
22 assume is the results. If it turns out what I've
23 told you to assume is incorrect, then the Court will
24 not allow the question to go forward. If it turns
25 out that it is, then I'm asking you to answer my

1 A. No.

2 Q. Would it be a fair statement that
3 Growmark was unaware that the purpose of the fourth
4 study was to investigate the reversibility of the
5 loss of dopaminergic neurons in the substantia nigra
6 over three months after dosing the same strain of
7 mice with paraquat; is that a fair statement?

8 A. That would be fair.

9 Q. Okay. Was Growmark aware of any
10 information that -- about Dr. Marks's conclusion
11 that "the study data would appear to be supportive
12 of a hypothesis that a sensitive subpopulation of
13 dopaminergic neurons may exist, which are vulnerable
14 to paraquat-induced toxicity."

15 Was Growmark aware of that?

16 A. No.

17 Q. I want you to assume that, once again,
18 Syngenta did not report to the US EPA that
19 Syngenta's own studies had replicated the findings
20 reported in the public literature regarding the loss
21 of dopaminergic neurons in the mid-brain after the
22 administration of paraquat.

23 I also want you to assume that for
24 the 14 years after that finding was concluded, until
25 the Plaintiffs in this case demanded to do --

1 question.

2 Is that information that I reported
3 and recited to you and summarized information of the
4 scientific nature that Growmark would be interested
5 in knowing?

6 A. If that influenced label changes, then
7 yes.

8 Q. If it doesn't influence label changes,
9 you're not interested in it, correct?

10 A. If the EPA had determined that it's no
11 issue, then, no, we're -- we don't believe so.

12 Q. Were you aware, for the assumption, that
13 they did not have the information? I told you to
14 assume they didn't get it.

15 Okay. So how do they influence a
16 label change if they don't have the data?

17 A. It is hard --

18 Q. Can you tell me that?

19 A. It's hard to influence a label change
20 since the label is dependent on data.

21 Q. Right.

22 So if they don't get it and the
23 scientific studies are not reported to them, is this
24 the kind of information you would like to see at
25 Growmark?

1 A. If they're valid scientific studies,
2 then yes.

3 Q. And you would, then, send it to the US
4 EPA yourself?

5 A. We would -- we would hope that they
6 would provide that information directly to the EPA.
7 As long as it's a labeled product, we follow the
8 label.

9 Q. Right. But if they didn't -- if it --
10 I'm telling you they did not.

11 If they didn't do it, is this the
12 kind of thing you'd -- you would send on at Growmark
13 if you knew they hadn't reported it?

14 A. Today, I'd probably have to ask my legal
15 counsel what they would like to do. I would share
16 that information, and see what appropriate means are
17 necessary --

18 Q. You --

19 A. -- with the knowledge I have.

20 Q. So you'd follow the advice of counsel as
21 to what to do?

22 A. Yes, sir.

23 Q. On your own, there would be no policy at
24 Growmark, absent a lawyer telling you to do it,
25 there would be no baseline policy to disclose that

1 A. That is not my area of expertise, and
2 that's not what Growmark does, so no.

3 Q. Well, did I ask you about -- I asked you
4 if you knew the difference, if you knew the
5 significance.

6 And you don't?

7 A. No.

8 Q. So would you know whether there's a
9 difference between the predictive characteristics of
10 a chemical in terms of neurotoxicity, if a study was
11 carried out with mice versus a monkey, if you're
12 trying to determine the potential impact on the
13 human being; do you know which is more predictive?

14 A. No, sir.

15 Q. Okay. And have you ever asked anybody
16 whether a study of mice or a study of monkeys is
17 more predictive in terms of neurotoxicity?

18 A. No, sir.

19 Q. All right. Did Growmark know that
20 Syngenta has known for more than ten years from
21 squirrel monkey studies that exposure to paraquat
22 caused the loss of striatal dopamine; did you know
23 that?

24 MR. NARESH: Object to the form.

25 A. No, sir.

1 information which had previously been hidden from
2 public view?

3 A. I -- I would say that it would not be
4 hidden. It would be brought to light to our counsel
5 to determine what to do with that information and
6 how best to share that information.

7 Q. Well, let's put it this way: Those
8 three studies were certainly not available to you,
9 were they?

10 A. No, sir.

11 Q. Do you know of any place in the whole
12 world they've ever been reported?

13 A. I don't know of the study that you're
14 talking about.

15 Q. I ask you a question: Do you know of
16 any place in the world where those three studies
17 have been reported outside of the depositions in
18 this lawsuit and outside of a response -- a letter
19 response after I demanded that it be done last
20 December; are you aware of them being reported
21 anywhere else?

22 A. No, sir.

23 Q. All right. Do you know the significance
24 of using non-human primates in animal studies to
25 determine the impact of herbicides on human beings?

1 Q. Did Growmark know that Syngenta's known
2 for more than ten years from squirrel monkey studies
3 that exposure to paraquat caused what may be
4 associated with Parkinson's disease?

5 A. No.

6 MR. NARESH: Same objection. Steve,
7 can I have a standing objection to this line?

8 MR. TILLERY: Yes, you can, Ragan.

9 BY MR. TILLERY:

10 Q. Did Growmark know that Syngenta has been
11 aware for more than ten years from squirrel monkey
12 studies that exposure to paraquat caused the
13 up-regulation of alpha-synuclein in the brain?

14 A. No.

15 Q. Did you know or understand at Growmark
16 that alpha-synuclein is the major constituent of
17 Lewy bodies and a pathogenic hallmark of Parkinson's
18 disease?

19 A. No.

20 Q. Okay. Did Growmark know that Syngenta
21 has known for more than ten years from squirrel
22 monkey studies that exposure to paraquat caused a
23 change in neuromelanin?

24 A. No.

25 Q. Would you know the significance of

1 changes in neuromelanin?

2 A. No, sir.

3 Q. All right. Do you know if any of those
4 findings have ever been publicly reported at any
5 time, ever?

6 A. I do not know that information.

7 Q. Based upon the fact that those studies
8 of monkeys demonstrate up-regulation of
9 alpha-synuclein, the loss of striatal dopamine, a
10 change in neuromelanin; are those the kinds of
11 studies that you would hope and expect Syngenta to
12 file with the US EPA?

13 MR. HOPP: Object to the form.

14 You can answer.

15 A. If it was a valid scientific study, then
16 yes.

17 Q. And what is the -- how -- what's your
18 definition of a valid scientific study?

19 A. I would -- I would want -- you know, I
20 know -- it would be independently peer-reviewed
21 by -- myself, by -- not by myself, but by someone
22 that would -- I would consider an expert in the
23 area. And that may take some digging because I
24 don't know much about this topic at all.

25 Q. So how would you know what is valid or

1 isn't?

2 A. I would have to find an individual that
3 I believed understood that area and was the expert
4 in their field.

5 Q. Okay. How would you go about doing
6 that? So I'm tasking you. I'm the CEO of Growmark
7 Corporation, and I'm tasking you with finding out
8 whether these studies should be reported.

9 How would you go about doing that as
10 the -- as, I think you said, the chief scientist
11 there at Growmark?

12 MR. HOPP: Object to the form of the
13 question and mischaracterization of the testimony.

14 A. I would probably start with my local
15 universities, and as well as have that independently
16 peer-reviewed by additional people in the university
17 environment.

18 Q. So you'd look for top-notch scientists
19 and peer-reviewed journal articles, right?

20 A. I would look for top-notch scientists to
21 review this, and it may take a while to figure out
22 who I -- who I would deem as those top-notch
23 scientists.

24 Q. And the peer-review process is very
25 important, would you agree?

1 A. It is a -- it is a cornerstone in some
2 cases, yes.

3 Q. That's because you have people who have,
4 let's say, a vested interest in a potential baked-in
5 conflict and their studies, once carefully
6 scrutinized by scientists in the field, don't hold
7 up if they're so-called peer-reviewed, right?

8 MR. HOPP: Object to the form of the
9 question.

10 A. I think we have to be general here
11 because I think we all know peer-reviewed studies
12 that have been rejected later on, but, yes, in
13 general.

14 Q. You agree with me in general terms,
15 right?

16 A. In general terms, yes.

17 Q. All right. Well, let me ask you this:
18 Are you aware of a single peer-reviewed journal
19 article by Syngenta on any of these topics that
20 we've been discussing and Dr. Louise Marks's
21 studies?

22 A. No, sir.

23 Q. Okay. Are you aware of a peer-reviewed
24 journal article from anybody else, anywhere else in
25 the world, on any of these topics?

1 A. This is not the type of work that
2 Growmark does, so no.

3 Q. When you say, it's not the type of work
4 it does, you mean, it's not the type of work you
5 choose not to do, correct?

6 MR. HOPP: Object to the form of the
7 question.

8 A. No. I would -- I would say that we
9 believe the EPA does a -- has a registry labeled
10 product and that the information is submitted to
11 them, and we get the results of that in a label form
12 that tells us what we need to do to make sure that
13 we're using the correct PPE.

14 Q. And you're talking about a fully
15 informed EPA, right?

16 A. Yes, sir.

17 Q. So if they don't have very important
18 scientific information, they're not fully informed,
19 are they, sir?

20 MR. HOPP: Object to the form.

21 A. If they don't have all the information,
22 they're not completely informed.

23 Q. Right.

24 Has Growmark asked Syngenta or
25 Chevron for any studies regarding occupational

1 safety regarding paraquat?

2 A. Can you repeat the question, please.

3 Q. Yes.

4 Has Growmark asked Syngenta or
5 Chevron for any studies regarding occupational
6 safety of paraquat?

7 A. I don't believe so.

8 Q. Would you agree that if Growmark, as a
9 distributor of paraquat formulated products in
10 Illinois, is unaware of studies regarding an
11 association between the exposure to paraquat and
12 Parkinson's disease, it would be unreasonable to
13 expect the Plaintiffs in this case to be aware of
14 them?

15 A. That would be correct.

16 Q. Is Growmark in possession of any
17 information regarding the effect of paraquat on any
18 organism other than a weed?

19 A. Just the information that is labeled on
20 the MSDS, or the current SDSs.

21 Q. Well, what other organisms are listed on
22 those besides weeds?

23 A. We can take a look at some, if you would
24 like. Generally speaking, rats tend to be another
25 organism, other mammals, many times.

1 been completed, that included paraquat.

2 Q. Where? I'm sorry. I interrupt you. Go
3 ahead, sir.

4 A. No, I was --

5 Q. Did you -- all right.

6 So weed control efficacy studies; is
7 that what you said?

8 A. Yes, sir.

9 Q. And where and when were those done?

10 A. One was completed in 2015, four
11 treatments contained paraquat. And then there was
12 one, I believe, in the spring of 2016, and one
13 treatment contained the active ingredient of
14 paraquat.

15 Q. And where were the studies done?

16 A. One was done in Springfield, Illinois,
17 and the other one was done in Medora, Illinois.

18 Q. Okay. And can you give us a description
19 of the studies?

20 A. The studies were looking at
21 glyphosate-resistant marestail, and the different
22 herbicide products that would be used to possibly
23 control that weed, and paraquat is one of those
24 potential options of the probably 20 -- over 20
25 different treatments.

1 Q. Okay. So whatever is on that MSDS that
2 you sent to your member cooperatives, right?

3 A. Yes.

4 Q. Okay. Has Growmark ever taken any
5 action in response to any study that investigated
6 the health effects any -- of any paraquat product
7 formulation?

8 MR. HOPP: Object to the form.

9 You can answer.

10 A. I don't think so, no.

11 Q. Okay. Would you agree that if Growmark
12 has no knowledge of paraquat's effects on living
13 organisms other than weeds, it would be unreasonable
14 to expect farmers who buy it and apply it to have
15 such knowledge?

16 MR. HOPP: Object to the form.

17 You can answer.

18 A. Yes.

19 Q. Has Growmark ever conducted any study of
20 any kind, no limitation, at any time in its history,
21 on paraquat?

22 A. In toxicity?

23 Q. Of anything. Any study.

24 A. We would -- at some point, there have
25 been some weed control efficacy trials that have

1 Q. On which plots of grounds or farms were
2 these studies conducted?

3 A. One was on our family farm in 2016, with
4 one treatment.

5 And then in 2015, that was done at
6 Lincoln Land Community College on their research,
7 that was conducted by us. We used their -- their
8 land.

9 Q. And did you apply the product in 2016 in
10 Medora?

11 A. Yes.

12 Q. Is that when you told me you applied it;
13 is that what you're referring to?

14 A. It has also been applied on our family
15 farm sometime between 2015 and 2020, broadcast on
16 larger acres as well.

17 Q. Have you done that yourself?

18 A. Yes.

19 Q. Are you the only person who's applied it
20 on your family farm?

21 A. Yes, sir.

22 Q. Okay. And did you apply it wearing a
23 respirator?

24 A. Yes, sir.

25 Q. Okay.

1 Did you apply it wearing rubber
2 gloves?
3 A. Yes, they were used.
4 Q. So you used it while you were driving
5 the tractor, you applied -- and you were wearing
6 rubber gloves?
7 A. No, only during the mixing process of
8 adding it to the sprayer.
9 Q. Okay. Did you have any clogged spraying
10 nozzles in that process?
11 A. I don't believe so, sir.
12 Q. So you've been successful in applying
13 paraquat for several years without ever having a
14 clogged spray nozzle, right?
15 MR. HOPP: Object to the form.
16 You can answer.
17 A. None specifically with paraquat, I
18 would -- that I can remember, no.
19 Q. Okay. And how many hours do you think
20 you've applied it?
21 A. As I mentioned, I applied somewhere
22 between 2015 and '20. It has not been that many --
23 that much total in period of time. I would be -- I
24 would have to go back, but I would say four to five
25 hours.

1 Q. In all the time you applied it?
2 A. Yes, sir.
3 Q. Okay. And have you ever watched farmers
4 apply paraquat?
5 A. No, sir.
6 Q. So you've never witnessed a person
7 applying it other than yourself?
8 A. That would be to my knowledge, yes.
9 Q. Okay. Have you ever heard reports from
10 the crop specialists of their observations of
11 farmers applying it?
12 A. I know that some paraquat has been sold
13 to farmers. I don't know if the crop specialists --
14 I don't believe they observed them apply it, either.
15 Q. Okay. Did you wear a respirator when
16 you were applying it?
17 A. Not while I was applying it, no.
18 Q. Okay. Did you go down to the end of the
19 field and -- in your tractor device and sprayer and
20 turn around and come back down the same field or the
21 next adjacent rows?
22 A. Typically, you would border the field
23 all the way around first, and then go back and forth
24 in the area that you haven't sprayed in the field.
25 Q. Right. But when you go back and forth,

1 you're coming back to the immediately adjacent rows
2 from the ones you just sprayed, right?
3 A. Absolutely.
4 Q. Right. And when you do that, did you
5 drive through spray?
6 A. No, I don't believe so.
7 Q. You don't know if you did or not,
8 though, do you?
9 A. It would -- it would be highly unlikely,
10 as it sticks -- the booms are very wide.
11 Q. So you're assuming you could see the
12 spray, right?
13 A. I'm assuming with the GPS technology
14 that shows where I have and haven't sprayed that if
15 it says I haven't sprayed that area, that I'm not
16 going over that again.
17 Q. No, I'm -- my question is, you're
18 assuming that the spray that is in the field is
19 visible to you when you're driving through it,
20 right?
21 A. Immediately after application, it is
22 visible, if you were to see it.
23 Q. Okay. And that there's no harm or fear
24 or any risk if you can't see it; is that your
25 thought?

1 MR. HOPP: Object to the form of the
2 question.
3 A. No, you know, and I think the label
4 tells us that that is not true. That's why they
5 have REIs, where you can't see the spray and you're
6 still required to wear certain PPE.
7 Q. Right. So you understand that.
8 So what my question to you is, is
9 during that period of time when you applied it, you
10 weren't wearing a respirator, either, were you?
11 A. During the application time?
12 Q. Right.
13 A. It was inside a sprayer.
14 Q. Right. So you weren't wearing one, were
15 you?
16 A. Correct, as it's not required.
17 Q. I'm just asking you, you weren't wearing
18 one, were you?
19 A. That would be correct.
20 Q. Okay. Do you know if paraquat's been
21 banned in other countries?
22 A. I believe it is off the market in a few
23 countries, but I don't know which ones.
24 Q. How many do you think?
25 A. It would be total speculation.

1 Q. Would it matter to Growmark how many
2 countries it cannot be legally sold in?

3 A. I -- I don't believe so, as we have
4 faith in the EPA to make sure that we are using a
5 registered -- federally registered product.

6 Q. So your faith is over -- would overcome
7 the fact that more than 70 countries, it's not legal
8 to do it, right?

9 And your faith over -- is --
10 overcomes all that after I told you that neuro --
11 neurotoxicity studies were never reported.

12 A. I --

13 Q. So the fact that it's been banned in all
14 these countries wouldn't matter to you, right?

15 MR. HOPP: Form of the question.

16 You can answer.

17 A. I have no idea the reasoning behind the
18 banning in those countries, and don't have any
19 insider information as to why they would do that.

20 Q. Okay.

21 A. So, without information, I wouldn't
22 know.

23 Q. All right. So did you ever try to find
24 out why they banned it?

25 A. No.

1 Q. Did you ever get on the internet and do
2 the baseline research as to why it can't be sold in
3 the entire European Union?

4 A. No.

5 Q. Did you ever ask?

6 Did you ever ask Syngenta suppliers?

7 A. No, sir.

8 Q. Did you ever ask about Pacific Rim
9 countries and why it can't be used?

10 A. No.

11 Q. Countries in Africa?

12 A. We don't believe that's our role, no.

13 Q. Okay. Doesn't matter, does it?

14 MR. HOPP: Object to the form.

15 Q. It doesn't matter to you?

16 A. It matters what is legal and labeled in
17 the United States. That is what -- that is what we
18 go by --

19 Q. Right.

20 A. -- when we apply these products and sell
21 them.

22 Q. Have you ever undertaken any
23 investigation of any kind to determine what the
24 reasons for paraquat not being able to be sold in
25 certain countries have been?

1 A. No.

2 Q. Okay. How much money per year does
3 Growmark make from the sales of paraquat?

4 A. I do not know that information.

5 Q. How does Growmark stack up -- strike
6 that.

7 How does paraquat products stack up
8 in terms of individual products and volumes of
9 sales?

10 A. Generally speaking, paraquat is one of
11 many products we sell, and it would be a -- a much
12 lower than many of the products we sell.

13 Q. In terms of the money you make?

14 A. In terms of probably -- I don't have
15 that information, but as far as sales dollars and
16 quantity.

17 Q. And in terms of sales dollars and
18 quantity, tell me the ones that -- where Growmark
19 makes more money?

20 MR. HOPP: Object to the form of the
21 question.

22 A. I don't know where we make our money. I
23 just know sales dollars total, what I've seen in the
24 past. But there are many other products.

25 Q. Okay. You can't tell me their names,

1 though, right?

2 A. No, sir.

3 Q. All right.

4 Did Growmark know that it was
5 understood by Syngenta, and by Chevron, by 1969, 51
6 years ago, that paraquat could get into the human
7 brain?

8 MR. HOPP: Object to the form of the
9 question.

10 A. I don't believe so.

11 Q. Okay. Does Growmark know that by 1969,
12 it was known to Syngenta, Chevron that paraquat in
13 the brain could cause damage to brain tissue?

14 MR. HOPP: Object to the form.

15 You can answer.

16 A. No.

17 Q. Okay. Does Growmark know that Syngenta
18 avoided measuring paraquat in the brain because such
19 findings would be a threat to business?

20 MR. HOPP: Object to the form.

21 A. No.

22 Q. Would that be important to you?

23 MR. HOPP: Object to the form of the
24 question.

25 A. I -- information, if it is -- if it is

1 accurate, is important --
 2 Q. Okay.
 3 A. -- for labeling purposes.
 4 (Clarification requested by the Court Reporter.)
 5 A. -- for labeling purposes.
 6 Q. Growmark knows that people who mix, load
 7 or apply paraquat, or work nearby it when it is
 8 applied, could be exposed to it, correct?
 9 A. We -- we make sure they use the PPE to
 10 limit any possible exposure that we can.
 11 Q. Okay. Let me move to strike your answer
 12 as unresponsive.
 13 Growmark has knowledge that those
 14 people who mix, load and apply paraquat, or who are
 15 nearby when it is mixed, loaded or applied, could be
 16 exposed to it, don't they?
 17 MR. HOPP: Object to the form.
 18 A. Yes, they could.
 19 Q. Okay. Growmark also knows about
 20 paraquat's very high redox cycling potential,
 21 correct?
 22 A. We know that paraquat redox cycles, but
 23 high is -- we don't know, or how low.
 24 Q. Would it have been reasonable from a
 25 scientific standpoint for Growmark to have inferred

1 Q. So --
 2 (Clarification requested by the Court Reporter.)
 3 A. But we're very concerned about helping
 4 at the grower level of managing.
 5 Q. Okay. Can -- all right.
 6 Can you just tell me what redox
 7 cycling is in the context of a plant; walk through
 8 the process.
 9 A. You know, in the context of a plant and
 10 what is learned is typically that paraquat gives the
 11 electrons, we get ingoing oxygen, and more or less
 12 that reaction causes photosynthetic death of plant
 13 tissue.
 14 Q. You're talking about the electronic
 15 transport chain in photosynthesis, right?
 16 A. That would be correct.
 17 Q. Okay. Electronic transport chain in
 18 cellular respiration, right?
 19 A. Yes.
 20 Q. Okay. Now, you know, have you read any
 21 of the depositions that I've taken of other people,
 22 toxicologists and other in preparation for this dep?
 23 A. No, sir.
 24 Q. Have you read any depositions?
 25 A. No, sir.

1 that paraquat would undergo redox cycling in the
 2 human brain if it could reach the brain?
 3 A. We have information regarding how
 4 paraquat mitigates our weed issues, not on human
 5 exposure.
 6 Q. Okay. And you know that it causes redox
 7 cycling, right?
 8 A. Redox cycling or giving and taking of
 9 electrons does happen when paraquat is applied to
 10 weeds.
 11 Q. Right. And you, as a weed scientist,
 12 understand that process, right, the redox cycling
 13 process?
 14 A. To a certain degree, yes. As far as the
 15 giving and taking of electrons, yes.
 16 Q. I mean, that's part of your scientific
 17 studies and understanding, right?
 18 A. Some of that -- that science was
 19 provided in graduate school, and other --
 20 (Clarification requested by the Court Reporter.)
 21 A. Okay.
 22 Some of that was provided in
 23 graduate school; however, you know, they most of the
 24 time is spent on managing the weeds and not what is
 25 always going on at the molecular level.

1 Q. Have you boned up a little bit on redox
 2 cycling?
 3 A. No, sir.
 4 Q. So you're relying upon your
 5 understanding of redox cycling from school, right?
 6 A. That would be correct.
 7 Q. Do you know, for example, of the use or
 8 understanding of redox cycling in any aspect of your
 9 job at Growmark?
 10 MR. HOPP: Object to the form of the
 11 question.
 12 You can answer.
 13 A. Can you repeat that, please.
 14 Q. Yes, sir.
 15 Has redox cycling ever been an issue
 16 in terms of your understanding of the use of any
 17 agricultural herbicide since you've been employed at
 18 Growmark?
 19 A. We utilize sites of action and modes of
 20 action to make sure that we manage weeds, but other
 21 than that, redox cycling does not come up?
 22 Q. Has it ever come up in a single
 23 conversation since you've been at Growmark?
 24 A. Redox cycling is not what we would call
 25 standard terminology for myself in a weed science

1 role.

2 Q. All right. So could you answer my
3 question?

4 A. So, no.

5 Q. So it's never come up.

6 All right. Now, can you give me all
7 the reasons why you think everything you've ever
8 been taught in school about redox cycling and the
9 principles of redox cycling would not apply to
10 mammalian cells?

11 MR. HOPP: Object to the form of the
12 question.

13 A. I -- I have no understanding of
14 mammalian cells to answer that question.

15 Q. I'm asking you about your knowledge of
16 redox cycling, which you did have some education and
17 training about.

18 I'm asking you if you know the
19 principles of redox cycling, that is the mode of
20 action which paraquat uses in a photosynthetic
21 process to kill plants, wouldn't likewise attack
22 mammalian cells --

23 MR. HOPP: Object to the form.

24 Q. -- and transfer electrons in generally
25 the same way. If you know the answer to that.

1 A. I don't know the answer to that.

2 Q. Okay. Is that something you've ever
3 studied or looked up?

4 A. No, sir.

5 Q. Do you know if you could go on Google
6 right now and get an answer in five minutes?

7 A. You can get lots of answers on Google,
8 but they might not all be right.

9 Q. Okay. Do you know if that might save
10 some of the lives of your customers if you got the
11 answer?

12 Is that important to you?

13 MR. HOPP: Object to the form of the
14 question.

15 Q. That there's men suffering every day of
16 their lives because you haven't looked in Google?

17 MR. HOPP: Object to the form of the
18 question.

19 A. We make sure that we provide the label
20 and the MSDSs to make sure that we're using all of
21 the PPE necessary so that we don't -- so we limit
22 potential exposure, and keep our folks as safe as we
23 possibly can.

24 Q. But the bottom line is, you have no idea
25 whether or not redox cycling principles or

1 characteristics of paraquat will attack animal
2 cells, mammalian cells in exactly the same way, do
3 you?

4 MR. HOPP: Object to the form.

5 A. No, sir.

6 Q. Did Growmark ever ask Syngenta about
7 whether or not paraquat could enter the brain of
8 humans?

9 A. I don't have that information.

10 Q. So would that be a no --

11 A. No.

12 Q. -- since you are Growmark today?

13 A. That would be a no.

14 Q. Okay. Would you agree with me that the
15 Plaintiffs in this matter could not have known about
16 the ability of paraquat to cause brain injury, if --
17 if Growmark couldn't?

18 MR. HOPP: Object to the form of the
19 question.

20 A. That would be accurate.

21 Q. Okay. Would you agree that the
22 Plaintiffs in this matter would not likely have been
23 able to find out anything about redox cycling
24 characteristics of paraquat when they were using it?

25 MR. HOPP: Object to the form.

1 A. I don't know what resources that they
2 would have had available to them.

3 Q. Well, let's say if you, sir, if you, as
4 the head of the science, don't know anything about
5 it, would you expect -- would you -- you think it
6 would be unreasonable to expect them to be able to
7 know about it?

8 MR. HOPP: Object to the form.

9 You can answer.

10 A. I -- I would think that they wouldn't
11 know about it.

12 Q. Right.

13 Growmark never warned users that
14 paraquat can cause brain damage, correct?

15 A. No.

16 Q. Growmark never warned users that
17 exposure to paraquat can cause Parkinson's disease,
18 correct?

19 A. That's correct.

20 Q. Growmark never warned users that
21 exposure to paraquat can cause neurotoxicity,
22 correct?

23 A. Because that's not on the label, that is
24 correct.

25 Q. Move to strike your answer as

1 unresponsive.

2 Growmark never warned users that
3 exposure to paraquat can cause neurotoxicity, right?

4 A. That's correct.

5 Q. Okay.

6 Did Growmark ever attempt to learn
7 about long-term effects of paraquat exposure?

8 A. The --

9 MR. HOPP: Object to the form.

10 A. The information we tried to garner is
11 from the label, and if that information were on the
12 label, then yes; otherwise, no.

13 Q. So back to my question. Move to strike
14 that as unresponsive.

15 Did Growmark ever attempt to learn
16 about the long-term effects of paraquat exposure?

17 A. No.

18 Q. Did Growmark ever ask Syngenta or
19 Chevron if there were any long-term effects to
20 farmers from paraquat exposure?

21 A. I don't believe so.

22 Q. Okay.

23 Did Growmark even ask Syngenta about
24 the types of studies it was conducting regarding
25 paraquat?

1 A. I don't believe so.

2 Q. Okay. Was Growmark aware that Syngenta
3 had a strategy to publicly refute independent
4 findings in the public literature about the health
5 effects of paraquat?

6 MR. HOPP: Object to the form of the
7 question.

8 A. No, we were unaware.

9 Q. Was Growmark aware that oral and
10 inhalation exposure occurs when spraying of
11 paraquat?

12 MR. HOPP: Object to the form.

13 A. We know that we use PPE to mitigate that
14 risk.

15 Q. Okay. Was Growmark aware of reports of
16 adverse reactions from prolonged paraquat exposure?

17 MR. HOPP: Object to the form.

18 A. No.

19 Q. Would you agree, then, that if an
20 Illinois distributor of paraquat formulated products
21 like Growmark did not know this, the Plaintiffs in
22 this matter could not have known, either, correct?

23 A. Correct.

24 Q. Was Growmark aware that there are
25 non-immediate effects from paraquat use?

1 MR. HOPP: Object to the form of the
2 question.

3 A. Generally speaking, with all pesticides,
4 we know of acute and chronic exposure, but we don't
5 know what about that chronic exposure with paraquat.

6 Q. Okay. Then you would agree, if you
7 don't know about that chronic exposure, the
8 Plaintiffs in this matter wouldn't know it, either,
9 would they?

10 MR. HOPP: Object to the form.

11 A. That would be correct.

12 Q. Was Growmark aware that the applicators
13 and bystanders can receive inhalation exposure even
14 if a low percentage of the total amount of particles
15 are respirable?

16 MR. HOPP: Object to the form of the
17 question.

18 A. Typically, there wouldn't be any
19 bystanders at the field level for that to happen to.

20 Q. So you've -- you've never seen this
21 applied, you said you've never seen anybody apply it
22 but yourself, right?

23 A. Correct.

24 Q. Okay. So you -- and you've never been
25 told by any of these people you've talked to who are

1 the crop, what did you call them, specialists, crop
2 specialists?

3 A. Crop specialists.

4 Q. Yeah. Crop specialists. Sorry, I can't
5 remember that for some reason.

6 That person, none of them have told
7 you -- let me start over.

8 You've never learned from crop
9 specialists how the farmer applicators apply the
10 product, either, right?

11 MR. HOPP: Object to the form.

12 A. That would be correct.

13 Q. Okay. So how do you know if there's
14 people in or around where the product's applied?

15 A. Farms are typically very rural with very
16 low populations; therefore, the chance of
17 individuals being in that field of somebody else's
18 is very low.

19 Q. Okay.

20 So you're basing it on the fact
21 that -- of where you grew up and what you saw, and
22 there weren't that many people around, right?

23 A. That would be correct.

24 Q. You don't have any personal information
25 beyond that for that statement, do you?

1 A. That would be correct.

2 Q. All right. And would you agree with me,
3 then, that if an Illinois distributor of paraquat
4 formulated products like Growmark did not know that
5 exposure could lead to long-term threats to human
6 health, the Plaintiffs in this case could not have
7 known, either, correct?

8 MR. HOPP: Object to the form of the
9 question.

10 You can answer.

11 A. That's correct.

12 Q. If paraquat was shown to cause brain and
13 central nervous system damage, and satisfied what
14 you said earlier about your level of -- of certainty
15 in terms of peer-reviewed journal articles, that it
16 was neurotoxic and led to Parkinson's disease in
17 certain applicators, would you think it reasonable
18 to continue selling paraquat as a herbicide, even if
19 the US EPA continued its registration?

20 MR. HOPP: Object to the form of the
21 question.

22 A. If the EPA continues its registration,
23 we would be -- we would --

24 (Clarification requested by the Court Reporter.)

25 A. We would assume that the PPE that is on

1 the label would mitigate any of those -- most of
2 those potential risks.

3 Q. Yeah. My question -- I move to strike
4 that as unresponsive. My question was different.

5 I asked you to assume that you had
6 become satisfied from all of the sources that you
7 told us earlier in this deposition you needed,
8 peer-reviewed journals, articles, scientists that
9 met your standard, and you learned that it caused
10 Parkinson's disease, brain damage, and you were
11 satisfied as the scientist for Growmark, but the US
12 EPA continued its registration; would -- would
13 Growmark continue to sell it so long as the
14 registration continued, despite the fact that you
15 were satisfied this chemical causes brain injury and
16 Parkinson's disease?

17 MR. HOPP: Object to the form of the
18 question.

19 A. If it were still a registered product,
20 then, yes, and we have no idea -- we would hope that
21 the PPE measures on the label would mitigate
22 potential risks to people.

23 Q. Okay. All right. Is Growmark aware of
24 any information about investigations into the
25 potential to reformulate paraquat products to

1 prevent or reduce exposure of persons to the health
2 effects of paraquat?

3 A. The only information we get are the
4 updated labels. That's the information that we get.

5 Q. Okay. We talked briefly before about
6 Parkinson's disease, and I want to just touch upon
7 this just to confirm what Growmark's knowledge or
8 understanding of this is.

9 Do you know what causes Parkinson's
10 disease?

11 A. No, sir.

12 Q. How would you define neurotoxicity?

13 A. I do not have a definition for that.

14 Q. Is paraquat neurotoxic?

15 A. I am a weed scientist, and don't deal
16 with neurological issues whatsoever.

17 Q. So would the answer be that you don't
18 know whether it's neurotoxic or not?

19 A. That would be correct.

20 Q. Is paraquat neurotoxic at any dose in
21 any species?

22 MR. HOPP: Object to the form.

23 A. I don't have that information.

24 Q. The answer is you don't know?

25 A. Correct.

1 Q. Okay. Has -- Growmark has done no
2 investigation into the neurotoxicity of paraquat,
3 correct?

4 A. If it's not on the label, then no.

5 Q. Well, have you done any investigation
6 into the neurotoxicity of paraquat at Growmark?

7 A. No.

8 Q. Does Growmark have any knowledge
9 regarding whether paraquat is or may be a
10 biologically plausible link to Parkinson's disease?

11 A. We don't have that information.

12 Q. Does Growmark have any information
13 regarding the neurotoxicity or potential
14 neurotoxicity of paraquat in humans, including the
15 effect or potential effect on neurotoxicity of
16 surfactants and other compounds contained in
17 paraquat formulations and mixtures?

18 A. No.

19 Q. Does Growmark have any information
20 regarding the existence of an association or
21 potential association between exposure to paraquat
22 and neurological damage or injury in humans?

23 A. No.

24 Q. Do you know what the blood-brain barrier
25 is?

1 A. No, sir.
 2 Q. All right. You have labels from your --
 3 that I sent there with you?
 4 A. Yes, sir.
 5 Q. Did you bring those to the deposition
 6 with you, sir?
 7 A. Yes, I have some labels, yes, sir.
 8 Q. All right. Okay. I'm going to ask you
 9 some questions about some labels, and be referring
 10 to them, and the ones that I'm going to ask you I
 11 think are all ones that you have set out in your
 12 reliance set.
 13 But I was going to give your counsel
 14 a heads up so he could be pulling those, and we may
 15 or may not be able to use them electronically here
 16 on the screen. So I'll give you an idea of the ones
 17 that I'm looking at.
 18 MR. TILLERY: I think these are all,
 19 Mr. Hopp, ones that were supplied to us in your
 20 reliance set, okay?
 21 MR. HOPP: We have them here, so if
 22 you want to give us a number or a year or something,
 23 we'll try to find them.
 24 MR. TILLERY: I'm going to do that
 25 now, it's a -- it's a Chevron or CUSA exhibit,

1 CUSA-00306411.
 2 MR. HOPP: You have a year?
 3 MR. TILLERY: It's '66.
 4 And while you're looking at that,
 5 there's a CUSA-00120745 at '79. And then there's an
 6 '88, which is a Syngenta number, 13800599.
 7 MR. HOPP: I'm sorry. Let's go
 8 back, start again, because I got a pen, so, you
 9 know.
 10 MR. TILLERY: Oh, I'm sorry. Okay.
 11 First one is '66, and that's
 12 CUSA-00306411. And then the second one is CUSA --
 13 MR. HOPP: Sorry. I've got -- the
 14 stuff that I've got in the room starts at 415, so I
 15 do not have 411.
 16 MR. TILLERY: Okay. You don't have
 17 that one with you. I'm told these all came from off
 18 your reliance set.
 19 MR. HOPP: Yeah.
 20 MR. TILLERY: So --
 21 MR. HOPP: I don't understand why we
 22 don't have that, because I thought we had all the
 23 CUSA records, but I --
 24 MR. TILLERY: Well, then you know
 25 what we can do, let me go through these preliminary

1 questions and then we can break briefly to make sure
 2 we can get these up on the screen for the witness to
 3 see. That may be the simpler way to do it, okay?
 4 BY MR. TILLERY:
 5 Q. Have you reviewed these warning labels
 6 and instructional labels yourself?
 7 A. I have reviewed the labels, yes.
 8 Q. Okay. And they go back to the '60s, the
 9 ones you have reviewed, haven't they?
 10 A. Yes, sir.
 11 Q. All right. And what's the last one, in
 12 terms of date or time?
 13 A. The most recent?
 14 Q. Is that the one that's on the label now?
 15 A. That would be an assumption. I would
 16 have to look specifically.
 17 Q. That's all right. We'll get to it.
 18 We'll have time. You don't need to break at this
 19 point. I was just trying to get an idea of the
 20 scope of what you've looked at. All right?
 21 I think we're going to follow with
 22 what you chose in terms of the reliance set to
 23 answer these questions. Okay?
 24 The paraquat labels, and when I say
 25 this, I mean every single one of them, none of them

1 ever warned of the dangers of long-term, chronic
 2 exposure, did they?
 3 A. I have not reviewed all of the -- I
 4 mean, I don't have them memorized, so I don't know
 5 for sure.
 6 Q. I'm talking about the ones you looked
 7 at, the ones you gave to us that you did in your
 8 reliance set. I'm talking about the ones you relied
 9 on, that you're here to talk about.
 10 Did you ever see any of those --
 11 whether or not there's others out there is a
 12 different question.
 13 My question to you is, did any of
 14 the labels you reviewed and you listed in your
 15 reliance materials ever warn of dangers of
 16 long-term, chronic exposure?
 17 MR. HOPP: Object to the form.
 18 You can answer.
 19 A. I did not see that information on the
 20 labels I reviewed.
 21 Q. The labels were designed to warn of
 22 short-term, immediate harm; is that correct?
 23 MR. HOPP: Object to the form.
 24 A. That was one of their purposes, along
 25 with application instructions to manage the problem

1 that you had in that field.

2 Q. Right. We know that. There's lots of
3 other things on them. I'm talking about my specific
4 topic. Okay? There's mixing instructions. There's
5 all that.

6 I'm asking about the warnings in
7 terms of human health. You understand the lawsuit
8 is about gentlemen who are dying or who have already
9 died from Parkinson's disease, right; you understand
10 that?

11 A. I understand what the --

12 Q. Okay. All right.

13 So the paraquat labels that you
14 looked at that are part of your reliance set were
15 designed to warn of short-term, immediate harm; is
16 that correct?

17 A. I would say at least immediate harm. I
18 don't know about chronic exposure.

19 Q. Okay. That's what you remember, is the
20 immediate harm, right?

21 A. Yes, sir.

22 Q. All right. Growmark never suggested to
23 Chevron or Syngenta that the warning label on
24 Growmark formulated products be changed to warn of
25 neurotoxic effects, did it?

1 MR. HOPP: Sorry, Steve. You said,
2 "Growmark formulated products." I object to the
3 form of the question.

4 MR. TILLERY: Grow -- yes, that was
5 my -- do you want me to read it -- say it over
6 again, Tony? Let me say it so you can hear me.
7 Let's withdraw that so you can hear me.
8 BY MR. TILLERY:

9 Q. Growmark never suggested to Syngenta or
10 Chevron that the warning label be changed to warn of
11 neurotoxic effects, correct?

12 A. That's correct.

13 Q. Whether or not you believe Growmark had
14 the authority to change the level -- labels, it
15 never made any such suggestion to anybody, the EPA,
16 Chevron, Zeneca, Syngenta, or anyone else, did it?

17 A. Growmark doesn't think that's their
18 role.

19 Q. Right.

20 And it does so -- if Growmark saw
21 that many of its people were getting sick, and that
22 it had a strong suspicion that it was the paraquat
23 doing it, you think their role in the process would
24 be such that they couldn't send an e-mail or write a
25 letter saying, hey, why don't you maybe go to the

1 EPA and change the label; did you ever do that?

2 MR. HOPP: Object to the form of the
3 question.

4 A. We have not done that, and besides, we
5 don't have very many -- there's nothing -- we don't
6 have any exposure that we know of.

7 Q. Okay. So you've never done that, right?

8 A. That is -- that is correct.

9 Q. Did Growmark ever conduct any type of
10 investigation as to whether the labels should be
11 changed to warn of neurological hazards?

12 A. No.

13 Q. Did Growmark ever conduct any type of
14 investigation as to whether the labels should be
15 changed to warn of Parkinson's disease?

16 A. No. Again, we don't think that's our
17 role.

18 Q. Move to strike your answer as
19 unresponsive.

20 Did Growmark ever conduct any type
21 of investigation as to whether the labels should be
22 changed to warn of Parkinson's disease?

23 A. No.

24 Q. Did Growmark ever discuss any aspect of
25 the warning labels with Syngenta?

1 A. We would have discussed restricted-use
2 pesticides and potential PPE, probably, at some
3 point, yes.

4 Q. Who did that?

5 A. I -- I can't give you an individual
6 name, but I -- you know, typically, they would tell
7 us that there's a change to a label, and we would
8 get the label that says, "Restricted use." So we'd
9 need to follow the PPE that's on that and only sell
10 to applicators who have their license.

11 Q. And how do you confirm whether the sale
12 occurs to people with licenses?

13 A. The member has to get their -- has to
14 get their license number.

15 Q. And how do they report that to you?

16 A. They don't report that to us.

17 Q. Okay. So you have no way of knowing
18 whether or not they're requiring a license number to
19 sell paraquat products, do you?

20 A. We know that our members followed the
21 label, and therefore, the label requires them to
22 only sell to someone with a license, since it's
23 restricted use. So they wouldn't know that
24 information.

25 Q. My question to you is, how can you

1 police or confirm that because you don't know
2 whether they are or they are not selling it only to
3 people with licenses, do you?

4 A. Again, that's not really our role to
5 track that information. So...

6 Q. I move to strike your answer as
7 unresponsive.

8 Do you have a system at Growmark for
9 confirming that your member cooperatives have sold
10 only to licensed applicators?

11 A. No.

12 Q. Do you have an audit system that
13 confirms that they've only sold product to licensed
14 applicators?

15 A. Growmark does not, no.

16 Q. Has it ever done that?

17 A. I do not know.

18 Q. You have no information that it ever
19 has, do you?

20 A. I have no information on it, no.

21 Q. Okay. Has Growmark ever discussed the
22 adequacy of paraquat product labels with the EPA?

23 A. I -- I don't believe so.

24 Q. Okay. Do you know how many different
25 instructions, cautionary statements and warning

1 labels have been used since 1965 on formulated
2 paraquat products distributed in Illinois by -- by
3 Growmark?

4 A. No, sir.

5 Q. Does Growmark maintain a database or
6 repository on the instructions or labels?

7 A. We don't have all of that information,
8 no, from the past. We don't have all of that
9 information.

10 Q. So in other words, as a product comes to
11 you for sale, do you happen to keep that formula --
12 strike that.

13 When a product comes to you for
14 sale, do you keep the product label in some kind of
15 inventory or library?

16 A. We would have that information up until
17 that registration expired.

18 Q. And then you get rid of it?

19 A. I can't be sure what happens to it after
20 that. I just don't know.

21 Q. You don't know if there's a database of
22 that or not?

23 A. I guess you could say that's accurate.

24 Q. Okay. In all of the labels that you
25 have seen, has there ever been a warning on any of

1 the labels of paraquat about any neurotoxic
2 potential of paraquat?

3 A. I don't believe so. Not on the ones
4 I've reviewed.

5 Q. Okay. Is there any person, a working
6 group or assigned individual, at Growmark
7 responsible for evaluating the instructions or
8 cautionary statements, warning labels, on the
9 products that you distribute in Illinois?

10 MR. HOPP: Object to the form of the
11 question.

12 A. Our -- our safety area would look at the
13 labels, and that's what we produced those Quick
14 Guides based off of, but in the end, we still -- we
15 prefer everyone to go to the label.

16 Q. But no -- you have no individual group
17 or person that assesses the labels and the adequacy
18 of the labels, right?

19 A. No, we look at what the labels actually
20 say, but not -- I think that answers the question.

21 Q. Not from a -- not from a critical
22 standpoint, from a knowledge standpoint?

23 A. Yes, sir.

24 Q. All right. What specific risks of
25 injury or illness are the instructions, cautionary

1 statements and warning labels on paraquat products
2 distributed by Growmark in Illinois intended to
3 reduce, minimize or eliminate?

4 A. They -- generally, they -- as a whole,
5 they all try to eliminate oral, dermal, inhalation
6 and eye exposure.

7 Q. And what medical hazard is the warning
8 about oral ingestion designed to cover?

9 A. I don't understand the question, sir.

10 Q. Well, there's -- there must be a hazard
11 associated with oral ingestion, right?

12 A. Yes.

13 Q. What's the hazard, as you know it, from
14 oral ingestion of paraquat?

15 A. The most extreme hazard is death.

16 Q. Okay. And so you're thinking it would
17 poison you and kill you?

18 A. Yes.

19 Q. Okay.

20 And what do you understand oral
21 ingestion to be on the label; what's that mean,
22 drinking the product?

23 A. Yes, or getting it in your mouth, yes.

24 Q. And how would you get it in your mouth,
25 in your thinking?

1 A. Smoke -- you did things that weren't on
2 the label. You did -- you did things against the
3 label. You smoked while you mixed. You drank a
4 drink while you were mixing. You did things that
5 weren't on the label, as the label shows you how to
6 reduce or potentially eliminate oral exposure.

7 Q. And that oral exposure could get it in
8 your body and poison you, because it's a known, very
9 toxic poison; is that your thinking?

10 A. It is known to be toxic, yes.

11 Q. Okay.

12 Is that the hazard oral ingestion is
13 meant to cover; is that your thinking? I'm trying
14 to just understand.

15 A. That -- that is -- that is my
16 understanding, yes.

17 Q. All right.

18 Now, dermal exposure. What's the
19 hazard -- health hazard that's encompassed within
20 dermal exposure?

21 A. It's really just getting it on your
22 skin. I don't know exactly all of the potential
23 hazards that -- the outcomes it may have by the
24 dermal exposure. I just know that we're supposed to
25 minimize dermal exposure.

1 Inhalation. What's the medical
2 hazard that's the focus of inhalation?

3 A. Again, I -- I don't know the effects of
4 paraquat on the human body.

5 Q. Okay. So what did you think was being
6 encompassed in that warning when people, as you're
7 the head of the whole program, may call and ask you?

8 What happens to me, Doctor, if I get
9 this stuff, and I get a big, long breath of it in my
10 nose; what's the harm?

11 What do you tell them?

12 MR. HOPP: Object to the form.

13 You can answer.

14 A. I would tell them to immediately do what
15 the label says, which is probably going to be to
16 contact the health official. They don't need to be
17 talking to me in that situation, because I can't
18 provide them that information.

19 Q. You really don't know what could happen;
20 you don't know what the health hazard of inhalation
21 is, do you?

22 A. I don't know the outcome, that's
23 correct.

24 Q. What do you mean an outcome?

25 A. I -- I don't know what happens when

1 Q. Well, if one of these crop specialists
2 says, hey, you know, I just have a question. If I
3 get this stuff on my skin, what could it do to me?

4 What are you going to tell them?

5 A. I'd tell them, look at the label and the
6 SDS and see what that information has, and if you
7 aren't satisfied, you need to contact the
8 manufacturer.

9 Q. Okay.

10 So, you would tell them to call
11 Syngenta, right?

12 A. After a thorough look at the label, yes.
13 That is --

14 Q. Okay. So if the -- if the label didn't
15 say what would happen to you from dermal exposure,
16 do you know whether the label says, hey, if you get
17 this on your skin, this is what's going to happen?

18 A. No. Typically, it's first aid.

19 Q. Okay. So it's first aid. Wash it off,
20 clear it off your skin, right?

21 A. In laymen's terms, yes.

22 Q. Okay. Doesn't say this causes some
23 other type of disease or problem, does it?

24 A. That's correct.

25 Q. Okay.

1 paraquat is inhaled.

2 Q. Okay. So the health hazard is the term
3 I was using to describe that.

4 You don't know what the health
5 hazard would be from inhaling paraquat, correct?

6 A. That would be correct.

7 Q. And would you know the health hazard
8 from inhaling just small amounts of it over a long
9 period of time, sort of like when you were putting
10 your four hours in at your farm, just that little
11 bit, if you do it enough; do you know what that
12 hazard is?

13 MR. HOPP: Object to the form.

14 A. No.

15 Q. Okay. Now, what about the eye? You
16 said the eye.

17 What's the risk to the mixer,
18 applicator, loader from getting it in his eye?

19 A. I don't know, in particular. I would
20 assume it would be an eyesight issue, presumably.

21 Q. Okay. Okay.

22 Would you agree that none of the
23 instructions, cautionary statements and warnings on
24 labels are intended to reduce, minimize or eliminate
25 the risk of neurotoxic harm to users of paraquat

<p style="text-align: right;">Page 178</p> <p>1 products?</p> <p>2 MR. HOPP: Object to the form.</p> <p>3 A. I would say that's accurate.</p> <p>4 Q. Has Growmark ever formulated paraquat</p> <p>5 products itself?</p> <p>6 A. No, sir. Not to my knowledge.</p> <p>7 Q. Okay. And just so we're clear, and if</p> <p>8 I've asked you this, I apologize to you, sir, but I</p> <p>9 want to make sure my record is clear.</p> <p>10 Did Growmark ever participate in the</p> <p>11 process of changing any of the warnings or labels on</p> <p>12 formulated paraquat products at any time?</p> <p>13 A. I don't believe so, no.</p> <p>14 Q. All right. Thank you.</p> <p>15 Is it true that Growmark is not in</p> <p>16 possession of any of Syngenta's internal or external</p> <p>17 communications regarding labels for crop protection</p> <p>18 products?</p> <p>19 A. Internal communications, I would say,</p> <p>20 no, we don't have that information.</p> <p>21 Q. Putting aside the issue of labels for a</p> <p>22 second, Growmark has never attempted to warn users</p> <p>23 or the public about the neurotoxic potential of</p> <p>24 paraquat, correct?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 180</p> <p>1 THE WITNESS: Okay.</p> <p>2 BY MR. TILLERY:</p> <p>3 Q. Okay. You want to take a look at that.</p> <p>4 The page we have is page 5 of that document, and the</p> <p>5 page number or Bates Number for the record, and we</p> <p>6 can offer this one as Plaintiff's Exhibit Number</p> <p>7 1 -- sorry, Number 2, sorry, is CUSA-00306411 is the</p> <p>8 beginning, the page reference number we're looking</p> <p>9 at is 415.</p> <p>10 (Powell Plaintiff's Exhibit 2, letter and labels,</p> <p>11 4.23.1966, CUSA-0306411-15, was marked for</p> <p>12 identification.)</p> <p>13 Q. You see that, sir?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you recognize this as one of the</p> <p>16 documents you reviewed?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. In preparation for the</p> <p>19 deposition?</p> <p>20 A. Yes.</p> <p>21 Q. Correct?</p> <p>22 A. Yes.</p> <p>23 Q. And this is an Ortho Paraquat CL label</p> <p>24 from 1966, correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Are you aware of any way the Plaintiffs</p> <p>2 in this matter could have been aware of the health</p> <p>3 risks from long-term exposure to paraquat when they</p> <p>4 bought -- when they bought and applied it?</p> <p>5 A. I don't know. I would say -- have to</p> <p>6 say no.</p> <p>7 Q. So could we pull up KT532. This is the</p> <p>8 1966 exhibit, and it's CUSA-00306411.</p> <p>9 MR. HOPP: Is this in eDepoze,</p> <p>10 Steve, or is it you have to share your screen?</p> <p>11 MR. TILLERY: We're going to put it</p> <p>12 on the screen, I hope.</p> <p>13 THE WITNESS: I got it in eDepoze.</p> <p>14 It opened up.</p> <p>15 MR. TILLERY: Doesn't look like what</p> <p>16 I have. Page 3. Oh, I see. Yeah, it's not the</p> <p>17 same one. Bear with us for a second, sir.</p> <p>18 (Pause in the deposition, off the record discussion</p> <p>19 with staff.)</p> <p>20 MR. HOPP: That one, we have, 415.</p> <p>21 MR. TILLERY: There we go.</p> <p>22 Yeah. The one that's on the screen</p> <p>23 is the one that I meant to ask you questions about.</p> <p>24 It's page 5.</p> <p>25 MR. HOPP: Bear with us a second.</p>	<p style="text-align: right;">Page 181</p> <p>1 Q. This would have been the label that</p> <p>2 would have been distributed by Growmark in Illinois,</p> <p>3 not really Growmark, but a predecessor, FS Services,</p> <p>4 correct?</p> <p>5 A. We would assume so, yes.</p> <p>6 Q. Yeah. All right. Let's focus on the</p> <p>7 box, if we can.</p> <p>8 No skull and crossbones, right?</p> <p>9 A. That is correct.</p> <p>10 Q. If you'd look and read the language,</p> <p>11 focuses on acute injury, right?</p> <p>12 A. It does not say that specifically, but</p> <p>13 it appears to, yes.</p> <p>14 Q. All right. Nothing about wearing gloves</p> <p>15 while applying paraquat, right?</p> <p>16 A. Yes, it says, "Use rubber gloves and</p> <p>17 rubber apron when handling product."</p> <p>18 Q. When handling it, but when applying it</p> <p>19 is what I meant. Just like you did when you applied</p> <p>20 it?</p> <p>21 A. That is correct.</p> <p>22 Q. Okay.</p> <p>23 Nothing about wearing a respirator</p> <p>24 when applying it, either, right?</p> <p>25 A. That is correct.</p>

46 (Pages 178 to 181)

1 Q. And then when it says -- it says, "Do
2 not breathe spray mist."

3 Do you see that? About two-thirds
4 of the way down.

5 A. Yes.

6 Q. And it says, "Do not breathe spray mist
7 in order to" -- what -- "to avoid nasal, throat and
8 respiratory tract irritation," right?

9 A. Correct.

10 Q. Again, an immediate-type problem,
11 correct, acute injury?

12 A. I mean, that would be speculation; but
13 speculating, yes.

14 Q. All right. No indication on this label
15 of any potential neurotoxic-type effect from
16 paraquat, right?

17 A. That would be correct.

18 Q. No warnings of long-term or cumulative
19 health effects, right?

20 A. I do not see that language; that is
21 correct.

22 Q. Nothing about Parkinson's disease,
23 right?

24 A. That's correct.

25 Q. Let's go to another one that's in

1 there, we can dispense with that, and just go
2 through the questions ourselves. We'll call this
3 Plaintiff's Exhibit Number 3.

4 (Powell Plaintiff's Exhibit 3, letter and labels,
5 12.4.1985, CUSA-00120745-47, was marked for
6 identification.)

7 MR. HOPP: Yeah. Sorry. We don't
8 have that one. We have 47, but we don't have 45. I
9 don't know why we're not tracking these.

10 Let's just use the screen.

11 BY MR. TILLERY:

12 Q. Can you see it -- can you see this now,
13 sir?

14 A. I -- I have nothing on the screen.

15 Q. Okay. Okay. All right. Sorry.

16 Sir, can you see this on the screen?

17 MR. HOPP: One second.

18 Q. Okay. Great.

19 This is Plaintiff's Exhibit Number
20 3, and for the record one more time, CUSA-0012745,
21 we're at page 46 in the analysis.

22 Do you see the box that says, "First
23 aid and treatment"?

24 A. Yes.

25 Q. Okay.

1 your -- in your reliance set. And this is 533, the
2 next document. And this is, for counsel,
3 CUSA-00120745. We're going to be looking at pages
4 46 and 47. This is 2 and 3 of your document.

5 Okay. The first box we're going to
6 look at is on page 46. That would be 00120746. Do
7 you see that? "The first aid treatment.

8 If you go back a little bit. Back
9 where it was.

10 A. I don't have any document up on eDepoze.

11 Q. Oh, I'm sorry.

12 Well, did you -- is there a "join"
13 button for you to hit?

14 A. I clicked the join button. It showed
15 up, and then it went away. And I can see several
16 documents in there. I don't know if I can click
17 them again and open them or not.

18 Q. She's going to reload it for you, okay?

19 MR. HOPP: You have a date on this
20 one?

21 MR. TILLERY: Yes, sir. It's 1979.

22 MR. HOPP: '79.

23 And the Bates again?

24 MR. TILLERY: 001 -- it's
25 CUSA-00120745. I mean, if he -- if you have it

1 The paraquat labels were revised in
2 approximately '74, weren't they?

3 A. There are many updates and revisions to
4 them, but I'm sure '74 also had some changes.

5 Q. Would you agree this is a document's
6 example of a newer label from approximately '79?
7 That's what we're told from your production, I think
8 that's what it is. Do you agree with that?

9 A. Based on what I see, I'd have to, yeah.

10 Q. Do you -- did you review this in
11 preparing for the deposition?

12 A. Yes.

13 Q. This, again, would have been on a label
14 of products distributed by Growmark in Illinois,
15 correct?

16 A. That would -- yes, I would assume so.

17 Q. The newer label doesn't say anything
18 about wearing gloves while spraying paraquat, does
19 it?

20 A. I do not see that information here, so
21 no.

22 Q. And I think -- I think we need to make
23 sure he sees the other page, because he needs to
24 have all of that in front of him as well before he
25 answers.

1 So we're -- there we go.
 2 Do you see that other one where --
 3 no, I'm sorry. Is that the -- is that the second
 4 page there? Yes.
 5 Sir, I didn't show you the second
 6 page. So please look at this and see if you need to
 7 change your response.
 8 A. Yeah, the glove information is on
 9 mixing. That's -- that's what I see.
 10 Q. All right. Only mixing. Nothing about
 11 spraying and wearing gloves, right?
 12 A. That is -- that is correct.
 13 Q. No warning about wearing a respirator
 14 while applying the paraquat, either, right?
 15 A. It does use a face mask, is what it
 16 says.
 17 Q. While applying it, is what I'm talking
 18 about, not mixing or --
 19 A. Spray application, it says, "If there's
 20 risk of exposure, wear goggles and approved face
 21 mask capable of filtering spray droplets."
 22 Q. Okay, droplets, okay? Nothing about a
 23 mask?
 24 A. It does say mask, "face mask."
 25 Q. Okay. No statement about neurotoxic

1 MR. HOPP: The year.
 2 MR. TILLERY: It's Syngenta -- the
 3 year is '88.
 4 MR. HOPP: 599, beginning Bates?
 5 MR. TILLERY: 599, yes, sir.
 6 MR. HOPP: We're with you.
 7 BY MR. TILLERY:
 8 Q. Okay. Do you have that one in front of
 9 you, sir?
 10 A. Yes, sir.
 11 Q. All right. So instead of putting it --
 12 does everybody -- it may be a little unfair to the
 13 other counsel, I want to make sure.
 14 MR. TILLERY: Megan and Ragan, would
 15 you prefer we put this up?
 16 MR. NARESH: Yeah, if it's not too
 17 much trouble.
 18 MR. TILLERY: We will.
 19 Put it up, please.
 20 MR. NARESH: Thank you.
 21 MR. TILLERY: You're welcome. I
 22 think it might have to -- can he see anything?
 23 BY MR. TILLERY:
 24 Q. Well, you have it in front of you. Yes,
 25 okay, sir.

1 effects?
 2 A. That is correct.
 3 Q. No statements about wearing a
 4 respirator?
 5 A. No.
 6 Q. No statement about long-term or
 7 cumulative health effects, exposure?
 8 A. No.
 9 Q. No -- nothing there designed to warn
 10 against neurotoxic effects of paraquat?
 11 A. That would be correct.
 12 Q. Nothing warning about the possibility of
 13 getting Parkinson's disease, right?
 14 A. Correct.
 15 Q. Okay. Let's move on to the next one.
 16 This will be Number 4. Plaintiff's Exhibit Number
 17 4.
 18 (Powell Plaintiffs Exhibit 4, EPA letter and
 19 labels, SYNG-PQ-13800599-612, was marked for
 20 identification.)
 21 Q. And this is Syngenta-PQ-13800599, and
 22 we're going to be at 601.
 23 MR. HOPP: What is the year again,
 24 Steve?
 25 MR. TILLERY: The number again?

1 Just for the record, Plaintiff's
 2 Exhibit Number 4 is Syngenta-PQ-13800599. We're
 3 directing your attention, sir, to 601, Bates Number.
 4 If you'd look at that. This is
 5 another document that you reviewed prior to the
 6 deposition, correct?
 7 A. Correct.
 8 Q. It's on your reliance list, right?
 9 A. Correct.
 10 Q. It's an example of a Gramoxone Super
 11 label from 1988, correct?
 12 A. Correct.
 13 Q. Again, it's a product of this sort that
 14 was distributed by Growmark in Illinois?
 15 A. We can assume so.
 16 Q. Yeah. Nothing in the warning about
 17 wearing gloves while applying paraquat, correct,
 18 just while mixing and handling it?
 19 A. It says use gloves anytime you are
 20 using -- wearing your -- around concentrate, is the
 21 language.
 22 Q. Just so for the Ladies and Gentlemen of
 23 the Jury, concentrate is in the -- generally, in the
 24 smaller containers before you apply it to a -- a
 25 mixing like water or something, and then you --

1 before you put it on the fields, right?
 2 A. That's correct.
 3 Q. So you don't apply -- you don't apply
 4 the concentrate directly to the fields; you mix it
 5 first?
 6 A. That's correct.
 7 Q. So when you're applying it, there's no
 8 requirement on this label for wearing gloves, right?
 9 A. I believe that's accurate, yes.
 10 Q. Just when mixing or handling the
 11 concentrate?
 12 A. Correct.
 13 Q. No indication of any potential
 14 neurotoxic effect from paraquat, right?
 15 A. That's correct.
 16 Q. No warning about Parkinson's disease?
 17 A. That's correct.
 18 Q. No warning of any kind to indicate there
 19 may be delayed and cumulative health effects,
 20 correct?
 21 A. On the front page, it says, "Symptoms
 22 are prolonged," so I don't know if that means
 23 long-term or not.
 24 Q. Okay. The instructions do not recommend
 25 the use of a respirator, right?

1 A. That is correct.
 2 Q. Where it says to avoid spray mist, it
 3 once more cautions that the mist could cause nose
 4 bleeds, irritation and poisoning, right?
 5 A. That is correct.
 6 Q. No indication that getting it, inhaling
 7 it, like if you were coming down through a field and
 8 inhaling the mist, could get into your brain or
 9 cause neurotoxic damage to your brain, is there; no
 10 indication of that?
 11 MR. HOPP: You can answer.
 12 A. I do not see that information here.
 13 Q. Right. Doesn't warn that long-term
 14 inhalation can cause neurological damage, does it?
 15 A. I don't see that information here, no.
 16 Q. Okay. None of the warnings were
 17 designed to warn against neurotoxic effects of
 18 paraquat, were they?
 19 MR. HOPP: Object to the form.
 20 You can answer.
 21 A. Does not appear so, no.
 22 Q. Would you agree with me that a user of
 23 this product and who read this label would not be
 24 warned of potential long-term neurological effects
 25 of paraquat?

1 MR. HOPP: Object to the form.
 2 A. That is possible, yes.
 3 Q. Well, tell me any word you think of that
 4 warns that user, Mr. Schmidt or Mr. Rowan, reading
 5 this label, that they're going to have long-term,
 6 neurological injury from using this product?
 7 A. That language does not appear here.
 8 Q. It's not there, is it, right?
 9 A. That is correct.
 10 Q. All right. Now, let's move on to the
 11 last exhibit, and this is Exhibit Number 5.
 12 (Powell Plaintiff's Exhibit 5, Syngenta Gramoxone
 13 label, [no Bates]), was marked for identification.)
 14 Q. And this is the current labeling. This
 15 is a Gramoxone SL 2.0.
 16 Do you see this on the screen, sir?
 17 A. It's just loading up right now.
 18 Q. All right. Thank you.
 19 A. And it is up.
 20 Q. Okay. And if you'd take a look at this
 21 and if you'd direct him to the precautionary
 22 statement, which is at page 3 of the document.
 23 Are you familiar with this label on
 24 Gramoxone products?
 25 A. With this -- familiar, yes.

1 Q. Yeah, this is a -- I believe, I'm told,
 2 this is a current version, okay?
 3 So you see, "Precautionary
 4 statements, continued," at the top, right?
 5 A. Correct.
 6 Q. All right. Then in the bottom
 7 paragraph, it says, "Environmental hazards," right?
 8 A. Correct.
 9 Q. So this would be the current label for
 10 Gramoxone SL 2.0. Is this a product -- strike that.
 11 Is this a product that is
 12 distributed by Growmark in Illinois today?
 13 A. Yes, this product is distributed by
 14 Growmark.
 15 Q. And this -- this label says the
 16 applicators must wear gloves, right?
 17 A. Mm-hmm.
 18 Q. And it says that applicators must use a
 19 respirator, right?
 20 A. Oh, I touched something.
 21 Q. Oh. Do you want us to start over?
 22 A. Can -- maybe I -- it went back to page
 23 2. I shouldn't have touched the screen. Can
 24 somebody...
 25 MR. TILLERY: Can you help him at

1 all? Tony, help.
 2 MR. HOPP: If I can.
 3 We can't -- we can't -- it's not
 4 moving for us, Steve.
 5 MR. TILLERY: All right. We'll
 6 start over.
 7 MR. HOPP: Back up?
 8 MR. TILLERY: Yep.
 9 MR. HOPP: We have the caution
 10 label.
 11 BY MR. TILLERY:
 12 Q. Yeah, so you have it up. You have the
 13 same one. Okay.
 14 And I had asked, this label says,
 15 the applicators must wear gloves, right?
 16 A. Yes.
 17 Q. All right. And respirator, right?
 18 A. Yes.
 19 Q. Why has that changed, do you know?
 20 A. I do not know. No.
 21 Q. Okay. It still does not warn of the
 22 dangers of long-term, cumulative exposure, does it?
 23 A. I don't see that there, no.
 24 Q. Doesn't warn of possible -- possible
 25 neurotoxic effects, does it?

1 A. I don't see that there, either, no.
 2 Q. Does not warn of the risk of getting
 3 Parkinson's disease, does it?
 4 A. No.
 5 Q. Since paraquat was first sold in the
 6 United States in 1965 up until the current time,
 7 would you agree it's never had a warning label
 8 warning of neurotoxic effects of paraquat?
 9 A. In my reviews, I have not found that
 10 information, that's correct.
 11 Q. Okay. And since it was first sold in
 12 the United States in 1965 up until the current time,
 13 it's never had a warning of the risk of getting
 14 Parkinson's disease from using paraquat, has it?
 15 A. That is correct.
 16 Q. Would you agree that the Plaintiffs in
 17 this case could not have known of those health risks
 18 by reading the paraquat warning labels we've
 19 reviewed in this deposition?
 20 A. Yes.
 21 MR. TILLERY: Let's take a break at
 22 this point in time, okay, and come back in, say, ten
 23 minutes, okay? Thank you.
 24 THE VIDEOGRAPHER: It is 2:34 p.m.
 25 We are going off the record.

1 (RECESS, 2:34 p.m. - 2:50 p.m.)
 2 THE VIDEOGRAPHER: This is videotape
 3 number four in the testimony of Dr. Powell. It is
 4 2:50 p.m. We are back on the record.
 5 BY MR. TILLERY:
 6 Q. You are also listed, Dr. Powell, as a
 7 spokesman for Growmark on Topics 11L through Q, 23
 8 through 25, and 29 through 35.
 9 Did you understand that as well,
 10 sir?
 11 A. Yes.
 12 Q. Okay. Is Growmark aware of any studies
 13 or investigations into the design of equipment to
 14 prevent or reduce the exposure of users to paraquat?
 15 A. No.
 16 Q. Is Growmark aware of any studies or
 17 investigations into the use of methods for mixing,
 18 loading or applying paraquat products to prevent or
 19 reduce the exposure of persons to paraquat?
 20 A. Only what's on the label, so no studies.
 21 Q. And it's -- and Growmark is also unaware
 22 of any studies into the presence of paraquat in the
 23 air and spray equipment?
 24 A. That is accurate.
 25 Q. Growmark has never attempted to

1 investigate these issues itself, has it?
 2 A. That is correct.
 3 Q. Is Growmark aware of any studies of the
 4 exposure of persons to paraquat as a result of
 5 loading, mixing, or applying paraquat products?
 6 A. Repeat the question, please.
 7 Q. Of course.
 8 Is Growmark aware of any studies of
 9 the exposure of persons to paraquat as a result of
 10 loading, mixing or applying paraquat products?
 11 A. No, sir.
 12 Q. What about cleaning or maintaining
 13 equipment used to load, mix or apply it; are you
 14 aware of any studies regarding those topics?
 15 A. No, sir.
 16 Q. Is Growmark aware of any studies of
 17 exposure of persons to paraquat as a result of being
 18 in or near places where paraquat products have been
 19 loaded, mixed or applied?
 20 A. No, sir.
 21 Q. Is Growmark aware of any studies or
 22 investigations into the effectiveness of personal
 23 protective equipment in preventing or reducing
 24 exposure to paraquat?
 25 A. No, sir.

1 Q. Is Growmark aware of any studies or
2 investigations into the nature and extent of
3 compliance with warnings, cautionary statements,
4 directions or instructions on the labels of paraquat
5 products?

6 A. Can you repeat that for me one more
7 time, please.

8 Q. Absolutely.

9 Is Growmark aware of any studies or
10 investigations into the nature and extent of
11 compliance with warnings, cautionary statements,
12 directions or instructions on the labels of paraquat
13 products?

14 A. No, sir.

15 Q. Your response to the deposition notice
16 states that, "Growmark never makes any
17 safety-related statements to customers about
18 paraquat formulated products beyond what is on the
19 label"; is that correct?

20 A. That would be correct.

21 Q. Does Growmark do applicator training?

22 A. Yes, sir.

23 Q. And what kind of applicator training
24 does it do?

25 A. It trains our individual member company

1 applicators on how to use key herbicides, typically,
2 in the field, and how to be successful doing that.

3 Q. Does it train farmer applicators who buy
4 from your member cooperatives?

5 A. Typically not, no.

6 Q. So the people that you're training are
7 effectively your own employees?

8 A. Or employees of a member company, of a
9 member cooperative that we provide product to.

10 Q. All right.

11 What pesticides or herbicides are
12 covered in that training?

13 A. It can be a multitude of products. Much
14 is focused on Dicamba, but there are many other
15 products that we've -- we've looked at as well in
16 that training.

17 Q. Does it include paraquat?

18 A. Yes, it has included paraquat, yes.

19 Q. Have you been involved in any of those
20 training sessions for paraquat?

21 A. Yes, sir.

22 Q. What has your role been?

23 A. My role has been informing them of the
24 updated label requirements going to a closed-loop
25 system, and making them aware of that change.

1 Q. What's a closed-loop system?

2 A. Closed-loop system is where a handler or
3 mixer does not come into direct contact with the
4 product during the loading process.

5 Q. When did that change occur?

6 A. That change -- I'd have to look at my
7 document, but that change goes into effect with --
8 this year, I believe, the end of this year.

9 Q. What hazard was that change intended to
10 avoid?

11 A. I -- I can speculate, but it's just
12 going to be one of those things we talked about
13 earlier, right, that exposure that an individual may
14 have, one of those four different potential
15 exposures.

16 Q. Okay. Does Growmark tell its trainers
17 during the applicator training programs to instruct
18 the people they're training about neurotoxic
19 potential of paraquat?

20 A. No. We would train on the label,
21 specifically.

22 Q. Okay. So you'd never tell them that
23 this could cause -- "this," being paraquat, could
24 cause neurotoxic issues health-wise, right?

25 A. That is correct.

1 Q. You would never tell them that it could
2 possibly, if they inhaled it, cause Parkinson's
3 disease, right?

4 A. That's correct, because it's not on the
5 label.

6 Q. Okay. Anything -- nothing except what's
7 on the label?

8 A. Right.

9 Q. Okay. Your responses to the notice of
10 this deposition stated that, "Growmark was unaware
11 of any studies regarding safety issues."

12 How does Growmark design its
13 applicator training programs without specific
14 knowledge of the hazards of paraquat?

15 MR. HOPP: Object to the form of the
16 question.

17 A. We train on potential PPE to help
18 mitigate exposure to that product.

19 Q. Okay.

20 A. It's all herbicides.

21 Q. Growmark would not consider studies into
22 various pathways of exposure in designing and
23 training; is that correct?

24 A. Can you repeat the question, please.

25 Q. Yes.

1 Growmark would not consider studies,
2 scientific studies, into the various pathways into
3 the human body from exposure to paraquat in
4 designing its training?

5 A. That is correct. We look at the label
6 and what the EPA provides.

7 Q. Growmark does not consider studies to
8 the extent to which -- strike that.

9 Growmark wouldn't consider studies
10 that have evaluated the extent to which users follow
11 PPE guidelines in designing its training, would it?

12 A. That would be correct.

13 Q. Okay. Is Growmark aware that
14 applicators sometimes mix and load paraquat
15 formulated products without wearing gloves?

16 A. No, we are not aware of that.

17 Q. Okay. Is Growmark aware that
18 applicators sometimes mix and load formulated
19 paraquat without wearing face shields?

20 A. We're not aware of that, either.

21 Q. Is Growmark aware that applicators
22 sometimes get paraquat product on their hands during
23 mixing or loading?

24 A. No, we're not aware of that.

25 Q. Okay. And is -- is -- strike that.

1 Is Growmark aware that farmers
2 sometimes remove their gloves when unclogging a
3 spray nozzle?

4 A. Our assumption is that all users follow
5 the label, which would --

6 Q. All right. So I move -- yeah, I move to
7 strike your answer as unresponsive.

8 Are you at Growmark aware that some
9 farmers remove their gloves when unclogging a
10 sprayer nozzle?

11 A. No.

12 Q. And you have none of your -- strike
13 that.

14 I'm missing the term one more time.
15 Help me out. The name of your group. I have a
16 mental block on that. What is the group of people
17 that you --

18 MR. HOPP: Crop specialists.

19 MR. TILLERY: Crop specialists. I'm
20 writing it down this time. All right. A crop
21 specialist.

22 BY MR. TILLERY:

23 Q. All right. Starting over, a new
24 question.

25 From your discussion with crop

1 specialists, they have never reported seeing
2 anything different, or ever even watching farmers do
3 this process, correct?

4 A. That's correct.

5 Q. So in all the years that paraquat's been
6 applied, as far as you know, none of the people from
7 your member cooperatives or their employee crop
8 specialists have ever gone out and watched the
9 farmers apply the product, paraquat, right?

10 A. To my knowledge, they have not gone out
11 and watched the farmers apply the product, that
12 would be correct.

13 Q. Okay. Are you aware that your -- your
14 sprayers and applicators from member cooperatives
15 sometimes mix and load paraquat formulated products
16 without gloves?

17 A. No.

18 Q. Okay. Are you aware that they mix and
19 load formulated products without face shields?

20 A. No.

21 Q. Are you aware that applicators sometimes
22 get paraquat on their hands during mixing and
23 loading, those who work for the member cooperatives
24 or for your wholly owned subsidiary units; were you
25 aware of that?

1 A. No.

2 Q. Okay. Are you aware that they sometimes
3 take off their gloves to unclog spray nozzles?

4 A. No.

5 Q. Okay. Do your applicators ever use
6 knapsack spray paints?

7 A. I do not know what that is, sir.

8 Q. Okay. Have you ever heard of that term?

9 A. No, sir.

10 Q. Okay. Are you aware that farmer
11 applicators sometimes are exposed to paraquat
12 formulated products by walking through recently
13 treated vegetation?

14 A. No.

15 Q. As far as you know, that doesn't happen?

16 A. Correct.

17 Q. Okay. Are you aware that applicators,
18 farmer applicators who buy your products from member
19 cooperatives, are sometimes exposed to paraquat
20 formulated products by inhaling the paraquat during
21 the application process?

22 A. No.

23 Q. Growmark was not aware of that, either,
24 right?

25 A. Correct.

1 Q. Okay.
 2 And you're aware -- you're -- strike
 3 that.
 4 You're unaware of the fact that your
 5 own member cooperative sprayers or applicators are
 6 exposed to paraquat products by inhaling during the
 7 application process, correct?
 8 A. That's correct.
 9 Q. Are you aware that bystanders are
 10 sometimes exposed to paraquat formulated products
 11 due to spray drift?
 12 A. No.
 13 Q. As far as you know, that hasn't
 14 happened, either, right?
 15 A. That is correct.
 16 Q. Okay. And are you aware that severe
 17 weather conditions, such as extreme heat, can cause
 18 applicators to disregard certain PPE requirements?
 19 A. No.
 20 Q. Never -- that never was known to you
 21 or -- strike that.
 22 That was not something that was ever
 23 known by -- by Growmark, right?
 24 A. That's correct.
 25 Q. Okay. And was Growmark aware of the

1 Q. All right. Have you ever done, at
 2 Growmark, any investigation to determine whether
 3 there's strict adherence to the warning labels in
 4 the application of paraquat?
 5 A. No. I do not believe so.
 6 Q. Okay.
 7 (Clarification requested by the Court Reporter.)
 8 A. No. I do not believe so.
 9 Q. What PPE does Growmark mandate for its
 10 employees applying paraquat formulated products?
 11 A. We tell them to follow the label and
 12 anything that's on the label is what we request them
 13 use.
 14 Q. Okay. And that's no matter what it is,
 15 right?
 16 A. That is correct.
 17 Q. Okay. How long have you done it that
 18 way?
 19 A. Talking with Danny Best, we have been
 20 doing that since the mid to late '70s, for sure,
 21 since he was around the safety division.
 22 Q. Okay. Growmark has never done its own
 23 investigation into appropriate PPE, correct?
 24 A. That is correct.
 25 Q. Has Growmark ever tested to see if

1 fact that there's a significant variation in the
 2 applicators' adherence to warning labels?
 3 A. No, we were not aware.
 4 Q. You assume that all farmer applicators
 5 adhered in every way to every label restriction,
 6 correct, and warning?
 7 A. Correct.
 8 Q. Okay. That was your assumption.
 9 And you assumed that every single
 10 applicator who worked for a member cooperative,
 11 adhered in every way to the letter of the law of
 12 that label, correct?
 13 A. That is correct.
 14 Q. Okay. And you have no knowledge of any
 15 kind to the contrary?
 16 A. I do not.
 17 Q. Are you aware of any --
 18 (Clarification requested by the Court Reporter.)
 19 A. I do not. Yes, that's correct.
 20 Q. Are you aware of any studies that have
 21 been conducted by Chevron or Syngenta or Zeneca to
 22 determine whether or not applicators follow these
 23 PPP -- PPE and other warning label instructions
 24 literally?
 25 A. No, I'm not aware.

1 paraquat is in the urine of paraquat applicators
 2 that it employs or which are employed by member
 3 cooperatives?
 4 A. Not that I know of, no.
 5 Q. Okay. Are you aware of studies that
 6 have done just that?
 7 A. No.
 8 Q. Okay. Do you know if Growmark has ever
 9 asked Chevron or Syngenta about any studies they've
 10 conducted about exposure from applicators to
 11 paraquat?
 12 A. I do not know.
 13 Q. You're not aware that they've ever asked
 14 for it, right?
 15 A. Not aware it.
 16 Q. As far as --
 17 Is Growmark aware that users of
 18 paraquat formulated products sometimes get
 19 nosebleeds?
 20 A. Other than what's on the label, we would
 21 not know that.
 22 Q. Have any of your applicators or any of
 23 the farmer applicators who purchased from member
 24 cooperatives ever reported any health effects from
 25 using paraquat?

1 A. Not that we know of, other than this
2 case here.

3 Q. Does Growmark monitor the farmer
4 applicators who buy from your member cooperatives to
5 determine whether they have any understanding of the
6 labels, and whether they follow the warnings on the
7 labels?

8 MR. HOPP: Object to the form.

9 You can answer.

10 A. We assume that all applicators are
11 restricted-use -- or have their restricted-use
12 license. And so we assume they have that
13 information. So -- but, no, we do not track that.

14 Q. You -- Growmark has no means of tracking
15 whether or not farmers comply with the warning
16 labels, right?

17 A. We do not have that information.

18 Q. And you've never made an effort to try
19 to do it, have you?

20 A. We've feel that the label requires --
21 it's a legal document and it requires certain things
22 to be done. They've been trained through their
23 licensure, that way that we assume that they would
24 follow the letter of the law and the label.

25 Q. I move to strike your answer as

1 Growmark, and from the member cooperatives, is the
2 product with the label on it?

3 A. To the best of my knowledge, yes.

4 Q. Okay. There's not somebody who comes
5 out from Growmark and says, Farmer Smith, this is
6 how you apply this. This is what you don't do, this
7 is what you do.

8 You expect them to do that, or know
9 that on their own, correct?

10 A. We would assume they would read the
11 label and follow those directions, correct.

12 Q. So you don't afford them any kind of
13 instruction or answers to their questions or any
14 kind of information about safety features applying
15 paraquat, correct?

16 MR. HOPP: Object to the form of the
17 question.

18 You can answer.

19 A. I don't think that we've provided them
20 with information, no.

21 Q. Like that.

22 Has Growmark ever tried to determine
23 how far paraquat drifts?

24 A. I don't believe so.

25 Q. Do you know whether it does drift?

1 unresponsive.

2 You've never made an effort to try
3 to monitor whether they follow the labels; is that
4 correct?

5 A. Correct.

6 Q. Okay. Has Growmark ever provided
7 instruction on how to clean spray nozzles in
8 applying paraquat formulated products without
9 removing gloves?

10 MR. HOPP: Object to the form.

11 A. To my knowledge, we have not given them
12 any -- any materials on how to -- to clean the
13 nozzles.

14 Q. Would it be safe -- sorry. Sorry. Go
15 ahead and finish your answer.

16 A. With paraquat specifically, we have not
17 given them any -- any -- we've not shown them how to
18 do that.

19 Q. Yeah. Other than providing the product
20 with the label on it, Growmark has never afforded
21 any instruction or any other safety warning or
22 safety-related information to the farmer applicators
23 who buy from member cooperatives, correct?

24 A. That is correct.

25 Q. So the only thing they get from

1 A. Any chemical is capable of particle
2 drift, so...

3 Q. So the answer -- so the answer would be
4 yes, right?

5 A. Yes.

6 Q. Do you know if there's any particular
7 risk of danger associated with exposure to the mist
8 from paraquat formulated products?

9 MR. HOPP: Object to the form.

10 A. I don't know that information.

11 Q. And would you agree with me that the
12 Plaintiffs in this matter would not have known about
13 those dangers from exposure to mist from formulated
14 products if Growmark wasn't aware of them, either?

15 MR. HOPP: Object to the form.

16 A. I would agree.

17 Q. Do you happen to know whether member
18 cooperatives can sell paraquat formulated products
19 other than the ones provided by Growmark?

20 A. Member cooperatives have the ability to
21 purchase products from any distributor they would
22 like. So there could be products they could sell.

23 Q. You don't know what they're selling,
24 right?

25 A. That is correct.

1 Q. Okay. Can farmers purchase paraquat
2 products directly from Growmark?
3 MR. HOPP: I'm sorry, I didn't hear,
4 from who?
5 MR. TILLERY: Growmark.
6 A. Through retail divisions, they can, but
7 not directly from Growmark, Inc.
8 Q. Retail divisions, which are wholly owned
9 stores of Growmark?
10 A. Yes, sir.
11 Q. All right. You have two of those in the
12 state, right?
13 A. Yes.
14 Q. Okay. Let's pull up KT Exhibit 523,
15 please.
16 Do you see this exhibit?
17 A. Yes, sir.
18 Q. Okay. Who is Kevin Frye?
19 A. Kevin Frye is in our safety department
20 in Growmark.
21 Q. Where?
22 A. He's based out of Growmark's central
23 office.
24 Q. In Bloomington?
25 A. In Bloomington, yes, sir.

1 Q. Okay. What is his job?
2 A. His job is to -- to -- to help try and
3 make sure that our member companies are doing things
4 that they have to, according to the law.
5 Q. How does he go about doing that?
6 A. You know, I -- I don't know his
7 day-to-day, how he would do his specific duties. I
8 don't know that.
9 Q. So his -- from reading this, it said --
10 you said that his job is to help try to make sure
11 that your member cooperatives are doing things to
12 comply with the law.
13 Does he visit them?
14 A. I believe that he does visit them, and
15 he also does training. Trains individuals.
16 Q. And how does he do training?
17 A. You know, it might be -- you know, he
18 also plays a role in our applicator trainings that
19 we do. So he also would have a part to train our
20 applicators.
21 Q. Well, he trains applicators, and he
22 trains other people at the member cooperatives,
23 right?
24 A. Yes, on many other things, that includes
25 pesticides and applicators, but other things as

1 well.
2 Q. And he makes sure that they're complying
3 with the law. And is that for making sure that
4 their registrations are correct, that they're
5 getting appropriate information; what -- tell me the
6 things that he does.
7 A. I believe that he's complying with the
8 regulations, but he's also -- he's in the safety
9 department, so he's trying to mitigate potential
10 adverse reactions or adverse accidents.
11 Q. Attributable to some act or conduct by
12 the member cooperatives, right, or their employees?
13 A. Yeah, or as simple as a slip and fall,
14 yes.
15 Q. Okay. So does he come and visit the
16 facility?
17 A. Yes, I know he visits facilities, yes.
18 Q. Does he do that on a regular basis as
19 part of his job?
20 A. Yes.
21 Q. And would he visit them routinely
22 throughout the State of Illinois?
23 A. He does them routinely throughout at
24 least a part of Illinois. There are other
25 individuals that would share duties and

1 responsibilities.
2 Q. So if he sees some problem, that either
3 they're not compliant with regulations, or if
4 they're in some way not doing what he thinks is a
5 safe thing, what does he do to fix that problem?
6 A. Specifically, I don't know exactly. I
7 know that he points out the issue, and he talks to
8 those about the issue, but I don't know the
9 specifics in that matter.
10 Q. Yeah. Are there other people besides
11 Kevin Frye who do the same thing?
12 A. They would -- as far as going to member
13 companies and monitoring, yes.
14 Q. Who are those people?
15 A. I'd have to get you those names at a
16 later date. I believe Jenny Poole is one of them,
17 and I don't know -- think there may be a couple of
18 other individuals.
19 Q. Are they assigned different territories?
20 A. That is my understanding, yes.
21 Q. And who is assigned the Southwestern
22 Illinois territory?
23 A. Um, I do not know for sure.
24 Q. Okay. All right.
25 Have you reviewed Plaintiffs

1 Exhibit Number -- is this 6 -- 6 before your
2 deposition?
3 (Powell Plaintiff's Exhibit 6, e-mail, 6.1.2019,
4 Growmark-Hoffmann_00021460, was marked for
5 identification.)

6 A. No, I have not seen this document.

7 Q. This is listed. This is
8 Growmark-Hoffmann_00021460.

9 It's an e-mail, isn't it?

10 A. Yes, sir.

11 Q. It was sent a little over a year ago?
12 And it was sent by Mr. Frye to -- right, to J.
13 Poole; who is he?

14 A. No, that is -- that is a her, that is
15 Jenny Poole.

16 Q. Okay. And to Matt Harken, who is that?

17 A. I -- I don't recognize that name.

18 Q. Okay. What about Gabe Meador?

19 A. Gabe is another one of the trainers.

20 Q. Okay. And in this e-mail, they're
21 referring to applicator training by Growmark, don't
22 they?

23 A. That appears so.

24 Q. Does it cover -- they're referring to
25 "Address all elements required by the EPA"; Safety

1 Do you see that?

2 A. Yes.

3 Q. Okay. And then if you look at the very
4 last paragraph, okay -- I think we have the wrong
5 one. Oh, there it is. No. I'm sorry.

6 Do you see the second to the last
7 paragraph, "It is important to play a portion of the
8 video since" is it a -- "it is the approved EPA
9 training. I played the intro to the Handler portion
10 starting at 21:50 mark, ending at 23:05. Then I
11 played the labeling explanation beginning at the
12 30:40 mark. Do whatever you want, but must play
13 some portion of the video so we can say it was
14 used."

15 You see that?

16 A. Yes, I see that.

17 Q. So do you have to just play enough so
18 that you can tell the EPA that you have played some
19 portion of this video to your training people?

20 A. I -- I don't know the context under
21 this. I take this as if he -- if another individual
22 found something more important, that they should
23 play that. He was giving suggestions.

24 Q. Oh, okay. What about my interpretation
25 that Mr. Frye's suggestion that the video simply

1 Phase 3, "and hopefully -- hopefully get approved by
2 EPA as approved training for WPS."

3 What is that? What is the WPS?

4 A. Worker protection standards.

5 Q. Okay. "Jenny submitted, but we" do not
6 yet -- "we've not yet to hear back, likely because
7 of the government shutdown. Covers all the elements
8 required for WPS training. Feel free to just use
9 the one, it is in the O-drive; however, I did modify
10 the presentation a little so I could identify key
11 points more quickly, and removed most of the
12 animated slides more to my style of presenting.

13 I also hid some slides where I felt
14 there could be information overload and anticipated
15 time crunch, but still felt I covered the required
16 elements, so feel free to adjust to your style."

17 You see that? So is -- what he is
18 talking about; is this your training preparation for
19 your applicators?

20 A. My -- my assumption here is that he has
21 done one of these trainings or they're putting it
22 together and they're modifying it to make sure that
23 it hits home the key points.

24 Q. Okay. And up here at the subject line,
25 it says, "WPS training/crop schools."

1 needs to be played so that Growmark can say it was
2 used, consistent with an obligation to thoroughly
3 train applicators in safety issues; would you agree
4 interpretation as well?

5 MR. HOPP: Object to the form of the
6 question.

7 A. Knowing Kevin, that's not how I
8 understand what he's saying. He's --

9 Q. Okay. Well, let's -- so, you -- let's
10 go to another one, okay?

11 Let's go to KT Number 7, Plaintiff's
12 Exhibit 7, KT524.

13 (Powell Plaintiff's Exhibit 7, e-mail, 1.3.2018,
14 Growmark-Hoffmann_00101156, was marked for
15 identification.)

16 Q. This Exhibit Number 7 is
17 Growmark-Hoffmann_00101156. And if you look at
18 this, this is a Kevin Frye e-mail dated January 3,
19 2018, to Bob Eichelberger.

20 Who is he?

21 A. Bob Eichelberger is the operations
22 manager at Evergreens FS.

23 Q. Evergreens?

24 A. Evergreen FS.

25 Q. Is that a member cooperative?

1 A. That's a member cooperative.
 2 Q. Okay. And is -- does it appear that
 3 he's referring to a 2018 applicator training agenda,
 4 safety agenda?
 5 A. Yes, that appears to be what it is.
 6 Q. This is also an e-mail from Kevin Frye?
 7 A. Yes.
 8 Q. And if you look at the e-mail, does
 9 Mr. Frye suggest the possibility of doing an
 10 abbreviated training because the full training may
 11 be, quote, "too painful," end quote?
 12 A. It does say that, yes.
 13 Q. All right. And Growmark generally looks
 14 at the training as painful hoop to jump through; is
 15 that right?
 16 MR. HOPP: Object to the form of the
 17 question.
 18 A. I think generally, yeah, Growmark views
 19 training as something that is -- is a good and
 20 necessary thing to help make sure that our members
 21 can be as safe as they can be in the field.
 22 Q. Have you looked at the rest of the
 23 e-mails that were in the reliance set? Are you sure
 24 about that?
 25 A. No, sir. I have not seen any other

1 with that, right?
 2 A. That would be correct.
 3 Q. Okay.
 4 MR. TILLERY: Let's go off the
 5 record while I review my notes to decide if I want
 6 to follow a very lengthy path, or call it a day.
 7 Okay?
 8 MR. HOPP: Okay.
 9 MR. TILLERY: Off the record.
 10 THE VIDEOGRAPHER: It is 3:32 p.m.
 11 We're going off the record.
 12 (RECESS, 3:32 p.m. - 3:38 p.m.)
 13 THE VIDEOGRAPHER: It is 3:38 p.m.
 14 We are back on the record.
 15 MR. TILLERY: I have no further
 16 questions for you, sir.
 17 We're going to go off the record and
 18 take care of some remaining exhibits, if there's no
 19 further examination of you.
 20 MR. HOPP: Before we go off --
 21 before we go off the record, no questions for
 22 Growmark. Before we go off the record, we will read
 23 and sign.
 24 MR. TILLERY: All right.
 25 MR. HOPP: Hold on. Anything from

1 e-mails.
 2 Q. Okay. All right.
 3 But have you -- have you seen
 4 anything that suggests that Mr. Frye doesn't even
 5 like the use of respirators? See that?
 6 A. No.
 7 Q. Okay. Okay. So just so we're clear,
 8 instead of going through all these e-mails, are you
 9 telling me that no one at Growmark has suggested
 10 that respirators are a waste of time for the people
 11 that are training?
 12 A. I believe that -- I don't know what any
 13 individual says because I don't see everything that
 14 comes across everybody's e-mail.
 15 I know that we like to train to the
 16 label, and that's what we would train to.
 17 Q. How about a line like this: "Putting
 18 every worker that could get a whiff of a pesticide
 19 whose label says to wear a respirator into the
 20 respiratory program is inefficient, impractical and
 21 unnecessary."
 22 Agree with that one?
 23 A. Probably not, no.
 24 Q. Okay. So if one of the directors of
 25 your training program says that, you wouldn't agree

1 Chevron or Syngenta?
 2 MS. SCHEIDERER: Nothing from
 3 Chevron.
 4 MR. TILLERY: Apparently not.
 5 (Off the record.)
 6 MR. HOPP: Okay. Let's go off the
 7 video record.
 8 THE VIDEOGRAPHER: This concludes
 9 the deposition of David Powell. It is 3:39 p.m. We
 10 are off the record.
 11 (The video record was concluded.)
 12 MR. HOPP: Steve, just to be clear,
 13 we're staying on the record?
 14 MR. TILLERY: Yeah, we're staying on
 15 the stenographic record, okay?
 16 Exhibit Number 8 will be a group
 17 exhibit which contains all 16 of the
 18 enumerated Quick -- what did you call them?
 19 MR. HOPP: Quick Guides.
 20 MR. TILLERY: Quick Guides. That's
 21 right. I was going to call them Quickbooks. There
 22 are 17. I thought you had 16. So there's 17 of
 23 those documents in group Exhibit Number 8.
 24 Group Exhibit Number 9 is the
 25 three-page CV of David K. Powell. She says she can

1 load that one electronically.

2 MR. HOPP: I think we can agree that
3 it's the three-page CV that we produced.

4 MR. TILLERY: Right. That's it
5 and -- that's it for our exhibits. I think you have
6 everything else, but I'd appreciate it if you would
7 stay with her to work that out, okay? Thank you.
8 (Signature NOT WAIVED.)
9 (CONCLUDED, 3:40 p.m.)
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1 CERTIFICATE OF COURT REPORTER

2
3 I, Marjorie Peters, Fellow of the Academy of
4 Reporting, Registered Merit Reporter, Certified
5 Realtime Reporter, Notary Public the Commonwealth of
6 Virginia, before whom the foregoing deposition was
7 taken, do hereby certify that the foregoing
8 transcript is a true and correct record of the
9 testimony given; that said testimony was taken by me
10 stenographically and thereafter reduced to
11 typewriting under my direction and that I am neither
12 counsel for, related to, nor employed by any of the
13 parties to this case and have no interest, financial
14 or otherwise, in its outcome.

15 I further certify that signature was not
16 waived by the witness.
17

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand this _____ day of _____, 2020.
20
21

22 Marjorie Peters, RMR, CRR
23 My Commission expires on August 31, 2020.
24
25

1 ACKNOWLEDGMENT OF DEPONENT

2
3 I, DAVID POWELL, PhD, do hereby acknowledge
4 that I have read and examined the foregoing
5 testimony, and the same is a true, correct and
6 complete transcription of the testimony given by me
7 and any corrections appear on the attached Errata
8 sheet signed by me
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(DATE) (SIGNATURE)

1 E R R A T A S H E E T

2 IN RE:
3 DEPONENT:
4 RETURN BY:
5 =====

6 PAGE/LINE CORRECTION AND REASON
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18 (DATE) (DEPONENT SIGNATURE)
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22 (DATE) (NOTARY PUBLIC)
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