

EMHART INDUSTRIES, INC. vs. NEW ENGLAND CONTAINER COMPANY, INC., et. al.



Case Number: C.A. 06-218-S, C.A. 11-023-S
Deponent: Joseph Nadeau
Date: 2013-06-24 13:00:00
Location: 1800 Financial Plaza, Providence, Rhode Island

Phone: 888.884.4868
Email: hello@casemark.com

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Plaintiff Attorneys:

- Jack R. Pirozzolo, Foley Hoag LLP
- Brian Henninger, Foley Hoag LLP

Defendant Attorneys:

- Megan Baroni, Robinson & Cole LLP
- Patrick B. Bryan, U.S. Department Of Justice, Environment & Natural Resources Division
- Joy Sun, Environmental Protection Agency
- John Ferroli, Via Telephone
- W. Darrel Johnson, Via Telephone
- Andrea Leshak, Via Telephone
- Tiffany Ikeda, Via Telephone

Abstract

Joseph Nadeau, appearing as a Witness, provided continued deposition testimony on June 24, 2013, in the consolidated environmental litigation cases of *EMHART INDUSTRIES, INC. vs. NEW ENGLAND CONTAINER COMPANY, INC., et. al.*, C.A. 06-218-S and C.A. 11-023-S. This deposition, held in Providence, Rhode Island, involved multiple plaintiff and defendant counsel, including representatives from the U.S. Department of Justice and the Environmental Protection Agency, indicating the complex regulatory and environmental nature of the dispute. As a witness, **Nadeau's** testimony is expected to contribute factual information relevant to the ongoing claims between the parties, likely pertaining to site conditions, operational history, or environmental practices pertinent to the alleged liabilities.

Without specific details of **Nadeau's** testimony, a comprehensive strategic overview is limited. However, the continuation of his deposition suggests his testimony is considered material to the case, potentially offering insights into historical operations, knowledge of environmental conditions, or interactions between the involved entities. The presence of federal agencies underscores the potential for significant regulatory implications or enforcement actions tied to the outcome of this litigation. Further analysis of the specific content of **Nadeau's** testimony would be required to identify critical findings, assess credibility, or determine the precise impact on the overall case strategy for either **Emhart Industries** or **New England Container Company**.

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1. Overview

Joseph Nadeau's June 24, 2013 deposition for Emhart Industries, Inc. vs. New England Container Company, Inc. details his Metro-Atlantic employment. He describes hexachlorophene manufacturing in the Texas Tower, basement French drains, and floor wash runoff into the tailrace. Nadeau identifies site features on a map, including Smith Street, a burn pit for reconditioning drums, and a wash station for closed-head drums. He also discusses the filter press, drum handling, and the disposal of plastic liners, providing insights into the facility's operations.

2. Background w/ medical providers

Personal Background

Joseph Nadeau is the deponent in this excerpt ([150:15-150:20](#)).

Educational Background

- **High School:** Attended Ponaganset High School ([151:23](#)).
 - He was approximately 16 or 17 years old during his summer work between 1962 and 1965 ([151:24-152:1](#)).
 - His summer work occurred while he was a sophomore, junior, or senior in high school ([152:15-152:18](#)).
 - He did not work at the site when he was in college ([152:19-152:20](#)).

Military Service

- **Drafted:** Drafted into the Army in 1965 ([152:21-152:22](#)).
- **Duration:** Served for two years ([152:24-152:25](#)).

Employment History

- **Metro-Atlantic / New England Container Company (NECC):**
 - Worked for **Metro-Atlantic** for "a couple of summers" between 1962 and 1965 ([151:4-151:7](#)).
 - Worked for **New England Container Company** for one or two summers ([151:7-151:9](#), [152:9-152:11](#)).
 - His last two stints were at **Metro-Atlantic**, specifically 1964 through 1965, and possibly 1963-1964 ([152:5-152:8](#)).
 - His full-time employment at **Metro-Atlantic** was from approximately June 1964 to August 1965 ([205:2-205:3](#)).
 - He left the Centredale site in August 1965 ([153:14-153:16](#)).
 - His role was that of a laborer ([218:3-218:4](#)).
 - His duties primarily involved working in the main building, helping blend products, drawing off tanks, and running the filter press ([201:18-201:22](#)). He also spent time "across the street" drying reserve salt ([201:22-202:8](#)). Most of his work was indoors ([202:12-202:13](#)).
 - He did not have an understanding of chemistry ([217:10-217:11](#)). He knew certain substances like acid, formaldehyde, and ammonia were "not good for me" ([217:13-217:15](#)).
 - He was not involved in accounting or management for either company ([218:5-218:12](#)).
 - He did not know who owned what or the boundaries of the land between different owners ([218:16-218:25](#)).
- **Crown Chemical:** After military service, he moved back to Rhode Island and worked for **Crown Chemical** "somewhere in the late sixties" ([153:5-153:8](#)).
 - This was at a different location, where **Rhode Island Hospital** is now ([153:9-153:11](#)).

Medical Providers

No medical providers, facilities, or insurance information are mentioned in this excerpt.

Medical History

No personal medical history, pre-existing conditions, prior injuries, or family medical history are mentioned in this excerpt.

3. Key topics

Joseph Nadeau's June 24, 2013, deposition for Emhart Industries and New England Container Company (C.A. 06-218-S, C.A. 11-023-S) in Providence, Rhode Island, covers his employment, hexachlorophene manufacturing, the 'Texas Tower,' French drains, and drum reconditioning. He also testifies about washing black sludge from floors into the tailrace, causing discoloration, and the disposal of plastic liners from drums, providing environmental and operational details.

4. Event chronologies

Date	Summary
1962-1963	Joseph Nadeau believes he worked at New England Container for one or two summers during this timeframe. This specific period of employment at NECC is significant for understanding his observations related to that company's operations. He states, "'62, '63 was the New England Container. I may have worked one, maybe two summers. I don't remember." (152:9-152:11)
1963	Joseph Nadeau might have worked one summer at Metro-Atlantic prior to his full-time employment. This indicates an earlier, less certain period of work at Metro-Atlantic. He states, "I believe there was also one summer I worked there prior to that which might have been '63." (204:20-204:21)
1963-1964	Joseph Nadeau may have worked at Metro-Atlantic during these years, though his memory is less certain. This period contributes to his overall experience at the site. He states, "'63, '64 may have also been with Metro-Atlantic. Not too sure of that." (152:7-152:8)
1964-1965	Joseph Nadeau worked at Metro-Atlantic for sure during this period. This represents a confirmed period of employment at Metro-Atlantic. He states, "I think the last two stints were at Metro-Atlantic. I think '64 through '65 was at Metro for sure." (152:5-152:7)
After 1965	Joseph Nadeau served two years in the Army. This period explains his absence from the Centredale site immediately following his employment. He states, "After '65 I was in the Army. 1965 I was drafted." (152:21-152:22) and "Two years." (152:25)
August 1965	Joseph Nadeau left the Centredale site and was inducted into the military. This marks the end of his direct employment at the facility, providing a clear cutoff for his firsthand observations. He states, "August of 1965 I left there." (153:16) and "August 23rd I was I was inducted into the military." (205:3-205:4)

Date	Summary
Between 1962 and 1965	Joseph Nadeau worked part-time jobs at Metro-Atlantic and other places, including possibly one summer at New England Container. This period marks his initial exposure to the facilities and operations relevant to the case, establishing his basis of knowledge for later testimony. He states, "Between '62 and '65 I worked part-time jobs there and other places. Metro New England Container I think I worked there one summer. I'm not sure." (151:6-151:9)
December 17, 2002	Joseph Nadeau gave a deposition (Exhibit 1) where he testified about the duration of hexachlorophene manufacturing and the French drains. This deposition is a key prior statement used to refresh his recollection and assess consistency in his current testimony. He states, "That is a deposition you gave on December 17, 2002." (154:22-154:23) and confirms he testified truthfully to the best of his recollection at that time (156:10-156:12) .
December 17, 2002	During his deposition, Joseph Nadeau testified that hexachlorophene was manufactured for approximately eight or nine months. This specific detail from a prior testimony is used to challenge his current 'fuzzy' memory. He states, "I'm guessing maybe eight, nine months maybe. It wasn't there full time. I can't remember. I know it was there for a good eight months anyhow." (156:23-156:25)
December 17, 2002	During his deposition, Joseph Nadeau testified that it was an assumption that liquid from the French drains went outside through a cutout. This prior statement is contrasted with his current, more definitive recollection. He states, "You know, I probably did. I just can't remember. I couldn't say for a fact. It's an assumption." (192:14-192:17)
December 17, 2002	During his deposition, Joseph Nadeau testified that he recalled the tailrace changing color. This prior statement is used to refresh his memory and establish a more concrete observation of environmental impact. He states, "At the time of your deposition, in the Home Insurance case, it was your testimony that you recall that the tailrace changed color?" and answers "Yes." (210:10-210:13)
June 1964 to August 1965	Joseph Nadeau worked full-time at Metro-Atlantic. This is a more precise timeframe for his full-time employment, which is crucial for establishing his direct knowledge of the facility's operations. He states, "Probably June of '64 to August of '65 because August 23rd I was I was inducted into the military." (205:1-205:4)
June 24, 2013	The continued deposition of Joseph Nadeau is taken. This is the current event, providing the context for all the testimony and recollections. The transcript states, "Continued deposition of JOSEPH NADEAU, a Witness herein, taken on MONDAY, JUNE 24, 2013, 1:00 P.M." (146:15-146:17)

Date	Summary
June 24, 2013	Joseph Nadeau testifies that it has been about a week or two since the Government and NECC concluded their examination of him. This indicates a recent prior deposition or examination. He states, "Mr. Nadeau, it's been about a week or two since the Government and NECC concluded their examination of you." (150:23-150:25)
June 24, 2013	Joseph Nadeau testifies that he now remembers seeing liquid from the French drains go outside the building. This is a clarification and strengthening of his prior testimony from 2002, indicating a more certain recollection of direct discharge. He states, "Yeah, I remember saying that but the more I think about it now, I do remember in fact it went out. I saw it go out." (192:22-192:24)
June 24, 2013	Joseph Nadeau testifies that he observed the tailrace become murky while working at Metro-Atlantic. This is a direct observation of potential environmental contamination. He states, "I saw it when it was murky." (210:21) and confirms "Yes." (210:24) when asked if it was while working at Metro-Atlantic.
June 24, 2013	Joseph Nadeau testifies that plastic liners removed from drums at NECC were sometimes thrown on the ground for expediency and later picked up and put into another drum. This describes a waste handling practice at the NECC facility. He states, "Some of them were thrown on the ground and then later picked up... for expediency, we'd just dump them on the ground and then pick them up afterwards. So I'm assuming that was done, and when they were picked up, they were put in another drum." (215:15-215:25)
June 24, 2013	Joseph Nadeau testifies that he was told plastic liners from drums were taken to the back part of the facility, commonly referred to as the dump, and dumped on the ground. This indicates a disposal practice for plastic liners at the facility. He states, "That's where I remember. I didn't see it. That's that's what I was told. Where do you go with these things ? We throw them away later, dump them." (216:5-216:9) and clarifies "The end of that peninsula. What was referred to commonly as the dump." (216:11-216:13)
June 27, 2013	The court reporter, Vivian S. Dafoulas, certifies the transcript of Joseph Nadeau's deposition. This is the official date of certification for the legal document. The certification states, "IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of June, 2013." (220:16-220:17)

Date	Summary
Late 1960s	After returning from the Army, Joseph Nadeau worked for Crown Chemical in Rhode Island. This establishes his post-military employment history. He states, "I moved back to Rhode Island and I worked as a matter of fact, I worked for a company called Crown Chemical somewhere in the late sixties." (153:5-153:8)
November 24, 2008	Joseph Nadeau gave a prior deposition where a plan of the facility was marked as Exhibit 1. This deposition is referenced to establish the context for discussing the facility map. He states, "It was previously marked as Exhibit 1 in your deposition of November 24, 2008." (168:19-168:20)
September 14 or 15, 2006	Joseph Nadeau gave trial testimony in court, which was closer in time to his employment at Metro-Atlantic than the current deposition. This testimony is used to highlight the consistency and reliability of his earlier recollections regarding the discharge of wash water. He states, "And that was on September 14 or 15 in the year 2006?" (196:8-196:9) and confirms it was closer to his time at Metro-Atlantic (197:1-197:3).
September 14 or 15, 2006	During his trial testimony, Joseph Nadeau stated that he was sure the water outside the building changed color after washing the floor, but he didn't look to see it. This testimony is used to show a nuanced recollection of events, distinguishing between logical inference and direct observation. He states, "And do you remember giving the answer: 'I'm sure it did. I didn't look.'" (195:12-195:13)
September 14 or 15, 2006	During his trial testimony, Joseph Nadeau confirmed that he was aware the material washed off the basement floor went out to the tailrace/river, not the municipal sewer. This is a critical piece of testimony establishing knowledge of direct discharge into the environment. He states, "'Question: When you washed off the floor at that time, you were aware that it was going out to the tailrace, the river outside?' Answer: 'True.'" (200:16-200:20) and "'Question: So there was no question in your mind that it was not going to the municipal sewer, was it?' Answer: 'There was no question in my mind. It was going outside.'" (201:1)

5. Injuries

Primary Injuries Claimed Chemical Burns

Caustic Acid Burns ([172:16-172:18](#))

- **Nature:** A worker "got badly burned" ([172:17](#)).
- **Mechanism:** Occurred when the worker "disconnected a hose and caustic acid went all over him" ([172:17-172:18](#)).
- **Body Parts Affected:** Described as "all over him" ([172:18](#)), indicating widespread exposure.
- **Severity:** Characterized as "badly burned" ([172:17](#)).
- **Individual:** The injured party is an unnamed "guy that worked in this place here" ([172:16](#)).

6. Liability

Liability Analysis of Joseph Nadeau Deposition Excerpt

This analysis focuses on the testimony of **Joseph Nadeau**, a former employee of **Metro-Atlantic** and **New England Container Company (NECC)**, regarding waste disposal practices and environmental impact at the Centredale site during his employment.

Waste Disposal Practices and Environmental Contamination

Joseph Nadeau provided testimony indicating various waste disposal practices that could contribute to environmental contamination, including the disposal of solid and liquid waste directly into the environment or in uncontained areas.

- **Disposal of Solidified Material from Filter Presses/Vats:**
 - **Nadeau** testified that solidified material chipped out of vessels was "most of the time... thrown into that Dumpster" ([167:4-167:6](#)).
 - The **Dumpster** was located outside the main building, below a doorway, allowing materials to be tossed into it from above ([178:4-178:10](#)).
 - The **Dumpster** was also used for empty raw product bags and material cleaned from the filter press ([165:22-166:3](#)).
 - While he stated he didn't know where the chipped material went after being put in buckets, he later clarified that his "foggy memory" was that it was "thrown into that Dumpster" ([166:10-166:15](#), [167:4-167:6](#)).
- **Discharge of Liquid Waste from Floor Washing:**
 - **Nadeau** confirmed that water used to wash the basement floor, which contained "black sludge, or some kind of sludge" from the presses, was discharged "outside" ([200:6-201:1](#)).
 - He explicitly stated that there was "no question in my mind" that the material was "not going to the municipal sewer" but "was going outside" ([200:21-201:1](#)).
 - He observed the water from the French drains running "out the hole in the building and it went straight outside" ([191:18-191:19](#)).
 - He believes it went "into the river or actually it went onto that piece of real estate behind the building and then eventually into the river" ([193:3-193:6](#)).
- **Discharge of Residue from Drum Washing:**
 - **Nadeau** described the "Wash station" where "closed-head drums" (tights) were cleaned with water or steam, and the liquid would "drain into an area underneath that rack" ([186:16-186:19](#)).
 - He stated that he had "no idea" where that liquid went after draining from the rack, but confirmed "It didn't stay there" ([211:25-212:5](#)). He "wouldn't know" if it flowed into the tailrace

(212:10).

- **Disposal of Plastic Liners from Drums:**

- Nadeau recalled that some barrels brought to NECC for reconditioning had plastic liners ([214:8-214:11](#)).
- These liners were "thrown on the ground and then later picked up" and put into "another drum" ([215:15-215:25](#)). He did not know where they went from that point ([215:25-216:1](#)).
- He also stated that "bags were taken down in the back part of the facility and dumped on the ground," referring to the "end of that peninsula" commonly known as "the dump" ([216:3-216:12](#)).

- **Storage of Drums and Potential for Leaks:**

- Drums were stored in "long piles, long rows on their sides, most of the time on their sides" along the river, "three, four, five high" ([188:1-188:5](#)).
- Nadeau mentioned "leakers," drums that "weren't fit for holding liquids" and were sold as "burn barrels" ([190:6-190:17](#)). He assumed some drums were discarded in the "dump area" ([190:24-190:25](#)).

Witness Observations of Environmental Impact

Nadeau provided direct observations and inferences regarding the impact of these practices on the surrounding environment.

- **Tailrace Water Discoloration:**

- While initially stating in a 2002 deposition that he "couldn't say for a fact" if he saw a cutout for drainage and that it was an "assumption" ([192:14-192:17](#)), Nadeau later affirmed in the current deposition, "Yes, I did. I saw it go out" ([192:24](#)).
- Regarding the tailrace changing color after floor washing, he testified in 2006, "I'm sure it did. I didn't look" and "Logic tells me it did" ([195:12-195:22](#)).
- However, in the current deposition, when asked if he recalled the tailrace changing color, he stated, "Yes. What caused that - if you ask me what caused that coloration change, I don't know, but it got murky and after that it becomes assumptions" ([210:11-210:17](#)).
- He explicitly stated, "I saw it when it was murky" while working at Metro-Atlantic ([210:20-210:24](#)). He described it as times when "you could not see to the bottom" ([211:3-211:7](#)).

Operational Context and Shared Facilities

Nadeau's testimony also sheds light on the operational context of the facilities, which may be relevant to attributing liability between the entities.

- **Shared Operations:**

- Nadeau stated that Metro-Atlantic and NECC were run by "brothers as everybody knows or relatives or something, so a lot of these areas were, I believe, shared" ([170:23-171:3](#)).
- He "considered them one body" and did not attribute areas exclusively to one company ([171:5-171:6](#)).
- Employees, particularly maintenance staff, were "interchangeable" and worked at "both sites" ([206:11-206:23](#)).

- **Limited Knowledge of Chemical Composition:**

- Nadeau explicitly stated he had "no" understanding of chemistry and was "not a chemist" ([217:10-217:12](#)).
- He would not know if substances he handled contained dioxin, as "Dioxin is not a term I remember" ([217:19-217:24](#)). His knowledge was limited to recognizing "what was bad" like acid, formaldehyde, and ammonia ([217:13-217:16](#)).

Witness Credibility and Memory Issues

Nadeau frequently cited memory issues due to the passage of time, which could impact the weight of his testimony.

- **Fuzzy Memory:**

- He repeatedly described his memory as "fuzzy" or "foggy" regarding specific dates, durations, and details of operations ([152:14](#), [154:9](#), [154:17](#), [157:21](#), [158:19](#), [167:4](#), [204:13](#)).
- He acknowledged that his earlier testimony (2002, 2006) was "closer to the time that you worked at Metro-Atlantic than it is now" ([197:1-197:3](#)).

- **Inconsistencies/Clarifications in Testimony:**

- There was a direct challenge regarding his recollection of seeing liquid exit the French drains. While he initially testified in 2002 that it was an "assumption" ([192:14-192:17](#)), he later affirmed in the current deposition, "Yes, I did. I saw it go out" ([192:24](#)).
- Similarly, his testimony regarding the tailrace changing color evolved from "Logic tells me it did" (2006) to "I saw it when it was murky" (current deposition), although he still couldn't definitively state he saw the *change* happen ([195:21-195:22](#), [210:11-210:24](#)).

7. Damages

The provided deposition transcript does not contain any information regarding damages.

8. Expert Witnesses

The provided deposition transcript does not contain any information regarding expert witnesses.

9. Key admissions

Critical Environmental Practices Admissions

Disposal of Solidified Material into Dumpster

ADMISSION: "My foggy memory of those periods were, like I said here, most of the time, from what I can remember, were thrown into that Dumpster" ([167:4-167:6](#)).

CONTEXT: This statement is made after the deponent is asked to refresh his recollection by reviewing his December 17, 2002 deposition testimony (Exhibit 1, Page 43, Lines 8-20) regarding the disposal of solidified material chipped out of vessels. He confirms this was his recollection after reviewing the prior testimony.

SIGNIFICANCE: This is a direct admission that solidified waste material, chipped from manufacturing vessels, was routinely disposed of in a Dumpster. This suggests improper waste management practices and potential environmental contamination if the Dumpster was not properly managed or if the contents were hazardous.

IMPACT: High - Directly supports claims of improper waste disposal and potential environmental liability. It provides a mechanism for hazardous substances to enter the environment.

ATTEMPTED QUALIFICATION: Earlier, he stated, "Where it went from that, I don't know" ([166:15](#)) and "I don't know for sure" if it went into the Dumpster ([166:18](#)). However, after reviewing his prior testimony, he confirms his memory that it *was* thrown into the Dumpster.

USAGE RECOMMENDATIONS:

- Use this admission to establish a pattern of inadequate waste disposal.

- Correlate with evidence of hazardous substances found in the Dumpster area or surrounding soil.
- Highlight the shift in certainty after reviewing prior testimony, suggesting the earlier testimony was more accurate.

Direct Discharge of Liquid Waste to Tailrace/River

ADMISSION: "Yes. I know it went outside. There was no other place for it to go. It ran out the hole in the building and it went straight outside" ([191:17-191:19](#)).

CONTEXT: This admission comes in response to a question about whether he saw liquid come from the French drains into the tailrace. He initially states he "did" see it ([191:24](#)), then is confronted with his 2002 deposition where he stated it was an "assumption" ([192:15-192:16](#)). He then reaffirms his current memory.

SIGNIFICANCE: This is a critical admission of direct discharge of liquid waste from the building's French drains to the outside environment, specifically stating it went "into the river or actually it went onto that piece of real estate behind the building and then eventually into the river" ([192:25-193:6](#)). This establishes a direct pathway for contaminants from the manufacturing process to enter the surrounding ecosystem.

IMPACT: Critical - Directly establishes a mechanism for environmental contamination and supports liability for discharges into navigable waters or adjacent land.

ATTEMPTED QUALIFICATION: He initially stated in 2002 that it was an "assumption" that there was a cutout for discharge ([192:15-192:16](#)). However, in the current deposition, he explicitly states, "Yeah, I remember saying that but the more I think about it now, I do remember in fact it went out. I saw it go out" ([192:22-192:24](#)). This strengthens the current admission.

FOLLOW-UP:

- Q: "It could have gone into a sewer?" A: "No. There was no sewer. It went into the river or actually it went onto that piece of real estate behind the building and then eventually into the river" ([192:25-193:6](#)). This eliminates an alternative, less harmful disposal route.

USAGE RECOMMENDATIONS:

- Crucial for establishing a direct link between facility operations and environmental contamination.
- Use to counter any defense claims of proper wastewater treatment or containment.
- Combine with expert testimony on the nature of the discharged liquids and their environmental impact.

Awareness of Direct Discharge of Floor Washings

ADMISSION: When confronted with his prior trial testimony, he confirms:

- Q: "When you washed off the floor at that time, you were aware that it was going out to the tailrace, the river outside?" A: "True" ([200:17-200:20](#)).
- Q: "So there was no question in your mind that it was not going to the municipal sewer, was it?" A: "There was no question in my mind. It was going outside" ([200:21-201:1](#)).

CONTEXT: This is a confirmation of his prior trial testimony from 2006, which he states he gave truthfully and to the best of his recollection ([196:3-196:4](#), [197:6-197:9](#)). This testimony directly contradicts his earlier statement in the current deposition where he said, "I didn't look" to see if the water changed color in the tailrace ([195:13](#)).

SIGNIFICANCE: This admission establishes knowledge and awareness of the direct discharge of floor washings (containing "black sludge, or some kind of sludge" ([200:13](#))) into the tailrace/river. This is an admission against interest, as it demonstrates the company's (through its employee) understanding of the environmental pathway.

IMPACT: Critical - Establishes knowledge of the discharge, which is vital for proving intent or negligence in environmental cases. It also serves as strong impeachment material against his earlier "I didn't look" statement.

IMPEACHMENT VALUE: Critical - He states, "I'm sure it did. I didn't look" ([195:13](#)) regarding the tailrace changing color. However, his prior trial testimony explicitly states he was "aware that it was going out to the tailrace" and "there was no question in my mind. It was going outside" ([200:17-201:1](#)). This is a direct contradiction regarding his awareness of the discharge pathway.

USAGE RECOMMENDATIONS:

- Use to demonstrate the company's knowledge of its discharge practices.
- Highlight the inconsistency between his current "I didn't look" and his prior "I was aware" statements to undermine credibility.
- Connect to the nature of the "black or gray" sludge ([200:15](#)) to emphasize the hazardous nature of the discharge.

Observation of Tailrace Murkiness

ADMISSION: "I saw it when it was murky" ([210:21](#)).

CONTEXT: After being pressed on whether he observed the tailrace change colors, and after reviewing his 2002 deposition where he stated he recalled the tailrace changed color ([210:11-210:12](#)), he confirms seeing it murky.

SIGNIFICANCE: This admission provides direct eyewitness testimony of the environmental impact of the discharges. The description of the water being clear enough to see fish and turtles at times, but then becoming murky, visually demonstrates the pollution.

IMPACT: High - Provides concrete, observable evidence of environmental degradation directly linked to the facility's operations.

ELABORATION: "There were times when the water was clear. You could see the fish and turtles in it. There were days when you could not do that, you could not see to the bottom of that. It was shallow water, it was not extremely deep. You could not see the bottom" ([211:2-211:7](#)).

USAGE RECOMMENDATIONS:

- Use to paint a vivid picture of the environmental impact for the jury.
- Corroborates expert testimony on the effects of industrial discharge on aquatic environments.

Disposal of Plastic Liners from Drums

ADMISSION: "Some of them were thrown on the ground and then later picked up. I'm assuming all of them were picked up because you just wouldn't be able to work there" ([215:15-215:17](#)). **ADMISSION:** "I know there were times when I : I helped unload those trucks and we'd pull the plastic liners out. We just : for expediency, we'd just dump them on the ground and then pick them up afterwards" ([215:19-215:23](#)).

CONTEXT: This testimony follows a review of his Home Insurance deposition (Page 14, Lines 14-18) regarding plastic liners in drums. He confirms that some barrels had plastic liners and describes the process of their removal.

SIGNIFICANCE: This admission describes a practice of temporarily discarding plastic liners (which likely contained chemical residues) directly onto the ground. While he assumes they were picked up, the initial act of "dump[ing] them on the ground" creates a potential for soil contamination, especially if not all residues were contained or if spills occurred during handling.

IMPACT: Medium - Suggests a lack of strict hazardous waste handling protocols, creating a risk of environmental release.

ATTEMPTED MINIMIZATION: He attempts to minimize the impact by stating, "I'm assuming all of them were picked up because you just wouldn't be able to work there" ([215:16-215:17](#)).

USAGE RECOMMENDATIONS:

- Use to illustrate lax waste handling practices at the facility.
- Combine with evidence of soil contamination in areas where drums were handled or unloaded.

Disposal of Bags to "The Dump"

ADMISSION: "That's - that's where I remember. I didn't see it. That's = that's what I was told. Where do you go with these things ? We throw them away later, dump them" ([216:6-216:9](#)). **ADMISSION:** "The end of that peninsula. What was referred to commonly as the dump" ([216:11-216:13](#)).

CONTEXT: This admission is in response to a question about his prior Home Insurance deposition testimony where he stated bags were taken to the "back part of the facility and dumped on the ground." He clarifies that this was based on what he was told, but identifies the location as "the dump" at the end of the peninsula.

SIGNIFICANCE: This confirms that bags (likely containing residues from raw products, as per earlier testimony about empty bags from kettles being put in the Dumpster ([165:22-165:25](#))) were disposed of at a designated "dump" area on the property. This points to a specific location for potential contamination.

IMPACT: High - Identifies a specific, known disposal site for waste materials, which is crucial for site investigation and remediation efforts.

ATTEMPTED QUALIFICATION: He states, "I didn't see it. That's = that's what I was told" ([216:6-216:7](#)), indicating hearsay for the act itself, but he confirms the *location* and *practice* as understood at the time.

USAGE RECOMMENDATIONS:

- Directs investigation to the "dump" area for sampling and analysis.
- Supports claims of widespread contamination across the facility's property.

Strategic Recommendations

1. **Focus on Direct Discharge:** Prioritize the admissions regarding liquid waste from French drains directly entering the tailrace/river ([191:17-191:19](#), [192:25-193:6](#)) and the awareness of floor washings going "outside" ([200:17-201:1](#)). These are the most damaging for establishing environmental liability.
2. **Impeachment for Credibility:** Use the direct contradiction regarding his awareness of the discharge pathway ("I didn't look" vs. "I was aware") to undermine the deponent's credibility on other minimizing statements.
3. **Illustrate Impact:** Leverage the description of the tailrace becoming "murky" ([210:21](#), [211:2-211:7](#)) to visually convey the environmental harm.
4. **Waste Management Deficiencies:** Combine admissions about solidified material in the Dumpster ([167:4-167:6](#)), plastic liners on the ground ([215:15-215:23](#)), and bags in "the dump" ([216:6-216:13](#)) to demonstrate systemic failures in waste handling and disposal.
5. **Corroborate with Experts:** These admissions provide factual bases that can be used by environmental experts to model contaminant pathways, assess impact, and estimate remediation costs.

10. Examination

Examination Analysis

This deposition excerpt features the continued examination of Joseph Nadeau, a witness with a "fuzzy" memory regarding events from 50 years prior ([152:14](#), [154:9](#)). The examination primarily involves Mr. Pirozzolo (for Emhart Industries, Inc.), Ms. Baroni (for New England Container Company, Inc.), and Mr. Bryan (for the U.S. Department of Justice). A key dynamic is the repeated use of prior testimony and exhibits to refresh the witness's recollection or to highlight inconsistencies.

Direct Examination Analysis (Mr. Pirozzolo)

Mr. Pirozzolo's examination focuses on clarifying the witness's employment dates, site layout, material disposal practices, and attempting to reconcile current testimony with prior statements.

Effective Questioning Sequences

- **Establishing Context and Timeframe:** Pirozzolo begins by orienting the witness and establishing the general period of employment, acknowledging the time elapsed ([150:23-151:4](#)). He uses a series of short, clear questions to narrow down the years and the witness's age ([151:13-152:1](#)).
- **Memory Refreshment with Prior Testimony :** Pirozzolo effectively uses the witness's prior deposition (Exhibit 1) to refresh recollection on key details, such as the duration of hexachlorophene manufacturing ([154:20-155:6](#)) and the disposal of chipped material ([166:19-167:2](#)).
 - **Sequence for Hexachlorophene Duration:**
 - Q: "Do you recall that nexachlorophene was manufactured for about eight or nine months?" ([154:10-154:11](#)) (Met with objections and witness stating "I don't know. I just noticed that it was there.") ([154:12-154:16](#))
 - Pirozzolo then introduces Exhibit 1, the 2002 deposition ([154:20-154:25](#)).
 - After the witness reads the relevant lines, Pirozzolo asks, "Do you recall after reading that, that they manufactured nexachlorophene there for around eight or nine months?" ([155:10-155:12](#))
 - Witness still states, "I don't know how long it was manufactured" ([155:15-155:16](#)).
 - Pirozzolo then **directly confronts with the prior testimony** by reading the question and answer verbatim ([156:17-156:25](#)). This forces the witness to acknowledge, "I did, if that's on this piece of paper" ([157:1-157:2](#)) and confirm it was his best memory at the time ([157:3-157:5](#)). This is a strong impeachment technique.
- **Use of Exhibits for Site Visualization :** Pirozzolo introduces a map (Exhibit 8) to help the witness orient himself and describe specific features of the site ([168:12-169:18](#)). This is crucial for establishing physical context.
 - The witness is asked to identify and describe various labeled areas, such as "Office" ([170:12-170:14](#)), "Process area No. 1" ([171:7-171:12](#)), "Shipping" ([172:1-172:5](#)), "Storage tanks" ([173:14-173:17](#)), "Reserve salt filter press" ([174:18-175:2](#)), "Dumpster" ([177:18-177:22](#)), "Paint station" ([182:4-182:14](#)), "Pit" ([183:24-184:5](#)), "Burner" ([184:8-184:12](#)), "Wash station" ([186:3-186:5](#)), and "Drum storage" ([187:20-188:5](#)). This systematic approach helps build a comprehensive picture of the site through the witness's memory.

Problematic Exchanges and Missed Opportunities

- **Witness's "Fuzzy Memory":** The witness frequently states his memory is "fuzzy" or he "doesn't remember" ([152:14](#), [154:9](#), [155:24-155:25](#), [158:19](#), [171:13](#)). While Pirozzolo attempts to refresh memory with prior testimony, the witness's consistent lack of current recollection remains a challenge.
- **Impeachment on French Drains:** Pirozzolo attempts to impeach the witness regarding whether he *actually saw* liquid flowing from French drains into the tailrace.
 - Q: "You didn't actually see liquid come from the French drains out into the tailrace, did you?" ([191:12-191:14](#))
 - A: "Yes. I know it went outside. There was no other place for it to go. It ran out the hole in the building and it went straight outside." ([191:17-191:19](#))
 - Q: "You didn't actually see that, did you?" ([191:20](#)) (Met with objections)
 - A: "Yes, I did." ([191:24](#))
 - Pirozzolo then uses prior testimony from 2002 where the witness stated it was an "assumption" ([192:6-192:17](#)). The witness acknowledges the prior testimony but then states, "the more I think about it now, I do remember in fact it went out. I saw it go out" ([192:22-192:24](#)). This is a **partial**

impeachment as the witness admits the prior statement but then reasserts his current, stronger recollection.

- Pirozzolo then uses *trial testimony* from 2006 where the witness stated, "I didn't look" and "Logic tells me it did" regarding water changing color ([195:8-195:22](#)). The witness confirms this prior testimony ([196:1-196:11](#)). This is a more successful impeachment on the *observation* of discoloration, contrasting with his earlier "Yes, I did" ([191:24](#)) regarding seeing the flow.
- **Objection to Impeachment:** Mr. Bryan objects to Pirozzolo's impeachment attempt, arguing it was "improper impeachment" because he didn't believe the statements were inconsistent ([197:14-198:12](#)). This procedural dispute highlights the subjective nature of what constitutes an "inconsistent" statement, especially when a witness's memory is admittedly poor.

Cross-Examination Analysis (Ms. Baroni)

Ms. Baroni's examination is brief and primarily serves to rehabilitate the witness after Pirozzolo's impeachment regarding the French drains.

Effective Questioning Sequences

- **Witness Rehabilitation:** Baroni immediately follows Pirozzolo's impeachment by reading *more* of the same trial testimony, specifically lines where the witness confirmed that material washed off the basement floor "came from the presses" and "included black sludge" and that he was "aware that it was going out to the tailrace, the river outside" ([199:25-201:1](#)).
 - This strategy effectively **rehabilitates the witness** by showing that while he may not have *observed* the color change, he was aware of the *process* and the *destination* of the waste, which was consistent with his current testimony about the flow. The witness confirms, "You did" ([201:2](#)) and "I believe it is" ([201:5](#)).
- **Clarifying Scope of Work:** Baroni clarifies that the witness's work for Metro-Atlantic was mostly indoors, limiting his direct observation of outdoor activities ([201:10-202:21](#)). This helps manage expectations about the extent of his knowledge regarding outdoor disposal.

Cross-Examination Analysis (Mr. Bryan)

Mr. Bryan's examination aims to further clarify employment dates, the relationship between the companies, and details about the "Texas Tower" and waste disposal.

Effective Questioning Sequences

- **Clarifying Employment Dates:** Bryan uses the 2002 Home Insurance deposition (Exhibit 1) to refresh the witness's recollection on his employment dates, leading to a more precise timeframe for his full-time work ([203:23-205:5](#)).
- **Clarifying "Interchangeable" Employees:** Bryan uses the witness's affidavit (Exhibit 3) to clarify what he meant by "interchangeable" employees, providing specific examples like maintenance staff and a timecard system ([206:2-207:6](#)). This adds detail and credibility to the witness's general statement about shared operations.
- **Re-affirming French Drain Observations:** Bryan revisits the French drain issue, asking if the witness recalls "observing the water change color" ([209:10-209:13](#)). The witness states, "Yes" ([209:15](#)) and explains, "Once I hit it with the hose, the water would change to the color of whatever was on the floor, it would wash to the drain and exit" ([209:19-209:21](#)). This directly contradicts the prior trial testimony Pirozzolo used for impeachment, creating a new inconsistency.
 - Bryan then presses on the tailrace, and the witness again states, "in my mind I know it had to but I can't remember whether I saw it happen or not" ([209:25-210:2](#)). However, when asked if he testified in the deposition that he recalled the tailrace changed color, he says "Yes" ([210:10-210:13](#)). This highlights the witness's evolving memory and the challenge of pinning down precise recollections from decades ago.
- **Disposal of Plastic Liners:** Bryan uses the Home Insurance transcript to refresh the witness's memory about the disposal of plastic liners from drums, eliciting details about them being thrown on the ground for expediency and then put into another drum, though the ultimate destination remains unknown to the witness ([214:2-216:1](#)).

Re-Direct Examination Analysis (Mr. Pirozzolo)

Pirozzolo's re-direct aims to limit the scope of the witness's knowledge, particularly regarding chemical substances and corporate structure.

Effective Questioning Sequences

- **Limiting Scope of Knowledge:** Pirozzolo effectively establishes that the witness, as a laborer, had no understanding of chemistry ([216:22-217:13](#)), accounting ([218:5-218:9](#)), management ([218:10-218:12](#)), or corporate ownership/boundaries ([218:16-218:25](#)). This is a strong tactic to prevent the witness's testimony from being over-interpreted on these complex issues. The witness readily agrees, stating "Oh, hell, no" ([217:11](#)) and "No" ([218:9](#), [218:14](#), [219:4](#)).

Objection Analysis

Pattern Identified

- **"Vague" and "Leading" Objections:** These are the most frequent objections, primarily raised by Mr. Bryan and Ms. Baroni during Mr. Pirozzolo's examination ([152:4](#), [152:17](#), [154:12](#), [154:14](#), [158:1](#), [158:2](#), [158:23](#), [159:9](#), [159:19](#), [160:13](#), [162:13](#), [163:25](#), [164:18](#), [167:3](#), [168:6](#), [173:7](#), [173:20](#), [174:4](#), [174:5](#), [177:25](#), [178:16](#), [183:19](#), [187:23](#), [188:11](#), [190:5](#), [191:6](#), [191:15](#), [191:16](#), [192:21](#), [193:1](#), [193:2](#), [200:19](#), [200:24](#), [201:15](#), [201:16](#), [205:14](#), [208:14](#), [208:15](#), [209:14](#), [209:18](#), [209:24](#), [210:13](#), [210:20](#), [211:13](#), [211:16](#), [212:8](#), [212:9](#), [213:1](#), [214:18](#), [217:1](#), [217:4](#), [217:5](#), [217:23](#), [218:13](#), [218:18](#), [218:23](#), [218:24](#), [219:3](#)). These objections highlight a consistent effort by opposing counsel to control the form of Pirozzolo's questions, particularly when he attempts to lead the witness or asks questions that are too broad given the witness's limited and "fuzzy" memory.
- **"Asked and Answered" Objections:** Raised by Mr. Bryan, particularly when Pirozzolo re-asks questions after the witness has already provided an answer, even if the answer was not what Pirozzolo sought ([163:13-163:14](#), [191:21-191:22](#)).
- **"Improper Impeachment":** Mr. Bryan explicitly states this objection when Pirozzolo attempts to impeach the witness with prior inconsistent statements ([197:14-197:15](#)). This indicates a dispute over the *materiality* or *actual inconsistency* of the prior statements.

Strategic Observations

- **Witness's Memory as a Central Challenge:** The witness's consistent "fuzzy memory" is a dominant factor. All attorneys must navigate this, either by accepting it, attempting to refresh it, or using prior statements to highlight its limitations.
- **Reliance on Prior Testimony:** The extensive use of prior deposition and trial testimony (Exhibits 1, 3, 4) is a critical strategy for all parties. It serves multiple purposes: refreshing recollection, impeachment, and rehabilitation.
- **Exhibit Use for Clarity:** The introduction and detailed walk-through of the site map (Exhibit 8) is an effective way to ground the witness's testimony in a visual context, especially given the passage of time.
- **Rehabilitation as a Counter-Tactic:** Ms. Baroni's immediate follow-up to Pirozzolo's impeachment by reading additional context from the same prior testimony demonstrates an effective rehabilitation technique.
- **Limiting Witness Scope:** Pirozzolo's re-direct effectively limits the witness's testimony to his direct observations and laborer role, preventing his "fuzzy" recollections from being extrapolated to areas beyond his expertise or responsibility.

11. Objections

Objection Summary

Total Objections: 40 Most Frequent: Vague (15), Leading (10) Privilege Assertions: 0 Instructions Not to Answer: 0

Form Objections

Pattern Analysis

Frequency: 37 form objections. **Concentration:** Objections are spread throughout the testimony, often occurring in clusters when the questioning attorney is trying to elicit specific details or confirm prior testimony. Mr. Bryan (for the U.S. Department of Justice) and Ms. Baroni (for New England Container Company) are the primary objectors.

Types of Form Objections:

- **Vague (15 instances):**

- **First Instance:** MR. BRYAN: Objection. Vague. (152:4) - Objecting to a question about the witness's best memory of specific years.
- MR. BRYAN: Objection. Vague. (152:17) - Objecting to a question about the witness's high school year.
- MR. BRYAN: Objection. Vague. (154:14) - Objecting to a question about the duration of manufacturing.
- MR. BRYAN: Objection. Vague. (158:2) - Objecting to a question about the land's slope.
- MR. BRYAN: Objection. Vague. (158:23) - Objecting to a question about window size.
- MR. BRYAN: Objection. Vague. (159:19) - Objecting to a question about the verticality of storage tanks.
- MR. BRYAN: Objection. Vague. Leading. (160:13) - Objecting to a question about tanks being more vertical than horizontal.
- MR. BRYAN: Objection. Vague. (162:13) - Objecting to a question about how tanks were filled.
- MR. BRYAN: Objection. Vague. (163:25) - Objecting to a question about pipe routes.
- MR. BRYAN: Objection. Vague. (167:3) - Objecting to a question about the material chipped out.
- MR. BRYAN: Objection. Vague. (173:7) - Objecting to a question about liquid connection points.
- MR. BRYAN: Objection. Vague. (187:23) - Objecting to a question about "Drum storage."
- MR. BRYAN: Objection. Vague. (192:21) - Objecting to a question about a "cutout."
- MR. BRYAN: Objection. Vague. (217:1) - Objecting to a question about seeing dioxin.
- MR. BRYAN: Objection. Vague. Foundation. (217:5) - Objecting to a question about seeing substances containing dioxin.
- MR. BRYAN: Objection. Leading. Vague. (217:23) - Objecting to a question about the witness's knowledge of dioxin in substances.
- MR. BRYAN: Objection. Vague. (218:23) - Objecting to a question about knowledge of land boundaries.

Strategic Note: The frequent "vague" objections, particularly from Mr. Bryan, suggest an attempt to keep the witness's testimony focused on direct observations and to prevent speculation or overly broad statements, especially given the witness's repeated statements about "fuzzy" memory. The witness often responds by reiterating his lack of clear memory or providing a best guess.

- **Leading (10 instances):**

- **First Instance:** MR. BRYAN: Objection. Leading. (154:12) - Objecting to a question suggesting a specific duration for manufacturing.
- MR. BRYAN: Objection. Leading. (155:14) - Objecting to a question suggesting a specific duration for manufacturing after refreshing recollection.
- MR. BRYAN: Objection. Leading. (159:9) - Objecting to a question implying the witness couldn't locate windows.
- MR. BRYAN: Objection. Vague. Leading. (160:13) - Objecting to a question about tanks being more vertical than horizontal.
- MR. BRYAN: Objection. Leading. (164:18) - Objecting to a question confirming the driveway's location.
- MR. BRYAN: Objection. Leading. Vague. (178:16) - Objecting to a question about the method of dumping.
- MR. BRYAN: Objection. Leading. (191:15) - Objecting to a question implying the witness didn't see liquid from French drains.
- MR. BRYAN: Objection. Asked and answered. Leading. (191:22) - Objecting to a follow-up question implying the witness didn't see liquid from French drains.

- MR. BRYAN: Objection. Leading. (192:21) - Objecting to a question confirming an assumption about a cutout.
- MR. BRYAN: Objection. Leading. (218:13) - Objecting to a question about the witness not being on boards of directors.
- MR. BRYAN: Objection. Leading. (218:18) - Objecting to a question about the witness not knowing ownership.
- MR. BRYAN: Objection. Leading. (219:3) - Objecting to a question about job duties not including land boundaries.

Strategic Note: Leading objections are common when the questioning attorney is trying to guide the witness to a specific answer, especially when the witness's memory is "fuzzy." Mr. Pirozzolo frequently uses leading questions to confirm details or prior testimony, prompting these objections.

• **Asked and Answered (2 instances):**

- MR. BRYAN: Objection. Asked and answered. (163:13) - Objecting to a repeated question about the inflow side of the building.
- MR. BRYAN: Objection. Asked and answered. Leading. (191:22) - Objecting to a repeated question about seeing liquid from French drains.

Strategic Note: These objections indicate that the questioning attorney is attempting to re-elicit testimony already provided, perhaps to emphasize a point or to test the consistency of the witness's memory.

• **General Objection (8 instances):**

- MS. BARONI: Objection. (154:13) - General objection following a leading question.
- MS. BARONI: Objection. (155:13) - General objection following a leading question.
- MS. BARONI: Objection. (158:1) - General objection to a question about land slope.
- MS. BARONI: Objection. (159:8) - General objection to a question about window location.
- MS. BARONI: Objection. (162:14) - General objection to a question about how tanks were filled.
- MS. BARONI: Objection. (167:22) - General objection to a question about two buildings in the Texas Tower location.
- MS. BARONI: Objection. (177:25) - General objection to a question about the Dumpster's location relative to a door.
- MS. BARONI: Objection. (181:18) - General objection to a question about whether "A" indicated a door.
- MS. BARONI: Objection. (183:19) - General objection to a question about drums being fed to the furnace.
- MS. BARONI: Objection. (190:5) - General objection to a question about drums that couldn't be reconditioned.
- MS. BARONI: Objection. (191:7) - General objection to a question about discarding bad drums.
- MS. BARONI: Objection. (191:16) - General objection to a leading question about French drains.
- MS. BARONI: Objection. (191:23) - General objection to a repeated leading question about French drains.
- MS. BARONI: Objection. (193:1) - General objection to a question about liquid going into a sewer.
- MS. BARONI: Objection. (214:18) - General objection to a question about the percentage of barrels with plastic liners.
- MS. BARONI: Objection. (211:13) - General objection to a question about residue from tight drums.
- MS. BARONI: Objection. (211:16) - General objection to a question about residue from tight drums.
- MS. BARONI: Objection. (212:8) - General objection to a question about material flowing into the tailrace.
- MS. BARONI: Objection. (188:11) - General objection to a question about drums stored along the river.

Strategic Note: Ms. Baroni frequently uses "Objection" without specifying a ground, which is generally permissible in depositions to preserve the objection for trial. However, it can sometimes be used to break the flow of questioning or signal to the witness to be careful.

Impact on Testimony Flow

- The frequent objections, particularly "vague" and "leading," often cause the questioning attorney to rephrase the question or the witness to qualify their answer with phrases like "fuzzy memory" or "I'm guessing." This slows down the pace of the deposition and emphasizes the witness's uncertainty about events from 50 years prior.
- In several instances, the witness answers immediately after an objection, indicating that the objection did not prevent the answer from being given, but merely preserved the issue for later.

Substantive Objections

Relevance

- **Implicit Relevance:** While not explicitly stated as "relevance," some "vague" objections, particularly those related to the witness's general knowledge or memory of historical details, could implicitly touch on relevance if the information sought is deemed too speculative or tangential to the core issues.
- **Example:** MR. PIROZZOLO: Objection. (201:15) and MR. PIROZZOLO: Objection. (201:17) - Mr. Pirozzolo objects to Ms. Baroni's question about whether most of the witness's work was in a particular geographical area of the site. The grounds are not stated, but could be relevance or form.

Document/Exhibit Issues

- **Exhibit Marking and Identification:**
 - Exhibit 1 (deposition of December 17, 2002) is frequently referenced and used to refresh recollection or impeach. (154:21, 166:20, 203:17, 208:22, 214:1)
 - Exhibit 4 (trial testimony from Emhart V. Home Insurance case) is also used for similar purposes. (193:11, 194:11, 199:13)
 - Exhibit 8 (a map) is marked during the deposition. (Whereupon, J. Nadeau Exhibit No. 8 was marked.) (169:2-169:3)
 - Exhibit 3 (Mr. Nadeau's affidavit) is referenced. (206:4)
- **Bates Number Confusion:**
 - There is a brief procedural dispute over Bates numbers when trying to locate a specific page in Exhibit 4. (193:13-194:8)
 - MR. BRYAN: Is there a Bates number? (193:21)
 - MR. PIROZZOLO: I don't have a Bates number, if there is one. (193:22)
 - MR. HENNINGER: Off the record for a moment. This is different. (194:8)
 - This leads to an off-the-record discussion to resolve the page identification.

Colloquy Between Counsel

- **Improper Impeachment Dispute:**
 - MR. BRYAN: Objection. Move to strike. Improper impeachment. (197:14)
 - Mr. Bryan objects to Mr. Pirozzolo's use of prior testimony, arguing it's not inconsistent. This leads to a discussion about the nature of the impeachment. (197:14-198:13)
 - MR. BRYAN: I don't think what he said was inconsistent. (198:1)
 - MR. PIROZZOLO: We can argue some day. (198:13)
 - **Strategic Note:** This exchange highlights a substantive disagreement between counsel regarding the interpretation of the witness's current and prior testimony. Mr. Bryan explicitly states his ground for "improper impeachment" and clarifies that he is not disputing the authenticity of the prior record, but its inconsistency with current testimony. This preserves the issue for potential motion practice or trial.
- **Clarification on Question Scope:**
 - MR. PIROZZOLO: Are you talking about when he worked for NECC (214:21)
 - MR. BRYAN: Yes. (214:23)
 - MR. PIROZZOLO: or Metro-Atlantic? (214:24)

- MR. BRYAN: NECC. ([214:25](#))
- **Strategic Note:** This is a helpful clarification by Mr. Pirozzolo to ensure the witness understands which period of employment the question refers to, especially since the witness worked for both entities.

Strategic Observations

1. **Witness's "Fuzzy Memory":** The witness, Joseph Nadeau, repeatedly states his memory is "fuzzy" or that he is "guessing" due to the passage of 50 years. This is a recurring theme and likely influences the types of questions asked and objections made. Counsel frequently uses prior testimony (depositions and trial testimony) to refresh his recollection or to highlight inconsistencies.
2. **Impeachment Strategy:** Mr. Pirozzolo's questioning often involves confronting the witness with prior testimony to establish a more definitive record, especially when the witness's current memory is vague. The dispute over "improper impeachment" ([197:14-198:13](#)) indicates that the consistency of the witness's statements over time is a critical issue in the case.
3. **Detailed Site Description:** A significant portion of the deposition focuses on eliciting detailed descriptions of the facility layout, processes, and waste disposal practices. The objections, particularly "vague" and "leading," suggest a struggle to get precise, non-speculative answers from a witness whose memory is understandably faded.
4. **Environmental Contamination Focus:** Questions about hexachlorophene manufacturing, French drains, discolored water, drum disposal, plastic liners, and dioxin all point to the underlying environmental contamination issues central to the lawsuit. The objections around these topics indicate sensitive areas where precise testimony is crucial.
5. **Preserved Error:** Mr. Bryan's explicit "move to strike" and explanation of "improper impeachment" ([197:14-198:13](#)) clearly preserves this issue for potential motion practice or trial. The numerous "vague" and "leading" objections also preserve grounds for challenging the admissibility or weight of the testimony at trial.

12. Credibility Analysis

Overall Credibility Assessment

Joseph Nadeau presents significant credibility concerns due to multiple internal contradictions, direct contradictions with prior sworn testimony, and a pattern of selective memory. While he frequently claims a "fuzzy memory" for details, particularly those related to the environmental impact of operations, he also makes definitive statements that are later directly impeached by his own earlier testimony. His willingness to state "logic tells me it did" ([195:22](#)) or "I know it had to" ([209:25](#)) regarding events he claims not to have personally observed, further undermines his reliability as a factual witness.

Key Credibility Indicators

- **Direct Contradictions:** Witness makes definitive statements that are directly contradicted by his own prior sworn testimony.
- **Selective Recall:** Claims "fuzzy memory" or inability to recall specific details, especially when pressed on the duration of certain operations or direct observation of environmental impact, but can recall other details from the same period.
- **Memory Refreshment Issues:** Even after being refreshed with his own prior testimony, he sometimes denies current recollection of the *content* of that testimony, while affirming he testified truthfully at the time.
- **Inference vs. Observation:** Frequently relies on "logic" or "assumption" to fill gaps in memory, presenting these inferences as factual, even when his prior testimony explicitly stated they were assumptions or he "didn't look."
- **Limited Scope of Knowledge:** As a laborer, he appropriately disclaims knowledge of management, ownership, or chemistry, which limits the scope of his reliable testimony on those subjects.

Testimonial Inconsistencies

1. Duration of Hexachlorophene Manufacturing

FIRST STATEMENT (Current Deposition - Lack of Memory): "It was there one of the summers that I showed up. It was there when I left. I'm not sure. It might have been there a year or two. I'm not really sure. It's fuzzy." (154:6-154:9) "I don't know. I just noticed that it was there. How long it was there, I don't know. Like I said, this is all fuzzy. This is 50 years ago when you didn't care." (154:15-154:18) After reading prior testimony: "I don't know how long it was manufactured. I know the plant was there. What was happening in that plant, I don't know. How long it was going on, I don't know." (155:15-155:18) "Do I remember any of this? No." (155:25)

CONTRADICTING STATEMENT (2002 Deposition): "Question: Can you give us a reasonable approximation of how long that product was being made before you left? Answer: I was there about a year full time. I'm guessing maybe eight, nine months maybe. It wasn't there full time. I can't remember. I know it was there for a good eight months anyhow." (156:19-156:25) Witness confirms this was his "best memory at that time" (157:3-157:5).

ANALYSIS: Witness claims a complete lack of memory regarding the duration of hexachlorophene manufacturing in the current deposition, even after being shown his prior sworn testimony. He explicitly states, "Do I remember any of this? No." (155:25). However, he then confirms that his 2002 testimony, which provided a specific estimate of "eight, nine months," was his "best memory at that time" (157:3-157:5). This creates a **direct contradiction** between his current claimed lack of memory and his affirmation of the truthfulness and accuracy of his prior, more specific recollection.

IMPEACHMENT VALUE: High - This is a clear prior inconsistent statement regarding his ability to recall a specific detail, even when refreshed. It highlights a pattern of memory issues that appear to be selective or convenient.

2. Direct Observation of Liquid Flowing from French Drains to Tailrace

FIRST STATEMENT (Current Deposition - Direct Observation): "Yes. I know it went outside. There was no other place for it to go. It ran out the hole in the building and it went straight outside." (191:17-191:19) When asked "You didn't actually see that, did you?", he definitively states: "Yes, I did." (191:24)

CONTRADICTING STATEMENT (2002 Deposition - Assumption): "Question: ... 'did you see the cutout?' Answer: 'You know, I probably did. I just can't remember. I couldn't say for a fact. It's an assumption.'" (192:14-192:16) Witness confirms giving this testimony (192:18).

CONTRADICTING STATEMENT (2006 Trial Testimony - Didn't Look, Logic): "Question: And did you ever see the water outside the building change color after you washed the floor off?" Answer: "I'm sure it did. I didn't look." (195:9-195:10) "Question: But as you sit here today, do you remember ever seeing water change color after the floor was washed in the basement of the main building?" Answer: "Like I said, I never looked to see if it changed. Logic tells me it did." (195:16-195:22) Witness confirms giving this testimony and testifying truthfully at trial (196:1-196:4).

ANALYSIS: Witness initially claims direct observation ("Yes, I did. I saw it go out" (191:24)) of liquid flowing from the French drains outside. This is directly contradicted by his 2002 deposition where he stated it was an "assumption" and he "couldn't say for a fact" (192:15-192:16). It is further contradicted by his 2006 trial testimony where he explicitly stated, "I didn't look" and "I never looked to see if it changed. Logic tells me it did" (195:10, 195:21-195:22). When confronted with the 2002 testimony, he attempts to reconcile by stating, "Yeah, I remember saying that but the more I think about it now, I do remember in fact it went out. I saw it go out." (192:23-192:24). This suggests a **recollection that has "improved" over time** in a manner favorable to the current line of questioning, despite prior sworn statements to the contrary.

IMPEACHMENT VALUE: Extremely High - This is a **critical direct contradiction** on a key factual issue (direct observation of discharge) with multiple prior inconsistent statements under oath. It severely impacts his credibility regarding any claims of direct observation.

3. Observation of Tailrace Water Color Change

FIRST STATEMENT (Current Deposition - Lack of Memory/Inference): "You know, in my mind I know it had to but I can't remember whether I saw it happen or not. I may have. I may have been out on the platform when it happened but to say I saw the water turn cloudy, I'm betting it did but I can't I couldn't say that it did." ([209:25-210:5](#))

CONTRADICTING STATEMENT (2002 Deposition - Direct Observation): "Question: At the time you testified at this deposition, you testified that there were times when you saw discolored water, correct?" Answer: "Yes." ([210:6-210:9](#)) "Question: And at the time of your deposition, in the Home Insurance case, it was your testimony that you recall that the tailrace changed color?" Answer: "Yes." ([210:10-210:13](#))

ANALYSIS: In the current deposition, Nadeau claims he "can't remember whether I saw it happen or not" ([210:1-210:2](#)) regarding the tailrace changing color, relying on inference ("I know it had to," "I'm betting it did" ([209:25](#), [210:3](#))). However, he is then reminded of his 2002 deposition where he explicitly stated he *did* recall the tailrace changing color and *did* see discolored water ([210:6-210:13](#)). This is another **direct contradiction** between his current claimed lack of memory and his prior sworn testimony of direct observation.

IMPEACHMENT VALUE: High - This inconsistency further reinforces the pattern of selective memory and the tendency to rely on inference rather than actual recollection, especially when his current memory is less favorable than his past testimony.

Memory Patterns

Selective Recall Analysis

Witness Nadeau exhibits a clear pattern of **selective recall**, where his memory is "fuzzy" or non-existent for details that could be detrimental or require specific factual recollection, but becomes clearer or is easily refreshed for general operational descriptions or when prior testimony is presented.

Claims No Memory / Fuzzy Memory:

- Specific years of employment at Metro-Atlantic/NECC: "Something like that. A couple of summers. Between '62 and '65 I worked part-time jobs there and other places. Metro New England Container I think I worked there one summer. I'm not sure." ([151:5-151:9](#))
- Exact years of employment: "It's fuzzy." ([152:14](#))
- Duration of hexachlorophene manufacturing: "I'm not sure. It might have been there a year or two. I'm not really sure. It's fuzzy." ([154:8-154:9](#)); "How long it was there, I don't know. Like I said, this is all fuzzy." ([154:16-154:17](#)); "Do I remember any of this? No." ([155:25](#))
- Number of floors in main building: "Three or four. I'm not quite sure." ([157:13](#))
- Height of basement windows: "Um... I'm guessing fuzzy memory maybe 3 feet." ([158:19-158:20](#))
- Type of basement windows: "I can't remember that." ([158:24](#))
- Looking out basement windows: "No. I : I can't remember looking out windows." ([159:4-159:5](#))
- Number of storage tanks: "Maybe five, four, five. I'm not sure." ([160:19](#))
- Specific location of filter press: "I'm vague. In this corner of the room somewhere. I can't remember." ([175:25-176:1](#))
- Whether there were two buildings for the Texas Tower: "I don't. I can't clearly remember that, no." ([167:23-167:25](#))
- Recollection of prior deposition: "Hell, no, I don't remember." ([168:24](#))
- Name of secretary: "I can't remember anymore." ([170:17](#))
- Specific work in Process Area No. 1: "You know, that's kind of fuzzy." ([171:13](#))
- What "A" or "B" labels referred to on map: "I don't remember." ([181:16](#))
- Powerhouse or smokestack: "I don't remember. I'm sure there was, I just don't remember." ([180:13-180:14](#)); "No, I don't remember. I'm sure it was there. I just don't remember." ([180:16-180:17](#))
- Drums discarded in dump area: "I don't know. I'm assuming there were." ([190:25](#))
- Where liquid from wash station went: "I have no idea. It didn't stay there." ([212:5](#)); "I wouldn't know. I don't know for sure." ([212:10](#)); "Not an idea." ([212:13](#))
- Tailrace flow: "I don't remember seeing ripples on it... It seemed still but I'm assuming it changed."

([213:2-213:5](#))

- Tailrace/river joining at dump: "I don't remember going down there." ([213:12](#))

Remembers Clearly / Easily Refreshed:

- General work activities: "Summer work." ([151:15](#))
- Being drafted into Army: "After '65 I was in the Army. 1965 I was drafted." ([152:21-152:22](#))
- Last time at Centredale site: "August of 1965 I left there." ([153:16](#))
- Texas Tower wasn't there then built: "Exactly." ([153:22](#))
- Hexachlorophene was the product: "I think that's the product that was" ([154:2](#))
- Drains in main building: "Yes, I did." ([157:9](#))
- French drains in basement: "The drains that I : that I talked about, the French drains, were in the basement level." ([157:16-157:18](#))
- Basement entirely below grade: "Yes." ([158:9](#))
- Basement had windows: "Yes." ([158:11](#))
- Vertical storage tanks: "Yes." ([159:13](#), [159:15](#))
- General description of tanks: "large cylinders holding thousands of gallons each, some different sizes than others, some taller than others that were vertical" ([160:3-160:6](#))
- Tanks filled by pipes: "Most of the tanks were filled, from what I can remember, by being : the product was pumped into them through pipes." ([160:22-160:24](#))
- Location of river/tailrace relative to site: "the river was on one side, the tanks were on the other side" ([161:11-161:12](#))
- Dumpster use for empty bags and filter press material: "The Dumpster was used for empty bags... Also in that Dumpster if the filter press was cleaned, some of that would be dumped into the into that Dumpster also." ([165:22-166:3](#))
- Chipping solidified material: "Oh, yes." ([166:7](#))
- Material chipped out went into Dumpster (after refreshment): "My foggy memory of those periods were, like I said here, most of the time, from what I can remember, were thrown into that Dumpster." ([167:4-167:6](#))
- Never worked in Texas Tower: "Never." ([168:4](#))
- General layout of site from map: Identifies Smith Street, Mineral Spring Avenue, tailrace, river, office, shipping, storage tanks, wash station, burn pit, etc. ([169:6-170:20](#), [171:7-171:12](#), [172:1-172:5](#), [173:14-173:17](#), [174:18-174:20](#), [176:18-176:24](#), [177:22-177:23](#), [178:23-178:24](#), [180:20-180:22](#), [181:4-181:6](#), [182:5-182:14](#), [183:2-183:5](#), [184:1-184:5](#), [185:14-185:15](#), [186:4-186:14](#), [187:2-187:6](#), [188:6-188:8](#), [189:1-189:4](#))
- Most work was indoors: "Yes." ([202:13](#)); "Other than that, it was inside work." ([202:20](#))
- Full-time employment dates: "For sure for full time it was '64 through '65." ([204:18-204:19](#))
- Employees were "interchangeable" between facilities: "The ma: intenance people would work would work both sites." ([206:21-206:22](#))
- Texas Tower appearance: "square building or relatively square. It had steps on one side, I believe." ([207:16-207:17](#)); "two stories tall maybe." ([207:25](#))
- Saw tailrace murky: "I saw it when it was murky." ([210:21](#))
- Plastic liners in barrels: "Yes." ([214:11](#))
- Liners thrown on ground then picked up: "Some of them were thrown on the ground and then later picked up." ([215:15-215:16](#))

Pattern: Nadeau's memory is consistently "fuzzy" or non-existent for specific details, particularly those related to the duration of operations or direct observation of environmental impacts (e.g., liquid discharge, tailrace color change). However, he can recall general descriptions of the site, work processes, and even specific dates (like his draft date) or confirm prior testimony when prompted. This pattern suggests a **strategic or convenient memory lapse** rather than a general inability to recall events from 50 years ago.

Impeachment Opportunities

Prior Inconsistent Statements

1. Hexachlorophene Manufacturing Duration:

- **Current Testimony:** Claims "fuzzy" memory and "don't know" the duration, even after reading prior testimony ([154:8-154:9](#), [154:15-154:18](#), [155:15-155:18](#), [155:25](#)).

- **2002 Deposition:** Stated "I know it was there for a good eight months anyhow" ([156:25](#)), confirming it was his "best memory at that time" ([157:3-157:5](#)).
- **Impeachment Value:** High. Direct contradiction on a factual detail, demonstrating a current lack of recollection that was present in prior sworn testimony.

2. Direct Observation of Liquid Flowing from French Drains to Tailrace:

- **Current Testimony:** "Yes, I did. I saw it go out." ([191:24](#)).
- **2002 Deposition:** "I just can't remember. I couldn't say for a fact. It's an assumption." ([192:15-192:16](#)).
- **2006 Trial Testimony:** "I didn't look." ([195:9-195:10](#)); "I never looked to see if it changed. Logic tells me it did." ([195:21-195:22](#)).
- **Impeachment Value:** Extremely High. This is a severe contradiction across three different sworn statements, directly impacting his credibility on a central issue of environmental discharge. His attempt to reconcile by stating his memory "improved" is unconvincing given the explicit prior denials of observation.

3. Observation of Tailrace Water Color Change:

- **Current Testimony:** "I can't remember whether I saw it happen or not." ([210:1-210:2](#)); relies on "logic" and "betting" ([209:25](#), [210:3](#)).
- **2002 Deposition:** Confirmed he "testified that there were times when you saw discolored water" and "recall that the tailrace changed color" ([210:6-210:13](#)).
- **Impeachment Value:** High. Another instance of current claimed lack of memory directly contradicted by prior sworn testimony of observation.

Strategic Recommendations

- **Highlight Pattern of "Improving" Memory:** During cross-examination, juxtapose his current definitive statements with his prior "fuzzy" or "didn't look" testimony. Emphasize that his memory seems to "improve" when it benefits the narrative, particularly on critical issues like environmental discharge.
- **Challenge Inferences as Facts:** Point out instances where he presents "logic" or "assumptions" as factual recollections. For example, "I know it had to" ([209:25](#)) versus "I didn't look" ([195:10](#)).
- **Use Prior Testimony as a Baseline:** Establish that his earlier testimony (2002, 2006) was closer in time to the events and that he affirmed its truthfulness. Then, highlight how his current testimony deviates, questioning the reliability of his present recollection.
- **Focus on Lack of Direct Knowledge:** Reinforce his own admissions about being a laborer with no management, accounting, or chemistry knowledge, and his lack of knowledge about property boundaries or specific chemical compositions (e.g., dioxin). This limits the scope of what he can credibly testify to.
- **Jury Appeal:** A jury may find a witness who repeatedly claims "fuzzy memory" but then makes definitive statements, especially when contradicted by his own prior testimony, to be unreliable and potentially evasive. The "I saw it go out" versus "I didn't look" contradiction is particularly powerful and easy for a jury to understand.

13. Legal Analysis

Environmental Liability Claims Analysis (e.g., CERCLA, State Environmental Laws)

This deposition excerpt provides critical factual testimony regarding historical operations and waste disposal practices at the Metro-Atlantic/New England Container Company (NECC) facility. The testimony is highly relevant to establishing elements of environmental liability, particularly concerning the release of hazardous substances and the identification of responsible parties.

Elements Established/Supported

1. Facility Operations and Hazardous Substance Handling ✓ Supported ([153:25-154:2](#))

- **Hexachlorophene Manufacturing:** Witness confirms hexachlorophene was manufactured in the "Texas Tower" building ([153:25-154:2](#)). This identifies a specific chemical process and location.
 - *Implication:* Hexachlorophene is a known hazardous substance. Its manufacturing at the site is direct evidence of hazardous substance presence.
- **Product Filtering:** Nadeau describes filtering processes for "reserve salt" and "40-S" products ([178:23-179:11](#)).
 - *Implication:* Filtering processes often generate waste products or sludge, which could contain hazardous substances.
- **Drum Reconditioning:** Detailed testimony on the process of burning drums to remove residue and washing "tight" (closed-head) drums ([183:10-185:24](#), [186:5-186:18](#)).
 - *Implication:* The burning of drums containing "whatever residue" ([184:11-184:12](#)) and the washing of drums, with residue flowing "below that rack" ([211:18-212:5](#)), strongly suggest potential releases of hazardous substances from drum contents.
- **Waste Disposal Practices:**
 - **Solid Waste:** Witness states that chipped solidified material from vessels was "thrown into that Dumpster" ([167:4-167:6](#)). Empty raw product bags were also put in the Dumpster ([165:22-165:25](#)).
 - **Plastic Liners:** Plastic liners removed from reconditioned drums were "thrown on the ground and then later picked up" and put into another drum ([215:15-215:25](#)). Nadeau was told these liners were taken to "the back part of the facility," commonly referred to as "the dump" ([216:6-216:13](#)).
 - *Implication:* These practices indicate direct disposal of potentially contaminated materials on-site, supporting the "release" element.
- [change color](#)

2. Release of Hazardous Substances ✓ Strongly Supported ([191:24-191:25](#))

- **French Drains to Tailrace :** Nadeau explicitly states he saw liquid from the French drains go "out the hole in the building and it went straight outside" ([191:18-191:19](#)) and "onto that piece of real estate behind the building and then eventually into the river" ([193:4-193:6](#)). He directly contradicts his prior testimony that this was an "assumption" ([192:16](#)) by stating, "I do remember in fact it went out. I saw it go out" ([192:23-192:24](#)).
 - *Prior Testimony Confirmation :* He confirms prior trial testimony where he stated that material washed off the basement floor (from presses, including "black sludge" or "carbon") went "out to the tailrace, the river outside" and "was going outside" ([200:17-201:1](#)).
 - *Observation of Discoloration:* Nadeau testifies that water from the hose would change color to "whatever was on the floor" and "wash to the drain and exit" ([209:19-209:21](#)). He also states he saw the tailrace "murky" while working there ([210:19-210:24](#)), and that "logic tells me it did" change color ([195:21-195:22](#)).
 - *Implication:* This is direct eyewitness testimony of a release of potentially hazardous substances (sludge, carbon, whatever was on the floor) from the facility into the environment (tailrace/river). This is a critical element for environmental liability.

3. Identification of Responsible Parties ✓ Supported ([170:23-171:6](#))

- **Intertwined Operations:** Nadeau testifies that Metro-Atlantic and NECC were run by "brothers... or relatives" and that "a lot of these areas were... shared" ([170:23-171:3](#)). He "considered them one body" ([171:6](#)). He also notes that employees, particularly maintenance staff, were "interchangeable" and worked at both sites ([206:11-207:5](#)).
 - *Implication:* This testimony supports arguments for **successor liability** or **corporate veil piercing** between Metro-Atlantic and NECC, suggesting they operated as a single economic unit or that one is liable for the other's actions. While Nadeau admits he "did not" know who owned what or land boundaries ([218:17-218:25](#)), his observations of operational integration are still valuable.

Evidentiary Issues

1. Witness Credibility and Memory

- **"Fuzzy" Memory:** Nadeau frequently describes his memory as "fuzzy" ([152:14](#), [154:9](#), [158:19](#), [173:13](#), [204:13](#)). This could be used by opposing counsel to challenge the reliability of his testimony.
- **Prior Inconsistent Statements:**

- **French Drains:** Nadeau initially testified in 2002 that seeing the cutout for the French drain was an "assumption" (192:16). In this deposition, he directly contradicts that, stating, "I do remember in fact it went out. I saw it go out" (192:23-192:24).
- **Tailrace Discoloration:** In 2006 trial testimony, he stated he "never looked to see if it changed" color, but "logic tells me it did" (195:21-195:22). In this deposition, he states, "I saw it when it was murky" (210:19) and "I know it had to [change color] but I can't remember whether I saw it happen or not" (209:25-210:2).
- **Implication:** While the witness attempts to reconcile these by stating his memory has improved or that he "always" testified truthfully (196:3-196:4), these inconsistencies will be highlighted by opposing counsel to undermine his credibility, particularly on the direct observation of releases. The attorney for Emhart Industries, Mr. Pirozzolo, explicitly uses prior testimony for impeachment (197:15-197:21).

2. Scope of Knowledge

- **Lack of Chemical Expertise:** Nadeau explicitly states he has no understanding of chemistry and is "not a chemist" (217:9-217:13). He would not know if substances contained dioxin (217:18-217:25).
 - **Implication:** His testimony cannot directly identify specific hazardous substances by chemical name (e.g., dioxin). Expert testimony will be required to link the described processes and observed waste (e.g., "black sludge," "carbon," "murky water") to specific hazardous substances. His testimony provides the factual basis for an expert to opine on the nature of the released materials.
- **Limited Management/Ownership Knowledge:** He was a laborer and not involved in accounting or management (218:2-218:12). He "did not" know who owned what or land boundaries (218:17-218:25).
 - **Implication:** While his observations on intertwined operations are useful, direct evidence of corporate structure or ownership will need to come from other sources (e.g., corporate records, other witnesses).

Strategic Recommendations

1. Corroborate Eyewitness Testimony:

- **Expert Witness:** Retain an environmental expert to review Nadeau's testimony regarding processes (hexachlorophene manufacturing, drum burning, washing, filter press operations) and observed releases (sludge, murky water). The expert can then opine on the likely hazardous nature of these materials and the environmental impact of the described disposal methods.
- **Document Review:** Cross-reference Nadeau's descriptions of site layout and operations with historical site plans, aerial photographs, and operational records to corroborate his memory.
- **Other Witnesses:** Identify and depose other former employees, especially those who worked in similar roles or had longer tenures, to corroborate Nadeau's accounts of disposal practices and observations of releases.

2. Address Credibility Challenges:

- **Rehabilitation:** During trial, if Nadeau testifies, counsel should proactively address the "fuzzy memory" and prior inconsistent statements by emphasizing that his memory has been refreshed by reviewing documents and that his core observations (e.g., seeing liquid exit the building to the river) remain consistent or have become clearer over time.
- **Focus on Core Facts:** Emphasize the consistent elements of his testimony, such as the existence of French drains, the washing of floors, the disposal of materials in the Dumpster and "dump" area, and the observation of murky water in the tailrace.

3. Leverage Intertwined Operations Testimony:

- Use Nadeau's testimony about shared areas and interchangeable employees (170:23-171:6, 206:11-207:5) as foundational evidence for arguments of **corporate veil piercing** or **successor liability** between Metro-Atlantic and NECC. This will need to be supplemented with corporate documents and other witness testimony.

4. Motion Practice Opportunities:

- **Motion in Limine:** Anticipate motions from opposing counsel to exclude portions of Nadeau's testimony due to "fuzzy memory" or prior inconsistencies. Be prepared to argue for admissibility, emphasizing that inconsistencies go to weight, not admissibility, and that his memory has been refreshed.
- **Summary Judgment:** Nadeau's direct observation of releases from the French drains into the river ([191:18-191:19](#), [192:23-192:24](#)) could be a key piece of evidence to support a motion for partial summary judgment on the "release" element of environmental liability, especially when combined with expert testimony on the hazardous nature of the substances.

Follow-up Requirements

- **Expert Consultation:** Provide Nadeau's testimony to an environmental expert to assess the nature of the "black sludge," "carbon," and other waste products mentioned, and to evaluate the environmental impact of the described disposal methods.
- **Document Review:** Conduct a thorough review of historical site plans, environmental permits (if any), and internal company documents to corroborate Nadeau's descriptions of site features, processes, and waste management.
- **Additional Depositions:** Identify and depose other former employees, particularly those who worked in the basement, shipping, or drum reconditioning areas, to corroborate and expand upon Nadeau's testimony regarding waste disposal and releases.
- **Site Investigation:** If not already done, conduct further site investigations (e.g., soil and water sampling) in areas identified by Nadeau (e.g., around French drains, the "dump" area, tailrace) to confirm the presence of hazardous substances.

14. Conclusion

Strategic Conclusions and Recommendations from Deposition Excerpt

This deposition of Joseph Nadeau provides valuable insights into the operations of Metro-Atlantic and New England Container Company (NECC) during the 1960s, particularly concerning waste disposal practices and site layout. The witness's memory is often "fuzzy" due to the passage of time, but prior sworn testimony helps to refresh his recollection and establish key facts.

Three Most Critical Facts Established

1. **Direct Observation of Waste Discharge to Environment:** Joseph Nadeau explicitly states that liquid from the French drains in the main building's basement "ran out the hole in the building and it went straight outside" ([191:18](#)). He further clarified that it went "onto that piece of real estate behind the building and then eventually into the river," not into a sewer ([193:3](#)). This is a critical admission of direct discharge.
2. **Disposal of Filter Press Waste into Dumpster:** The witness confirmed that solidified material chipped out of vessels, specifically from the filter press, was thrown into a Dumpster ([166:5](#), [166:6](#), [166:7](#), [166:8](#), [166:9](#), [166:10](#), [166:11](#), [167:4](#), [167:5](#), [167:6](#)). This Dumpster was located outside the building, below a doorway, where materials were tossed into it ([178:4](#), [178:5](#), [178:6](#), [178:7](#), [178:8](#), [178:9](#), [178:10](#)). This establishes a potential pathway for hazardous waste to be disposed of on-site.
3. **Interchangeable Operations and Shared Facilities:** Nadeau testified that Metro-Atlantic and NECC were run by brothers or relatives, and he "considered them one body" ([170:24-170:25](#), [170:26-171:6](#)). He also stated that employees, including maintenance personnel, worked at both sites and were "interchangeable" ([206:12](#), [206:13](#), [206:14](#), [206:15](#), [206:16](#), [206:17](#), [206:18](#), [206:19](#), [206:20](#), [206:21](#), [206:22](#), [206:23](#), [206:24](#)). This supports the argument for co-mingled operations and potential shared liability.

Primary Strengths for Our Case

- **Direct Evidence of Environmental Discharge:** Nadeau's testimony confirms that liquids from the basement floor, including those from presses, were washed out of the building and ultimately reached the river/tailrace ([191:18](#), [193:3](#), [200:17-201:1](#)). This directly links operational waste to environmental contamination.
- **Confirmation of Waste Disposal Practices:** The testimony regarding the disposal of filter press waste

into an outdoor Dumpster ([166:1-166:3](#), [167:4-167:6](#)) provides a specific mechanism for solid waste to enter the environment.

- **Witness Credibility on Key Points:** Despite a "fuzzy" memory, Nadeau consistently affirmed the truthfulness of his prior sworn testimony, which often provided more specific details than his current recollection ([156:10-156:13](#), [196:2-196:3](#)). This allows us to leverage his earlier, more proximate statements.
- **Intertwined Operations of Metro-Atlantic and NECC:** The witness's perception of the two companies as "one body" with interchangeable employees and shared facilities ([170:24-170:25](#), [170:26-171:6](#), [206:12-206:24](#)) strengthens the argument for joint responsibility and integrated operations.
- **Observation of Tailrace Murkiness:** Nadeau observed the tailrace becoming "murky" at times, indicating visible changes in water quality, even if he couldn't directly link it to specific floor washing events at the moment of observation ([210:19-211:2](#)).

Main Vulnerabilities Exposed

- **Witness's "Fuzzy" Memory:** Nadeau repeatedly stated his memory was "fuzzy" due to the passage of 50 years ([152:14](#), [154:9](#), [154:17](#), [157:21](#)). This could be exploited by opposing counsel to undermine the certainty of his testimony, especially on details not covered in prior depositions.
- **Lack of Specificity on Chemical Composition:** Nadeau, as a laborer, explicitly stated he was not a chemist and wouldn't know if substances he handled contained dioxin ([217:11](#), [217:12](#), [217:13](#), [217:14](#), [217:15](#), [217:16](#), [217:17](#), [217:18](#), [217:19](#), [217:20](#), [217:21](#), [217:22](#), [217:23](#), [217:24](#), [217:25](#)). This limits his ability to directly link specific chemicals to observed disposal practices.
- **Inconsistencies Regarding Direct Observation of Discharge:** While Nadeau ultimately affirmed seeing liquid go out of the building, his initial hesitation and prior testimony where he stated he "never looked to see if it changed" ([195:18](#), [195:19](#), [195:20](#), [195:21](#), [195:22](#)) could be used to challenge the certainty of his current recollection regarding direct observation of discharge into the tailrace.
- **Uncertainty on Drum Liner Disposal:** While he confirmed plastic liners were removed and placed in other drums, he had "no idea" where they went from that point ([215:24-216:1](#)). This leaves a gap in the chain of custody for this waste stream.

Recommended Immediate Actions

- **Cross-Reference with Prior Testimony:** Thoroughly compare all current testimony with prior depositions and trial testimony (e.g., 2002 deposition, 2006 trial testimony) to identify all consistent and inconsistent statements. Prepare a detailed timeline of Nadeau's statements on critical issues.
- **Document Review for Hexachlorophene Production:** Investigate company records, production logs, or other witness testimony to corroborate the duration of hexachlorophene manufacturing, especially given Nadeau's prior "eight, nine months" estimate ([156:22-156:25](#)).
- **Site Plan Analysis:** Review Exhibit 8 (the map) with an environmental expert to identify the precise locations of the French drains, Dumpster, and wash station in relation to the river/tailrace. **Overlay historical aerial imagery** to confirm the presence and location of the Dumpster and other waste areas.
- **Expert Witness Consultation:** Consult with a chemical expert to determine the likely composition of "black sludge" or "carbon" from filter presses ([200:11-200:15](#)) and the potential for dioxin formation or presence in the materials handled by Metro-Atlantic/NECC.
- **Investigate Drum Liner Disposal:** Conduct further discovery or document review to determine the ultimate fate of the drums containing plastic liners removed from reconditioned drums.

Overall Assessment of Deposition Impact

This deposition is **moderately impactful**, providing crucial direct testimony regarding waste disposal practices and the interconnectedness of the two entities. While the witness's memory is often vague, his affirmation of prior, more detailed testimony strengthens the evidentiary value of those earlier statements. The direct admission of liquid waste discharge into the environment and solid waste into an outdoor dumpster are significant for establishing liability. The primary challenge will be managing the witness's "fuzzy" memory and potential inconsistencies by relying heavily on his prior sworn statements.

Priority Items for Team Discussion

- **Strategy for Addressing Memory Lapses:** Discuss how to best present Nadeau's testimony,

emphasizing his consistent affirmation of prior statements while acknowledging his current memory limitations.

- **Leveraging Prior Sworn Testimony:** Identify all instances where Nadeau affirmed his prior testimony and strategize how to introduce these earlier, more specific statements into evidence.
- **Environmental Impact Assessment:** Discuss the implications of the confirmed waste disposal practices (French drains to river, filter press waste to Dumpster) on the overall environmental contamination case.
- **Joint Liability Argument:** Review Nadeau's testimony regarding the "interchangeable" nature of Metro-Atlantic and NECC operations and employees to strengthen the argument for joint liability.
- **Follow-up Discovery:** Determine if any specific documents or additional witnesses could corroborate Nadeau's testimony, particularly regarding the fate of drum liners and the exact contents of the filter press waste.

15. Appendix

Appendix and Reference Materials

Exhibits Referenced

Introduced Exhibits

- **Exhibit 1 - Joseph Nadeau's deposition from December 17, 2002** ([154:21-154:23](#))
 - **First Referenced:** ([154:21](#))
 - **Times Discussed:** 5
 - **Significance:** Used to refresh the witness's recollection regarding the duration of hexachlorophene manufacturing ([155:4-155:6](#)), the disposal of chipped material ([166:19-166:21](#)), the French drains and cutout ([191:25-192:1](#)), employment years ([203:16-203:19](#)), observations of French drains and water discoloration ([208:22-209:4](#)), and plastic liners in drums ([214:1-214:5](#)).
- **Exhibit 3 - Joseph Nadeau's affidavit, Bates numbers E-000003.003225 through 227** ([206:4-206:8](#))
 - **First Referenced:** ([206:4](#))
 - **Times Discussed:** 1
 - **Significance:** Used to clarify the witness's statement about "interchangeable" employees between facilities ([206:16-206:20](#)).
- **Exhibit 4 - Joseph Nadeau's trial testimony from *Emhart v. Home Insurance*** ([193:10-193:12](#), [199:23-199:24](#))
 - **First Referenced:** ([193:10](#))
 - **Times Discussed:** 2
 - **Significance:** Used to refresh the witness's recollection regarding observations of water outside the building changing color after floor washing ([194:11-195:25](#)) and to confirm consistency with current testimony ([201:3-201:6](#)).
- **J. Nadeau Exhibit No. 8 - A copy of a plan/map of the Metro-Atlantic/NECC facility** ([168:12-168:20](#), [169:2-169:3](#))
 - **First Referenced:** ([169:2](#))
 - **Times Discussed:** 1
 - **Significance:** Used by the witness to orient himself to the facility layout, identify features like Smith Street, Mineral Spring Avenue, the Woonasquatucket River, tailrace, and various buildings/areas within the facility ([169:4-170:25](#)).

Glossary of Terms

- **40-S:** A product that was filtered using a specific filter press, distinct from reserve salt, to prevent cross-contamination ([178:23-179:11](#)). (first appearance: [177:18](#))
- **Burner:** The area where drums were burned to remove residue ([184:8-184:12](#)). (first appearance: [184:8](#))
- **Burn barrels:** Drums that were "leakers" (couldn't hold liquids) and were sold to state parks or private citizens for burning trash ([190:11-190:19](#)). (first appearance: [190:11](#))
- **Centredale site:** The location where the witness last worked around 1965 ([153:13-153:15](#)). (first appearance: [153:13](#))
- **Closed-head drums:** Drums with bungs and holes, not open-cover, used in the wash station ([186:6-186:12](#)). Also referred to as "tights" ([186:12](#)). (first appearance: [186:6](#))

- **Connection:** An area on the main building where liquid was connected to the building, possibly for pumping materials ([172:25-173:6](#)). (first appearance: [172:25](#))
- **Dioxin:** A chemical substance the witness was asked about but did not recall seeing or identifying during his employment ([216:22-217:25](#)). (first appearance: [216:22](#))
- **Drum removal:** The area where drums were taken off the burning track, shaken of ash, and moved for further processing ([185:17-185:24](#)). (first appearance: [183:4](#))
- **Drum storage:** An area along the river where trucks were unloaded and drums were stacked in long rows, often on their sides, three to five high ([187:20-188:5](#)). (first appearance: [187:20](#))
- **Dump:** An area at the end of the peninsula, commonly referred to as the dump, where plastic liners were eventually taken ([188:17-188:19](#), [216:11-216:13](#)). (first appearance: [188:17](#))
- **Dumpster:** A container used for empty bags from raw products and solidified material cleaned from the filter press ([165:18-166:3](#)). It was located below a doorway where heavy equipment could be brought in, allowing items to be tossed directly into it ([177:17-178:10](#)). (first appearance: [165:18](#))
- **Filter press:** Equipment located in the basement of the main building, used to filter products. There were two such presses ([174:18-175:16](#)). (first appearance: [166:1](#))
- **French drains:** Drains located in the basement level of the main building ([157:15-157:18](#)). The witness testified that liquid from these drains ran out a hole in the building and went straight outside, eventually into the river ([191:17-191:19](#), [193:3-193:6](#)). (first appearance: [157:17](#))
- **Hexachlorophene:** A product manufactured in the Texas Tower building or a nearby building ([153:25-154:1](#)). (first appearance: [153:25](#))
- **Leakers:** Drums that could not hold liquids and had no resale value, often sold as burn barrels ([190:6-190:12](#)). (first appearance: [190:6](#))
- **Loading area:** An area to the east of the Texas Tower where empty barrels were loaded onto trucks for customers, and incoming barrels were received ([181:1-181:10](#)). (first appearance: [181:1](#))
- **Main building:** The primary structure at the facility where the witness spent most of his time, including blending products, drawing off tanks, and running the filter press ([201:18-201:21](#), [202:9-202:10](#)). It had a basement with French drains ([157:15-157:18](#)). (first appearance: [157:7](#))
- **Maintenance shop:** A building where maintenance people worked, joined with the area where reserve salt was dried ([180:2-180:5](#)). (first appearance: [180:3](#))
- **Office:** The first building coming in on the left-hand side off Route 44, where the Buonannos and secretary worked, serving as the office for Metro-Atlantic ([170:13-170:23](#)). (first appearance: [170:13](#))
- **Paint station:** The area where drums were painted the specific color requested by the buyer as a final step before sale ([182:8-182:14](#)). (first appearance: [182:4](#))
- **Pit:** A holding or collection area where residue from burned drums would fall ([183:24-184:5](#)). (first appearance: [183:24](#))
- **Plastic liners:** Liners found in some barrels brought in for reconditioning at NECC. They were removed, often thrown on the ground for expediency, then picked up and put into another drum ([213:20-213:25](#), [215:12-215:25](#)). (first appearance: [213:20](#))
- **Process area No. 1:** An area where Johnny Joyal and Bill Daley worked, making products in vats, away from the witness's usual work areas ([171:8-171:23](#)). (first appearance: [171:7](#))
- **Process area No. 2:** A work area, likely on the second floor, where materials were transferred between drums, drums were stored, and finished products were kept ([176:17-177:11](#)). (first appearance: [176:17](#))
- **Reserve salt:** A product that was filtered using a specific filter press, distinct from 40-S, to prevent cross-contamination ([178:23-179:11](#)). It was also dried in a building attached to the maintenance building ([180:5](#), [202:1-202:5](#)). (first appearance: [174:18](#))
- **Shipping:** The area where trucks delivered raw materials or picked up finished products for customers ([172:4-172:9](#)). (first appearance: [171:25](#))
- **Storage tanks:** Large, vertical cylindrical tanks, holding thousands of gallons, located on the outside of the main building. There were approximately four or five of them, filled by pipes or tanker trucks ([159:12-160:24](#)). (first appearance: [159:12](#))
- **Tailrace:** One of two "wet spots" at the facility, located to the east, distinct from the river ([161:2-161:8](#)). The witness observed it becoming murky ([209:22-210:21](#)). (first appearance: [169:14](#))
- **Texas Tower :** A building that appeared between 1962 and 1965, where hexachlorophene was manufactured ([153:20-154:1](#)). The witness never worked in or went into this building ([167:13-168:10](#)). It was described as a relatively square, possibly two-story building, perhaps raised off the ground ([207:16-207:25](#)). (first appearance: [153:21](#))
- **Tights:** The witness's term for closed-head drums, which had bungs and holes, and were washed in the wash station ([186:12-186:13](#), [189:4-189:5](#)). (first appearance: [186:12](#))

- **Warehouse area:** An area inside the building where drums prepared for shipment or needing work were stored ([181:21-182:2](#)). (first appearance: [181:21](#))
- **Wash station:** A trapezoidal building where closed-head drums ("tights") were cleaned using water or steam, draining into an area underneath a rack ([186:3-186:19](#)). (first appearance: [186:3](#))
- **Woonasquatucket River:** One of two "wet spots" at the facility, located to the west, distinct from the tailrace ([161:2-161:8](#), [169:14](#)). (first appearance: [169:14](#))

Key Personnel

- **Baroni, Megan, Esquire:** Attorney for **New England Container Company, Inc.** ([147:10](#), [199:7](#)).
- **Bryan, Patrick B., Esquire:** Attorney for **United States Department of the Air Force** (U.S. Department of Justice, Environment & Natural Resources Division) ([147:15](#), [203:5](#)).
- **Buonannos:** Individuals assumed to have sat in the office building, possibly running **Metro-Atlantic** and **NECC** ([170:14](#), [205:8](#)).
- **Daley, Bill:** An employee who worked in "Process area No. 1" ([171:14-171:15](#)).
- **Dafoulas, Vivian S., RMR/CRR:** Court Reporter for the deposition ([146:19](#), [220:4](#)).
- **Ferrolì, John, Esquire:** Attorney for **Eli Lilly**, participating via telephone ([147:22](#), [150:9](#)).
- **Henninger, Brian, Esquire:** Attorney for **Emhart Industries, Inc.** ([147:5](#)).
- **Ikeda, Tiffany:** Intern with the Department of Justice, participating via telephone ([147:24](#), [150:11](#)).
- **Johnson, W. Darrel, Esquire:** Attorney from the Department of Justice, participating via telephone ([147:23](#), [150:4](#)).
- **Joyal, Johnny:** An employee who worked in "Process area No. 1" ([171:14-171:15](#)).
- **Larochelle, Bud:** The employee who typically handled the burning of drums ([184:21-184:22](#)).
- **Leshak, Andrea:** Intern with the Department of Justice, participating via telephone ([147:23](#), [150:6](#)).
- **Murphy, Walt:** A maintenance employee, now deceased, who had a timecard in both buildings (presumably **Metro-Atlantic** and **NECC**) due to working for both places ([206:24-207:5](#)).
- **Nadeau, Joseph:** The witness being deposed ([146:16](#), [150:15](#)). He worked for **Metro-Atlantic** and **New England Container Company** during the summers between 1962 and 1965, and full-time from June 1964 to August 1965 ([151:3-152:11](#), [204:18-205:3](#)).
- **Peloso, John:** Attorney for **New England Container Company**, who was present at the witness's previous deposition ([199:9-199:10](#)).
- **Pirozzolo, Jack R., Esquire:** Attorney for **Emhart Industries, Inc.**, conducting the examination ([147:4](#), [150:22](#)).
- **Secretary (unnamed):** An individual who worked in the office building, possibly named Maryanne ([170:15-170:16](#)).
- **Sun, Joy, Esquire:** Attorney with the Environmental Protection Agency (EPA), present with **Patrick Bryan** ([147:19](#), [203:9-203:10](#)).

Entities/Organizations

- **Black & Decker, Inc.** (Third-Party Defendant and Counterclaim Plaintiff) ([146:30](#))
 - **Relevance:** Party in the consolidated case C.A. 11-023-S.
- **Crown Chemical:** A company in Rhode Island where the witness worked in the late sixties, located where Rhode Island Hospital is now ([153:6-153:8](#)).
 - **Relevance:** Mentioned as a subsequent employer after leaving **Metro-Atlantic/NECC**.
- **Duffy & Sweeney, LTD:** The law offices where the deposition was taken ([146:17](#)).
 - **Relevance:** Location of the deposition.
- **Eli Lilly:** Entity represented by **John Ferrolì** ([150:10](#)).
 - **Relevance:** Party or interested party in the case.
- **Emhart Industries, Inc.** (Plaintiff/Counterclaim Defendant) ([146:5](#))
 - **Relevance:** Plaintiff in the main case C.A. 06-218-S and C.A. 11-023-S. Represented by **Foley Hoag LLP**.
- **Environmental Protection Agency (EPA):** Federal agency represented by **Joy Sun** ([147:19](#), [203:9-203:10](#)).
 - **Relevance:** Party or interested party in the case, likely related to environmental enforcement.
- **Foley Hoag LLP:** Law firm representing **Emhart Industries, Inc.** ([147:4](#)).
 - **Relevance:** Legal counsel for a party.
- **Metro-Atlantic:** Company where **Joseph Nadeau** worked for a couple of summers between 1962 and 1965, and full-time from June 1964 to August 1965 ([151:3-152:11](#), [204:18-205:3](#)). The witness considered

Metro-Atlantic and **NECC** to be "one body" due to shared operations and relatives running them ([170:23-171:6](#)).

- **Relevance:** Former employer of the witness, central to the case's factual background.
- **New England Container Company, Inc. (NECC)** (Defendant/Counterclaim Plaintiff) ([146:10](#))
 - **Relevance:** Defendant in the main case C.A. 06-218-S. Former employer of the witness, central to the case's factual background. The witness considered **Metro-Atlantic** and **NECC** to be "one body" due to shared operations and relatives running them ([170:23-171:6](#)).
- **Providence Washington Insurance Company** (Defendant/Counterclaim Plaintiff) ([146:11](#))
 - **Relevance:** Defendant in the main case C.A. 06-218-S.
- **Robinson & Cole LLP**: Law firm representing **New England Container Company, Inc.** ([147:9](#)).
 - **Relevance:** Legal counsel for a party.
- **Travelers Casualty & Surety Company** (Defendant/Counterclaim Plaintiff) ([146:12](#))
 - **Relevance:** Defendant in the main case C.A. 06-218-S.
- **U.S. Department of Justice, Environment & Natural Resources Division** : Federal agency representing the United States Department of the Air Force ([147:14-147:16](#)).
 - **Relevance:** Legal counsel for a party.
- **United States Department of the Air Force** (Defendants/Counterclaim Plaintiffs and Third-Party Plaintiffs) ([146:25](#))
 - **Relevance:** Defendant in the consolidated case C.A. 11-023-S.

Locations/Sites

- **Boston, MA**: Location of **Foley Hoag LLP** ([147:6](#)) and the **Environmental Protection Agency** office ([147:20](#)).
- **Centredale site**: The location of the **Metro-Atlantic** and **NECC** facilities, where the witness last worked around 1965 ([153:13-153:15](#)).
- **East Greenwich, RI**: Location of the court reporter's office ([146:20](#)).
- **Mineral Spring Avenue**: A street noted on the map of the **Metro-Atlantic/NECC** facility ([169:8-169:9](#)).
- **Peninsula**: The land formation where the **Metro-Atlantic/NECC** facility was located, with the river on one side and the tailrace on the other ([162:4-162:6](#), [188:18](#)).
- **Providence, Rhode Island**: Location of the deposition ([146:18](#)).
- **Rhode Island**: State where the witness moved back to after military service ([153:4-153:5](#)).
- **Rhode Island Hospital**: Current location of **Crown Chemical** ([153:11-153:12](#)).
- **Route 44**: A road near the facility, off which the office building was located ([158:3](#), [170:19-170:20](#)).
- **Smith Street**: A street used for orientation on the facility map ([161:17-161:20](#), [169:6-169:7](#)).
- **Stamford, CT**: Location of **Robinson & Cole LLP** ([147:11](#)).
- **Washington, DC**: Location of the **U.S. Department of Justice, Environment & Natural Resources Division** ([147:17](#)).

Significant Dates

- **1962 - 1965**: Period during which **Joseph Nadeau** worked part-time jobs at **Metro-Atlantic** and other places, including one or two summers at **New England Container** ([151:6-151:9](#), [152:3-152:11](#)).
- **1963**: Possible summer **Joseph Nadeau** worked at **Metro-Atlantic** ([152:7-152:8](#), [204:19-204:20](#)).
- **1964 - 1965**: Period during which **Joseph Nadeau** worked at **Metro-Atlantic** "for sure" ([152:6-152:7](#)). Full-time employment was from June 1964 to August 1965 ([204:18-205:3](#)).
- **1965**: Year **Joseph Nadeau** was drafted into the Army ([152:22](#)).
- **August 1965**: The month **Joseph Nadeau** left the **Centredale site** ([153:16](#)).
- **Late sixties**: Period when **Joseph Nadeau** worked for **Crown Chemical** after returning from the Army ([153:6-153:8](#)).
- **December 17, 2002**: Date of **Joseph Nadeau's** prior deposition (Exhibit 1) ([154:21-154:23](#)).
- **September 14 or 15, 2006**: Approximate date of **Joseph Nadeau's** trial testimony (Exhibit 4) in *Emhart v. Home Insurance* ([196:8-196:9](#)).
- **November 24, 2008**: Date of a prior deposition where a plan/map (Exhibit 8) was previously marked ([168:19-168:20](#)).
- **June 24, 2013**: Date of the current deposition ([146:17](#)).
- **June 27, 2013**: Date of the court reporter's certification for the current deposition ([220:17](#)).

Documents Mentioned But Not Produced

- None explicitly mentioned as "requested but not available" in this excerpt. The exhibits discussed were either produced or referenced from prior proceedings.

PAGE/LINE	SUMMARY	SUBJECT
150:2-151:17	Participants identify themselves for the record, including interns and attorneys. Joseph Nadeau confirms his name and discusses his summer work history, including part-time jobs between 1962 and 1965, and work at Metro New England Container.	Participant introductions and work history
151:16-153:23	The deponent discusses their summer work during high school, identifying locations and years worked, including Metro-Atlantic and New England Container. They clarify their military service from 1965 to 1967 and subsequent employment at Crown Chemical. They confirm leaving the Centredale site in August 1965 and note the construction of the Texas Tower during their absence.	Participant introductions and work history
153:24-156:5	The witness discusses the manufacturing of nexachlorophene, expressing uncertainty about its duration and details. They reference past testimony and documents but remain unclear about specifics, citing the passage of time.	Witness testimony on manufacturing
156:9-158:11	The witness confirmed their truthful testimony from December 17, 2002, recalled details about their work duration at Metro-Atlantic, and provided clarification on building features, including French drains in the basement, the number of floors, and the surrounding land's slope. They also described the basement level as entirely below grade with windows.	Witness testimony on manufacturing
158:13-159:10	The witness discusses the windows in the basement, including their operation, approximate height, and inability to recall specific details such as size, location, or looking out of them.	Basement features and storage tanks
159:12-161:12	The witness recalls details about vertical storage tanks, their appearance, approximate number, and filling process. They also describe the site layout, including the river and tanks' relative positions, but are uncertain about compass directions.	Basement features and storage tanks
161:13-163:18	The witness describes the layout of Smith Street, the main building, and storage tanks. They clarify the positions relative to Smith Street and explain the filling process for storage tanks, emphasizing the use of pipes on the left side of the building for tanker trucks.	Site layout and tank operations

PAGE/LINE	SUMMARY	SUBJECT
163:19-165:25	The discussion covers the location and function of pipes and delivery systems outside the building, the driveway's position, the size and depth of floor drains, and the disposal of solid materials. It also mentions the use of a Dumpster for empty bags from raw product processing.	Site layout and tank operations
166:4-167:10	The witness recalls chipping solidified material out of vessels, which was put into buckets and hauled out. While uncertain, refreshed recollection suggests the material was often thrown into a Dumpster. The witness confirms testifying about this material.	Material disposal and recollections
167:8-168:10	The witness discusses the Texas Tower, its history, and their lack of memory or involvement with the building or its site.	Material disposal and recollections
170:3-172:9	The witness identifies and explains labels on a map, including 'Office,' 'Process area No. 1,' and 'Shipping.' The office was shared by Metro-Atlantic and NECC, while process area No. 1 involved product creation by specific individuals. Shipping handled raw materials and finished products.	Map labels and site functions
172:10-174:16	Discussion about the location and function of fill pipes, valves, and storage tanks along the building's west wall and back wall. Includes details about connections, liquid transfer points, and the arrangement of storage tanks with a catwalk.	Map labels and site functions
174:17-176:23	The witness discusses the location and operation of the reserve salt filter press, marking its position on a plan and clarifying its placement inside the building. They also describe the basement level, storage tanks, and process area No. 2, including activities like material transfer and storage.	Processing areas and waste disposal
176:25-179:3	The discussion covers the building's basement and processing areas, including the location of tanks on upper floors. It mentions a Dumpster positioned below a set of doors for waste disposal and the proximity of two filtered products, reserve salt and 40-S.	Processing areas and waste disposal

PAGE/LINE	SUMMARY	SUBJECT
179:4-181:10	The witness discusses the use of specific filters for different products to avoid cross-contamination, identifies features and buildings on a site map, and provides details about their functions, including a maintenance shop, reserve salt drying area, and loading area. The witness also recalls the approximate location of the Texas Tower and provides limited memory of a powerhouse and smokestack.	Filters and site map details
181:17-183:25	The deposition discusses various labeled areas in a warehouse, including the 'Warehouse area,' 'Paint station,' and 'Drum removal.' It describes their functions, such as storing drums, painting them for customers, and removing drums from the burn pit. The burn area and furnace feeding process are also mentioned, along with the placement of barrels to be burned.	Filters and site map details
183:23-186:7	The deposition discusses the 'Pit' as a holding area for drums, the 'Burner' for burning drum residue, and the process of feeding and removing drums. It also mentions the 'Wash station' for cleaning a different type of drum with bungs.	Drum handling and cleaning processes
186:10-188:13	The witness describes the cleaning process for closed-head drums, their storage practices, and the workstations involved, including sandblasting and stacking drums. They also discuss the trapezoidal building and the drum storage area along the river, providing rough estimates based on memory.	Drum handling and cleaning processes
188:16-190:19	The deposition discusses the layout of a facility, including a dump area, wash station, and drum reconditioning processes. Drums were cleaned, inspected, and reconditioned for resale. Drums unfit for reconditioning, called leakers, were repurposed as burn barrels and sold to parks or private citizens for non-liquid use.	Facility layout and drum reconditioning
190:20-191:10	The witness discusses the handling of drums, including painting and selling them, discarding bad drums, and the assumption that discarded drums were thrown away.	Facility layout and drum reconditioning
193:7-195:14	The section discusses reviewing trial testimony and specific exhibits, including Bates-numbered pages. The witness confirms prior statements about water outside a building and its color change after floor washing.	Review of trial testimony

PAGE/LINE	SUMMARY	SUBJECT
<u>195:12-197:11</u>	The witness confirmed prior testimony about observing water color changes and testified truthfully to the best of their recollection during a trial in 2006. They verified the date of the testimony and acknowledged it was closer to their time at Metro-Atlantic.	Review of trial testimony
<u>197:10-199:16</u>	The deposition includes confirmation of court presence, introduction of a new examiner, and reference to Exhibit No. 4 for further questioning.	Basement floor washing and work activities
<u>200:2-201:23</u>	The witness confirmed using a hose to wash off the basement floor at Metro-Atlantic, with material from presses including black sludge. Waste was directed outside, not to municipal sewers. The testimony was consistent with earlier statements. Most work was in the main building, blending products and operating equipment, with some time spent drying reserve salt across the street.	Basement floor washing and work activities
<u>201:24-202:21</u>	The witness described working primarily indoors at Metro-Atlantic, with occasional brief tasks outside such as inspecting tanks. Most of the work involved activities in the main building or drying reserve salt across the street.	Employment recollections and ownership details
<u>203:4-205:3</u>	The witness recalls his employment at Metro-Atlantic, including full-time work from 1964 to 1965 and summer jobs in 1963. He also mentions working for New England Container during summers. His recollection of the time frame is foggy, but reading prior deposition testimony helps refresh his memory.	Employment recollections and ownership details
<u>204:25-207:2</u>	The witness discussed his full-time employment at Metro-Atlantic, the Buonanno family's joint ownership of companies, and the interchangeability of employees between facilities. He described maintenance crews working at both sites and mentioned a specific employee, Walt Murphy, who had timecards at both locations.	Employment recollections and ownership details
<u>207:7-208:19</u>	The witness described the Texas Tower as a square building, possibly raised on pile-ons, approximately two stories tall. They speculated it might be constructed of plywood but were unsure. The building did not appear cheaply made or unstable.	Texas Tower descriptions

PAGE/LINE	SUMMARY	SUBJECT
208:21-210:24	The witness recalls observations about French drains and discolored water at Metro-Atlantic, including water changing color when washed to the drain and murkiness in the tailrace. While the witness testified to seeing discolored water and murkiness, they could not definitively explain the cause or confirm specific instances of observing the tailrace change color.	Water observations and French drains
210:22-213:5	The witness describes murky water conditions, residue from tight drums, and uncertainty about the flow of materials and tailrace observations. They also discuss French drains and the tailrace's connection to the river.	Water observations and French drains
213:7-215:11	The witness discussed the connection between the tailrace and the river, referencing maps but not personal observation. They confirmed the presence of plastic liners in some barrels brought for reconditioning at NECC, noting variability in their use and mentioning rubber gaskets. The witness's recollection was refreshed by prior testimony regarding the liners' handling.	Discussion on tailrace and barrels
216:10-218:17	The witness discussed the back part of the facility, dioxin exposure, lack of chemistry knowledge, and their role as a laborer at Metro-Atlantic and NECC. They confirmed not being involved in accounting, management, or ownership details.	Facility roles and dioxin exposure
218:16-219:4	The witness confirmed they did not know who owned the land or its boundaries at the time, and that determining ownership was not part of their job responsibilities.	Land ownership and job scope

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF RHODE ISLAND
 EMHART INDUSTRIES, INC., :
 Plaintiff/Counterclaim Defendant :
 :
 VS. :C.A. 06-218-S
 :
 NEW ENGLAND CONTAINER COMPANY, :
 INC., PROVIDENCE WASHINGTON :
 INSURANCE COMPANY and TRAVELERS :
 CASUALTY & SURETY COMPANY, :
 Defendants/Counterclaim Plaintiff:
 CONSOLIDATED
 EMHART INDUSTRIES, INC., :
 Plaintiff/Counterclaim Defendant :
 :
 VS. :
 UNITED STATES DEPARTMENT OF THE :
 AIR FORCE, et al. :
 Defendants/Counterclaim :
 Plaintiffs and :
 Third-Party Plaintiffs :
 :
 VS. :C.A. 11-023-S
 :
 BLACK & DECKER, INC., :
 Third-Party Defendant and :
 Counterclaim Plaintiff :
 VOLUME II
 Continued deposition of JOSEPH NADEAU, a
 Witness herein, taken on MONDAY, JUNE 24, 2013,
 1:00 P.M., at the offices of DUFFY & SWEENEY, LTD,
 1800 Financial Plaza, Providence, Rhode Island,
 before Vivian S. Dafoulas, RMR/CRR.
 Vivian S. Dafoulas, RMR-CRR
 50 Fieldstone Drive
 East Greenwich, RI 02818-2064
 SDMS Doc ID 554657
 CDALEDEP03541

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1 APPEARANCES:

2

FOR EMHART INDUSTRIES, INC.:

3

4 FOLEY HOAG LLP

BY: JACK R. PIROZZOLO, ESQUIRE

5 BRIAN HENNINGER, ESQUIRE

155 SEAPORT BOULEVARD

6 BOSTON, MA 02210-2600

7

8 FOR NEW ENGLAND CONTAINER COMPANY, INC.:

9

ROBINSON & COLE LLP

10 BY: MEGAN BARONI, ESQUIRE

1055 WASHINGTON BOULEVARD, 9TH FLOOR

11 STAMFORD, CT 06901-2249

12

13 FOR UNITED STATES DEPARTMENT OF THE AIR FORCE:

14

U.S. DEPARTMENT OF JUSTICE

15 BY: PATRICK B. BRYAN, ESQUIRE

ENVIRONMENT & NATURAL RESOURCES DIVISION

16 ENVIRONMENTAL ENFORCEMENT SECTION

P.O. BOX 7611

17 BEN FRANKLIN STATION

WASHINGTON, DC 20044-7611

18

19 JOY SUN, ESQUIRE

ENVIRONMENTAL PROTECTION AGENCY

20 5 POST OFFICE SQUARE, SUITE NO. 100

BOSTON, MA 02109

21

22

VIA TELEPHONE: : JOHN FERROLI, ESQUIRE

23 W. DARREL JOHNSON, ESQUIRE

ANDREA LESHAK

24 TIFFANY IKEDA

25

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1 MR. HENNINGER: We are on the record.
2 Could the folks who are on the phone just identify
3 themselves for the court reporter, please?
4 MR. JOHNSON: : This is Darrell Johnson
5 from the Department of Justice.
6 MS. LESHAK: This is Andrea Leshak,
7 L-E-S-H-A-K, and I'm an intern with the Department
8 of Justice.
9 MR. FERROLI: This is John Ferroli for
10 Eli Lilly.
11 MS. IKEDA: Tiffany Ikeda with the
12 Department of Justice, I-K-E-D-A.
13 MR. BRYAN: And you are an intern?
14 MS. IKEDA: Yes.
15 JOSEPH NADEAU,
16 having been first duly sworn, was deposed and
17 testified as follows:
18 COURT REPORTER: Would you state your
19 name, please.
20 THE WITNESS: Joseph Nadeau.
21 EXAMINATION
22 BY MR. PIROZZOLO:
23 Q. Mr. Nadeau, it's been about a week or
24 two since the Government and NECC concluded their
25 examination of you.

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1 I just want to orient you. I'm not trying to
2 repeat but just to get a context here. It's my
3 understanding that you worked for Metro-Atlantic
4 for about two summers?

5 A. Something like that. A couple of
6 summers. Between '62 and '65 I worked part-time
7 jobs there and other places. Metro New England
8 Container I think I worked there one summer. I'm
9 not sure.

10 Q. Let me see if we can get the best we can
11 do to figure out when.

12 A. Yes.

13 Q. First of all, we are talking about
14 summer work

15 A. Summer work.

16 Q. not schooltime work?

17 A. Right.

18 Q. So the summer work would have been part
19 of June, July and August?

20 A. Exactly.

21 Q. And you were going to school where at
22 that time ?

23 A. Ponaganset High School.

24 Q. Okay. And so you were 16, 17 years old
25 in that range?

1 A. Something like that, yes.

2 Q. So your best memory is the years would

3 have been '62, '63 and maybe '64 or

4 MR. BRYAN: Objection. Vague.

5 A. I think the last two stints were at

6 Metro-Atlantic. I think '64 through '65 was at

7 Metro for sure. '63, '64 may have also been with

8 Metro-Atlantic. Not too sure of that, and then

9 '62 I believe was '62, '63 was the New England

10 Container. I may have worked one, maybe two

11 summers. I don't remember.

12 Q. All right. Thank you for the

13 clarification.

14 A. It's fuzzy.

15 Q. So that would have been when you were

16 what, sophomore, junior, senior in high school?

17 MR. BRYAN: Objection. Vague.

18 A. Somewhere in that area, yes.

19 Q. Did you work there when you were in

20 college?

21 A. No. After '65 I was in the Army. 1965

22 I was drafted.

23 Q. I see. And you served in the military

24 for what?

25 A. Two years.

1 Q. Two years?

2 A. Uh-hum.

3 Q. And then after that, did you move back
4 to

5 A. I moved back to Rhode Island and I
6 worked as a matter of fact, I worked for a
7 company called Crown Chemical somewhere in the
8 late sixties.

9 Q. That was at a different location?

10 A. It was a different location. Where
11 Rhode Island Hospital is now.

12 Q. That's right. Okay. I happen to know
13 that. So it would be fair to say the last time
14 you worked at the Centredale site would have been
15 around 1965?

16 A. August of 1965 I left there.

17 Q. Now, it's important for us to get some
18 dates established.

19 Is it correct that when you first worked
20 there, the building that you've identified as the
21 Texas Tower wasn't there and then it was built?

22 A. Exactly. It showed up somewhere between
23 one of the summers that I wasn't there.

24 Q. Okay. And do you know that
25 nexachlorophene was manufactured in that building

1 or a nearby building?

2 A. I think that's the product that was

3 Q. And you've testified previously for how

4 long hexachlorophene was manufactured; do you

5 recall that?

6 A. It was there one of the summers that I

7 showed up. It was there when I left. I'm not

8 sure. It might have been there a year or two.

9 I'm not really sure. It's fuzzy.

10 Q. Do you recall that nexachlorophene was

11 manufactured for about eight or nine months?

12 MR. BRYAN: Objection. Leading.

13 MS. BARONI: Objection.

14 MR. BRYAN: Objection. Vague.

15 A. I don't know. I just noticed that it

16 was there. How long it was there, I don't know.

17 Like I said, this is all fuzzy. This is 50 years

18 ago when you didn't care.

19 MR. PIROZZOLO: I understand. Do you

20 have Mr. Nadeau's deposition of December 17, 2002?

21 Q. I'm going to show you Exhibit 1. You

22 looked at it earlier in this deposition. That is

23 a deposition you gave on December 17, 2002. Can I

24 ask you to turn to Page 59 of that deposition?

25 A. Yes. I'm there.

1 Q. And can I have you look at Pages 10
2 through 15? I'm sorry. Lines 10 through 15.

3 A. Yes. I'm there.

4 Q. Just read those to yourself and I'll ask
5 you if that refreshes your recollection as to the
6 approximate time nexachlorophene was manufactured.

7 (Witness reading document.)

8 A. Okay. I read it. What do you need to
9 know from me ?

10 Q. Do you recall after reading that, that
11 they manufactured nexachlorophene there for around
12 eight or nine months?

13 MS. BARONI: Objection.

14 MR. BRYAN: Objection. Leading.

15 A. I don't know how long it was
16 manufactured. I know the plant was there. What
17 was happening in that plant, I don't know. How
18 long it was going on, I don't know.

19 Q. Do you recall being asked this
20 question

21 A. No.

22 Q. : - at your deposition?

23 A. No. I'm reading it. I'm assuming this
24 is what I remembered at the time. Do I remember
25 any of this? No.

1 Q. You don't remember it now but you
2 testified truthfully about this as best you
3 remembered it

4 A. As best I remembered it, I will testify
5 truthfully then and now.

6 MR. PIROZZOLO: Let me just finish the
7 question.

8 THE WITNESS: Okay.

9 Q. It would be your testimony that on
10 December 17, 2002 you testified truthfully to the
11 best of your recollection?

12 A. Yes, I did.

13 Q. Okay. And that was a shorter time after
14 the time you were working at Metro-Atlantic than
15 today?

16 A. True. Ten years ago.

17 Q. And is it correct that you testified as
18 follows?

19 "Question: Can you give us a reasonable
20 approximation of how long that product was being
21 made before you left?

22 "Answer: I was there about a year full time.
23 I'm guessing maybe eight, nine months maybe. It
24 wasn't there full time. I can't remember. I know
25 it was there for a good eight months anyhow."

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1 Did you give that testimony?

2 A. I did, if that's on this piece of paper.

3 Q. And that was your best memory at that
4 time?

5 A. That was my best memory at that time.

6 Q. You gave testimony about drains in the
7 main building. Do you remember that subject
8 matter?

9 A. Yes, I did.

10 Q. I want to get some clarification. On
11 what : first of all, how many floors were there
12 in the main building, including the basement?

13 A. Three or four. I'm not quite sure.

14 Q. On what level were the drains that
15 you've testified about?

16 A. The drains that I : that I talked
17 about, the French drains, were in the basement
18 level.

19 Q. Okay. Now, can you today visualize the
20 building?

21 A. Foggy, but yes.

22 Q. And can you visualize the land around
23 the building?

24 A. Yes.

25 Q. Was the land level or did it slope?

1 MS. BARONI: Objection.

2 MR. BRYAN: Objection. Vague.

3 A. When you came in off of Route 44, it
4 sloped slightly because the parking lot was off on
5 the right and we parked slightly uphill where I
6 parked - where I worked.

7 Q. Now, was the basement level entirely
8 below grade?

9 A. Yes.

10 Q. Did the basement level have windows?

11 A. Yes.

12 Q. If it was below grade, how did : how
13 did the windows operate?

14 A. Because there was a foundation poured
15 around around that level, concrete I'm
16 assuming, and the windows were sitting upon that.

17 Q. Okay. How high off the floor were the
18 windows approximately?

19 A. Um... I'm guessing foggy memory
20 maybe 3 feet. I just know they were there.

21 Q. Were the windows full-size windows or
22 just basement windows?

23 MR. BRYAN: Objection. Vague.

24 A. I can't remember that. There were
25 windows.

1 Q. Can you remember actually being in the
2 basement and looking out the windows? Can you
3 picture that in your mind's eye?

4 A. No. I : I can't remember looking out
5 windows.

6 Q. And you wouldn't be able to say where
7 the windows were?

8 MS. BARONI: Objection.

9 MR. BRYAN: Objection. Leading.

10 A. No.

11 MR. PIROZZOLO: Thank you.

12 Q. Do you remember vertical storage tanks?

13 A. Yes.

14 Q. Do you remember storage tanks?

15 A. Yes.

16 Q. I'll back up. Do you remember they were
17 vertical rather than horizontal or if not,
18 describe them.

19 MR. BRYAN: Objection. Vague.

20 MR. PIROZZOLO: In view of the
21 objection, let me rephrase the question.

22 Q. Can you describe, to your best
23 recollection, what the storage tanks looked like?

24 A. The storage tanks on the outside of the
25 building

1 Q. On the outside.

2 A. on the outside of the building, as
3 near as I can remember, were large cylinders
4 holding thousands of gallons each, some different
5 sizes than others, some taller than others that
6 were vertical, as near as I can remember.

7 Q. In general, were they taller than they
8 were wide?

9 A. I'm : I would say yes. I'm guessing
10 now.

11 Q. So they would be more vertical than
12 horizontal?

13 MR. BRYAN: Objection. Vague. Leading.

14 A. As much as I can remember.

15 Q. I'm only asking you what you remember.

16 A. Well

17 Q. Do you remember about how many tanks
18 there were?

19 A. Maybe five, four, five. I'm not sure.

20 Q. And I believe you testified as to how
21 they filled those tanks. Do you recall that?

22 A. Most of the tanks were filled, from what
23 I can remember, by being : the product was pumped
24 into them through pipes.

25 Q. And can you visualize the site? You

- 1 have the river on one side. Do you recall that?
- 2 A. There were two. There were two wet
- 3 spots. There was a river
- 4 Q. And then there was the
- 5 A. and there was the tail something or
- 6 other, yeah.
- 7 Q. Would you agree that the river was to
- 8 the west and the tail was to the east?
- 9 A. I'm not sure which way the compass
- 10 pointed but the - the river was on one side, the
- 11 tanks were on the other side, not against the
- 12 river.
- 13 Q. Just so we're talking the same
- 14 language
- 15 A. If you say
- 16 Q. Let's do it this way. You know where
- 17 Smith Street was?
- 18 A. Yes.
- 19 Q. Okay. So if your back was to Smith
- 20 Street
- 21 A. It would be on my left-hand side.
- 22 Q. What would be on your left-hand side?
- 23 A. The storage tanks and the main building.
- 24 The river would have been on my right.
- 25 Q. Let's go one by one. If you had your

1 back to Smith Street

2 A. Yes.

3 Q. was the main building more on the

4 left side of the peninsula?

5 A. The main building was on the left side,

6 more or less, of this -- of the peninsula. I'm

7 not sure.

8 Q. And were the storage tanks on the left

9 side of the main building?

10 A. They were.

11 Q. So that when they were filled, was there

12 some way were they filled from the right side?

13 MR. BRYAN: Objection. Vague.

14 MS. BARONI: Objection.

15 A. The tanks would have been filled in

16 several ways. They could have been filled because

17 we manufactured that product, pumped it from

18 the the tank to those storage facilities, or

19 there could have been a raw product brought

20 delivered by a vendor used for storage to be used

21 at some other point in time to be used in the

22 manufacture of something.

23 Q. So when it was : when you're

24 visualizing something delivered by a vendor, was

25 the inflow on the right side of the building?

1 A. No. It couldn't be on the right side.

2 It had to be on when you come down the

3 driveway, it had to be on your left-hand side

4 because they had pipes on the outside that the

5 the tanker trucks could lock onto and pump through

6 the building out to the storage tanks.

7 Q. I think maybe I'm not asking the

8 question correctly.

9 When they filled the the truck pulled up

10 to the again with your back to Smith Street

11 A. Yes.

12 Q. : to the right side of the building?

13 MR. BRYAN: Objection. Asked and

14 answered.

15 A. They they can't be filled from the

16 right side of the building because they needed a

17 pipe which was on the outside of the main building

18 so facing it, it's on my left.

19 Q. Outside where?

20 A. On the outside of the main building.

21 There was : there was there were ports for

22 outside vendor deliveries.

23 Q. Did the pipe go through the building to

24 the tanks to your best memory

25 MR. BRYAN: Objection. Vague.

1 Q. or did the tanker truck pull up to
2 the left-hand side of the building?

3 A. The tanker pulled up to the - the
4 delivery truck, whatever it was, would pull up to
5 the building, and and not all products went
6 through some of those outside pipes.

7 Q. I understand.

8 A. Some were - there was a hose that
9 was that was connected to the truck and they
10 would get ported by a big flexible hose to a
11 holding tank

12 Q. Okay.

13 A. but some some products were
14 delivered through an outside receptacle on the
15 side of the building against the driveway.

16 Q. And the driveway was on the right side
17 of the building?

18 MR. BRYAN: Objection. Leading.

19 A. Yes.

20 Q. That's what I'm driving at.

21 A. Yes.

22 Q. Okay. Got it. Thank you. The floor
23 drains that you described, do you remember the
24 size of them?

25 A. I would say roughly a foot wide. That's

1 a guess.

2 Q. Do you recall about how deep they were?

3 A. Guessing I would say maybe a foot. They

4 had a metal grate over some of them.

5 Q. That was going to be my next question.

6 Was there some kind of a grate or something like

7 that?

8 A. In some places there were; in other

9 places there weren't.

10 Q. Now, you gave some testimony about

11 disposing of material that was more solid than

12 liquid. Do you recall that?

13 A. From the filter.

14 Q. From the filter, from the tanks or from

15 inside the vats?

16 A. Yes, I did.

17 Q. Okay. And do you recall whether there

18 was a Dumpster?

19 A. There was a Dumpster.

20 Q. And do you recall what the Dumpster was

21 used for?

22 A. The Dumpster was used for empty bags

23 that were : that were raw products were poured

24 into the kettles to make a product, we would throw

25 those empty bags in there.

1 Also in that Dumpster if the filter press
2 was was cleaned, some of that would be dumped
3 into the - into that Dumpster also.

4 Q. Do you remember testifying at some point
5 about chipping the solidified material out of
6 the

7 A. Oh, yes.

8 Q. And do you recall what was done with
9 that material?

10 A. When I did it, it was put into buckets.

11 It was hauled out the top of the : of the vent
12 that was on the top of the tank. I'm guessing it
13 was put in a barrel at the time because that
14 seemed like the logical thing to do at the time.
15 Where it went from that, I don't know.

16 Q. Do you remember whether it went into the
17 Dumpster?

18 A. I don't know for sure.

19 Q. Okay. Can I ask you to turn to Page 43
20 of Exhibit 1, the deposition of December 17, 2002
21 and read to yourself Lines 8 through 20.

22 A. Okay.

23 Q. Does that refresh your recollection

24 A. Yes.

25 Q. : about - could you give your
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1 recollection now that you've read that, where the
2 material that was chipped out went?

3 MR. BRYAN: Objection. Vague.

4 A. My foggy memory of those periods were,
5 like I said here, most of the time, from what I
6 can remember, were thrown into that Dumpster.

7 MR. PIROZZOLO: Thank you.

8 Q. And you were testifying about the
9 material that was chipped out of the vessels?

10 A. Yes.

11 MR. PIROZZOLO: Thank you.

12 Q. I'm going to ask you to try and
13 visualize what you called the Texas Tower. Can
14 you kind of get that into your mind's eye?

15 A. Okay.

16 Q. Do you have a memory as to whether, at
17 some point, a period of time, there were two
18 different buildings in the location of the Texas
19 Tower? First there was a tower-type building and
20 then another building replaced it?

21 MR. BRYAN: Objection.

22 MS. BARONI: Objection.

23 A. I don't.

24 Q. You don't know?

25 A. I can't clearly remember that, no.

1 Q. And you previously testified you never
2 were in any building either way? The Texas
3 Tower

4 A. Never.

5 Q. or any other building on that site?

6 MR. BRYAN: Objection. Leading.

7 A. I never worked in that building.

8 Q. And you never went into it?

9 A. As near as I can remember, I never went
10 in it.

11 MR. PIROZZOLO: Okay. Thank you. Let's
12 turn this map so Mr. Nadeau can see it. This is a
13 copy of a plan.

14 MR. BRYAN: Is this being marked?

15 MR. PIROZZOLO: Yes. Eventually.

16 Q. This is a copy of a plan that was
17 previously marked in a prior deposition. I'm
18 going to come around there, if you don't mind.
19 It was previously marked as Exhibit 1 in your
20 deposition of November 24, 2008.

21 A. Oh, I clearly remember every minute of
22 that deposition.

23 Q. You remember what?

24 A. Hell, no, I don't remember.

25 MR. PIROZZOLO: Can I ask that this be

1 marked as the next exhibit to this deposition?

2 (Whereupon, J. Nadeau Exhibit No. 8 was

3 marked.)

4 Q. I'd ask you to look at Exhibit 8 and see

5 if you can orient yourself to the map. Do you see

6 Smith Street noted on the map?

7 A. I do.

8 Q. And do you see Mineral Spring Avenue?

9 A. I do.

10 Q. And do you recognize that as the

11 vicinity of the Metro-Atlantic/NECC facility?

12 A. Yes, I do.

13 Q. And do you see marked on the map

14 "tailrace" and oonasquatucket River"?

15 A. I do.

16 Q. And do you recognize that as features

17 that are to the east and to the west of the

18 Metro-Atlantic and NECC facilities?

19 A. I do.

20 Q. And you'll note the

21 A. East and west.

22 Q. East and west?

23 A. I never looked at that by the way.

24 MR. PIROZZOLO: I think it might be

25 easier if we double this up so we can fold it in

1 half.

2 BY MR. PIROZZOLO:

3 Q. Now, do you recall previously
4 identifying various features on this map?

5 A. Yes.

6 Q. And you, actually, either you or counsel
7 labeled, according to your testimony, different
8 buildings?

9 A. Yes.

10 Q. Okay. I'm going to ask you to explain
11 what each of these labels represents. Let me
12 start on Smith Street and work my way south.

13 The word "Office" appears there. What was
14 the office?

15 A. That's where I'm assuming the Buonannos
16 sat, the secretary, whose name I can't remember.
17 I think her name was Maryanne or something like
18 that. I can't remember anymore. That's like the
19 first building coming in on the left-hand side off
20 of Route 44.

21 Q. And was that the office of
22 Metro-Atlantic, to your best recollection?

23 A. Yes. One thing that probably needs to
24 be said is that Metro-Atlantic and NECC were run
25 by brothers as everybody knows or relatives or

1 something, so a lot of these areas were, I
2 believe, shared because they were always in one
3 place or another.

4 So I didn't - I didn't attribute that to be
5 only for Metro-Atlantic or this only to be = I
6 considered them one body.

7 Q. Okay. We have a label "Process area

8 No. 1." Do you see that?

9 A. Yes.

10 Q. What was what's your best

11 recollection of what was done in process area

12 No. 1?

13 A. You know, that's kind of fuzzy. I think

14 that may be the area in which Johnny Joyal and

15 Bill Daley worked. There was a Johnny Joyal and

16 Bill Daley. I think that was the area that they

17 worked in. I'm fuzzy.

18 Q. Do you remember what kind of work they

19 did?

20 A. They they had some vats and they made

21 products. What those products were I don't know.

22 They were away from the areas that I worked in

23 mostly.

24 Q. Okay. Now, the next label going south

25 from Smith Street is "Shipping."

1 A. Yes.

2 Q. Do you see that?

3 A. I do.

4 Q. And what was shipping?

5 A. Shipping was where the trucks came in
6 and delivered raw products or raw materials for
7 whatever we were going to make or, in some cases,
8 picked up products that were finished and they
9 were being shipped out to customers.

10 Q. Now, earlier today you said that there
11 were fill pipes or fill valves?

12 A. Yes.

13 Q. Where were those?

14 A. I believe they were along this building
15 here across from the maintenance area right along
16 this wall. The guy that worked in this place here
17 got badly burned because he disconnected a hose
18 and caustic acid went all over him.

19 Q. Let's make sure there is a record here.

20 Are you pointing to the west wall

21 A. Yes.

22 Q. of the main building?

23 A. I am.

24 Q. Now, if we move farther south, you see
25 the word "Connection"?

1 A. Yes.

2 Q. Do you read that as connection?

3 A. I read that as connection.

4 Q. Would that be the place where liquid was
5 connected to the building?

6 A. I would think that's true.

7 MR. BRYAN: Objection. Vague.

8 Q. Thank you.

9 A. There might have been more than one
10 connection too, by the way. It's just that I
11 remember stuff being pumped off there.

12 MR. PIROZZOLO: Thank you.

13 Q. Now, heading again south, you have a
14 label here, "Storage tanks"?

15 A. Yes.

16 Q. And what was there?

17 A. Storage tanks. Outside storage tanks.

18 Q. And from what area north to south were
19 those storage tanks?

20 MS. BARONI: Objection.

21 A. That I need clarification. What area
22 was that in? They were on this on this back
23 wall left to right, whatever compass point we're
24 talking. North to south.

25 Q. Okay. I have a pink marker. Did they

1 extend this far north?

2 A. I'm not sure.

3 Q. This far north?

4 MR. BRYAN: Objection.

5 MS. BARONI: Objection.

6 A. I'm not sure.

7 Q. They were along there?

8 A. They were along the back wall. How far

9 they went they weren't far apart, I can tell

10 you that, because there was a catwalk, a metal

11 catwalk that went to these tanks.

12 Q. And when you say they weren't far apart,

13 were they close together?

14 A. They weren't touching each other. There

15 was a space. What that space was, I don't

16 remember.

17 Q. Okay. Now, we have the words here

18 "Reserve salt filter press"?

19 A. Yes.

20 Q. And you described that operation the

21 other day?

22 A. In detail.

23 Q. Okay. This arrow seems to point to an

24 area outside of the building. Was the filter

25 press and the reserve salt made outside of the

1 building?

2 A. No. It was inside the building.

3 Q. Could you show where on this plan

4 A. It would have been in this area here

5 somewhere.

6 Q. Can you mark that with the - do we have

7 a different color? Could you mark that with a

8 green pen? ?

9 A. I believe I believe those presses

10 were here somewhere in this area. Actually they

11 were further into the building.

12 If this is the door coming in, then the

13 filter press one of them was here and I can't

14 remember where the other one was. There were two

15 filter presses in that basement and if this is the

16 door coming in, they were in this area somewhere.

17 Q. Just so there is a record, can you draw

18 an arrow to what you called the door coming in and

19 just say "Door"?

20 A. "Door."

21 Q. And you've made two green lines that

22 represent filter press. Can you put an arrow to

23 them?

24 A. This is one filter. Where the other one

25 was, I'm vague. In this corner of the room

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1 somewhere. I can't remember.

2 Q. You put a green line here, did you?

3 A. Yeah, but that was wrong.

4 Q. It's wrong?

5 A. It's wrong. Actually that's where the

6 French drain is that runs : that the stuff would

7 wash out of the building.

8 Q. Was the filter press in the basement

9 level?

10 A. Yes.

11 Q. Okay. And you've written previously

12 "Storage tanks"?

13 A. Yes.

14 Q. That's the area of the storage tanks, is

15 that right?

16 A. That's true, sir.

17 Q. Now, you've written you wrote

18 previously "Process area No. 2". What was that?

19 With an arrow pointing to the building.

20 A. We did stuff there. I'm not sure what

21 it was. We transferred materials from one drum to

22 another. It was a work area. Drums were stored

23 there. Finished product was stored there. It was

24 just a general work area.

25 Q. And what level of the building was that?

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1 A. That was the basement.

2 Q. That was also the basement?

3 A. Yeah. There was a processing area so

4 I don't get confused now and I don't confuse

5 anyone else -- the products, most of the products

6 were mixed or blended on the second or third floor

7 because that was the level of the tanks that the

8 the raw stuff was either poured in or dumped

9 in. So this may have been when I'm saying

10 processing area No. 2, I'm guessing that was the

11 second floor. I'm just :

12 Q. Your best memory.

13 A. Yeah. I'm trying to be logical here.

14 Q. So you just give your best memory.

15 A. Okay.

16 Q. Now, I can't quite read this. Can you

17 read what you wrote here?

18 A. "Dumpster" and "40-S." All right. So

19 maybe okay.

20 Q. This is you labeled this the

21 Dumpster?

22 A. Uh-hum.

23 Q. And was that Dumpster below some kind of

24 a door?

25 MS. BARONI: Objection.

1 A. That was

2 Q. Where was the Dumpster in relation to
3 the building?

4 A. Roughly above this area there was a
5 there was a set of doors that opened in, big doors
6 where heavy equipment could be brought in through
7 that door, and that was right pretty much over
8 that Dumpster, so we could just go to that
9 doorway, toss whatever we were tossing away into
10 that Dumpster.

11 Q. So would the Dumpster have been below
12 the floor?

13 A. It was below that window, yes.

14 Q. And that was the way you would dump
15 things into the Dumpster?

16 MR. BRYAN: Objection. Vague. Leading.

17 Q. Was that the way you would dump things
18 into the Dumpster?

19 A. Yes. Yes, it is.

20 Q. Now, this is I read this as 40-S.

21 A. 40-S press, yes.

22 Q. What does that mean?

23 A. We had two products that were filtered.

24 One was reserve salt; the other one was 40-S.

25 Those two were close to each other. That's why I

1 was vague here. I couldn't remember where that
2 thing was and I'm still vague about it, but they
3 were close by each other.

4 Q. And that's a different kind of filter?

5 A. It was it was the same kind of a
6 filter but it was used for two different products
7 and we never mixed them. 40-S was always filtered
8 in the 40-S filter. Reserve salt was always
9 filtered in the reserve salt filter. They didn't
10 want any cross-contamination going into any of
11 these products.

12 Q. Understood. Now, there is an orange
13 line to the west of the building?

14 A. Uh-hum.

15 Q. Can you tell us what that was intended
16 to represent?

17 A. I'm guessing that's the driveway.

18 Q. Okay. When you say you're guessing, are
19 you saying that's your best memory?

20 A. Well, that's only way down to there so
21 that's the driveway.

22 Q. Okay. Now, if we continue to the west,
23 do you see this here? Is that a different
24 building?

25 A. Yes, it is.

1 Q. Okay. And what was that building?

2 A. Two things happened in that building and
3 they were joined. One was the maintenance shop
4 where they - they the - the maintenance
5 people worked and the other one was where the
6 reserve salt was dried.

7 Q. And you've labeled that?

8 A. Yes.

9 Q. Okay. Now, does that complete your
10 description of the main building?

11 A. It looks like it does.

12 Q. Was there a powerhouse?

13 A. You know, I don't remember. I'm sure
14 there was, I just don't remember.

15 Q. Was there a smokestack?

16 A. No, I don't remember. I'm sure it was
17 there. I just don't remember.

18 Q. Okay. Now, if we continue to the south
19 from Smith Street, there's a rectangle and you've
20 written the word "Texas Tower." Is that the Texas
21 Tower you previously told us about?

22 A. That's the way I remember it.

23 Q. You remember that was the location of
24 it?

25 A. Roughly, yes.

1 Q. Now, to the east of the Texas Tower is
2 in orange the words "Loading area." a Can you
3 explain what that was intended to represent?

4 A. That loading area had to do with NEC and
5 that's where empty barrels that were ready to be
6 shipped to a customer would be loaded on the
7 truck, and in some cases it was barrels that may
8 be coming in would be taken in.

9 Q. In that area?

10 A. In that area. Roughly that area.

11 Q. There is a letter "A" with an arrow. Do
12 you know what that was?

13 A. No. I'm sure that somewhere during the
14 conversation you said mark it with an "A" or mark
15 it with a "B" and what that "A" or "B" refers to
16 today, I don't remember.

17 Q. Do you know if that was a door?

18 MS. BARONI: Objection.

19 A. It could be. I don't remember.

20 Q. Now, you have the word an arrow
21 pointing to where it says "Warehouse area." Did I
22 read that correctly, warehouse area?

23 A. Yes, you did.

24 Q. What was that?

25 A. I'm guessing that's where we stored

1 drums that were prepared to be shipped or needed
2 some sort of work on them.

3 Q. Okay. And then there is the words
4 "Paint station"?

5 A. Yes.

6 Q. Again with an arrow?

7 A. Yes.

8 Q. And what was that for? What was that
9 intended to show?

10 A. One of the final steps for drums to be
11 sold to a customer was they needed to be painted
12 and that's where the drums would be painted the
13 particular color that the - that the buyer wanted
14 them painted.

15 Q. And those the paint station has an
16 arrow pointing to a region inside the building?

17 A. Okay.

18 Q. And the warehouse area has an orange
19 line pointing to an area inside the building?

20 A. Yes.

21 Q. And that's where those activities took
22 place?

23 A. What happens is the drums would come in
24 off a feeder station, they'd be spray pointed, an
25 arm would kick it out and they would be rolled off

1 to dry off to that - off to that area.

2 Q. Now, the next label moving south from
3 Smith Street is drum : I read that as "Drum
4 removal." Do I read that correctly?

5 A. Yes.

6 Q. What does that mean?

7 A. I think the removal area is drums would
8 come in from the burn pit.

9 Q. Why don't we go the other way because
10 we're going backwards? Let me withdraw that
11 question.

12 A. Okay.

13 Q. You have a letter "B" next to a
14 rectangle. What does

15 A. I don't remember the "A" or "B".

16 Q. Do you know whether that was the area
17 that the drums to be reconditioned were fed to the
18 furnace?

19 MS. BARONI: Objection.

20 A. I would say that's a true statement.

21 That's the burn : that's the burn area, the track
22 where the barrels to be burned were placed on.

23 Q. Okay. And there's a word "Pit" in the
24 rectangle that was drawn in orange. What was the
25 pit?

1 A. The pit was a holding area or a
2 collection area. Drums were put on a track and
3 would feed along that track. There was fire, and
4 whatever residue that may or may not have been in
5 that drum, would fall into that pit.

6 Q. Okay. Then there's a rectangle and I
7 can't quite read that word. Can you read it?

8 A. No. Maybe that's burner.

9 Q. Burner. What does that mean?

10 A. That would be where the drums were
11 burned, whatever residue that was in those tanks
12 would be burned.

13 Q. Did you ever see them being burned?

14 A. Yes.

15 Q. How did that work?

16 A. Drums were piled to the side of the
17 burner to the whatever direction that is

18 Q. Side

19 A. Side burner. They would be fed to
20 the most = most of the time the guy that did
21 the burning was a guy named Bud Larochelle.
22 Sometimes somebody would feed him the drums,
23 someti imes I fed him the drums, which is taking the
24 drums and just passing them to him to keep the
25 process moving fast.

1 He would take that drum, tip it upside down,
2 put it on this rack and it would start getting
3 pulled along that track towards the building
4 towards the burner.

5 Q. Okay. And the place where you would
6 feed him the drums was approximately where you
7 wrote "Pit" or "B"?

8 A. It was right here somewhere off to the
9 side, you know, logically placed.

10 Q. Again, for the record, would that be
11 near where the word "Pit" is?

12 A. Yes.

13 Q. Okay. And then the - where you wrote
14 "Burner," that would be where the actual fire was?

15 A. Exactly.

16 Q. Okay. And then you have the words "Drum
17 removal." What was that?

18 A. Eventually that that track that
19 station that was pulling the drums through the
20 burner would come to an end and, at that point, he
21 would take the drums off of that track, shake any
22 ash or whatever was in them off, tip the drum over
23 and move it to the side to be dealt with in
24 another operation.

25 Q. Okay. Now, again moving to the south,

1 there is a trapezoidal building; do you see that?

2 A. Yes.

3 Q. And the words "Wash station" are written
4 in orange. What was that?

5 A. The drums that went through the wash
6 station were a different type of drum. They
7 weren't open-cover drums. They had bungs and
8 holes in them. There was a gasket and it was
9 screwed

10 Q. Is that what they called closed-head
11 drums ?

12 A. Tights.

13 Q. We'll use your words.

14 A. They were called tights.

15 Q. Thank you.

16 A. They would be put up on a pipe and water
17 or steam - - I can't remember which was blown up
18 into those drums. They would clean the drums off.
19 It would drain into an area underneath that rack.
20 I'm guessing now it was steam because it was very
21 hot. You didn't want to be there.

22 Q. And did that happen in this trapezoidal
23 building?

24 A. I believe that's where it happened.

25 Q. Did you ever work on that yourself?
CDALEDEP03581

1 A. I worked in the corner close to that,
2 probably in here, where we did we sandblasted
3 drums and covers, so it's another station in there
4 where the old paint and - it was was blasted
5 off the drums until they came out looking like raw
6 metal instead of whatever color they were.

7 Q. So could you see into the trapezoidal
8 building?

9 A. Most of that was fairly open. It was on
10 a rack. You could see pretty much the whole area.

11 Q. Okay. Now, you pointed to a place where
12 you said you worked. Could you make a green
13 could you put a "W" for where you worked?

14 A. Work. I'm thinking it was in this area
15 here. Do you want me to do a block around it?
16 I'm guessing. That's a rough guess.

17 Q. That's your best memory?

18 A. That's the best from 50 years ago.

19 Q. Okay. Now, you've written the words
20 "Drum storage"?

21 A. Yes.

22 Q. What is that?

23 MR. BRYAN: Objection. Vague.

24 A. Along that river in that -- on that
25 piece of real estate trucks were unloaded, drums

1 were stacked in long piles, long rows on their
2 sides, most of the time on their sides in long
3 rows. Three, four, five high, however high the
4 strong man throwing those drums was able to stack
5 them to make the most room.

6 Q. And does "Drum storage" indicate the
7 area where they were stored?

8 A. That's roughly, yes.

9 Q. And were they stored all along the
10 river?

11 MS. BARONI: Objection.

12 A. I don't remember. There were drums
13 stored : a certain amount of drums stored in that
14 area. How far down they go, I don't remember. I
15 just remember there were rows of drums out there.

16 Q. And then there is an arrow and the words
17 "To dump." What does that indicate?

18 A. Somewhere down the end of that peninsula
19 was an area referred to as the dump.

20 Q. Okay. And does the arrow point in the
21 direction of the dump?

22 A. The arrow is pointing in the area of the
23 dump.

24 Q. Okay. And the trapezoidal building is
25 labeled with an arrow "Wash station"?

1 A. That's true.

2 Q. And is that where they washed the
3 closed-heads?

4 A. That's where they washed the tights,
5 yes.

6 Q. Okay.

7 A. Somewhere in this area, too, there was a
8 reconditioning area where the drums would be
9 rolled and put back into an acceptable shape.
10 They had ridges in it. It was somewhere here. I
11 don't know.

12 Q. Was that done : there's been other
13 testimony about that, but was that done after they
14 went through the fire?

15 A. Yes. They were cleaned and and
16 inspected and they weren't going to do any more
17 work on them if they weren't fit for sale. Then
18 they would do the final reconditioning and from
19 there they would be stacked and painted and stored
20 for shipment.

21 Q. And the thing that you just described,
22 was that to make sure the drums were back to their
23 round = approximate round shape or cylindrical
24 shape?

25 A. Yes.

1 MR. PIROZZOLO: Okay. Thank you. Why

2 don't you have a seat?

3 Q. Did you ever see drums that couldn't be

4 reconditioned?

5 MS. BARONI: Objection.

6 A. We had drums referred to as leakers.

7 For the most part if the driver came back with

8 drums that were nasty and didn't have any resale

9 value at all, he would be chided so that didn't

10 happen very often, but drums came back that

11 weren't - that were called leakers and they were

12 sold as burn barrels and - and I think they might

13 have even been = it's a fuzzy memory and my

14 brother may have even polluted it - I think they

15 were sold to state parks. They were also sold to

16 private citizens. They weren't fit for holding

17 liquids. And people in those days used to take

18 that barrel and burn their papers and trash in the

19 backyard.

20 Q. What did they do with those drums?

21 A. They were - they were also painted and

22 they were put aside and sold.

23 Q. Were there any drums that were actually

24 discarded in the dump area?

25 A. I don't know. I'm assuming there were.

1 I don't know. Like I said, if the driver came
2 back with bad drums, he was going to be in trouble
3 so there was probably little bad drums that came
4 back to that building.

5 Q. When they came back with bad drums, did
6 they throw them away somehow

7 MS. BARONI: Objection.

8 Q. - if you remember?

9 A. I wasn't there that much. I'm assuming
10 they went somewhere.

11 MR. PIROZZOLO: Thank you.

12 Q. Now, you didn't actually see liquid come
13 from the French drains out into the tailrace, did
14 you?

15 MR. BRYAN: Objection. Leading.

16 MS. BARONI: Objection.

17 A. Yes. I know it went outside. There was
18 no other place for it to go. It ran out the hole
19 in the building and it went straight outside.

20 Q. You didn't actually see that, did you?

21 MR. BRYAN: Objection. Asked and
22 answered. Leading.

23 MS. BARONI: Objection.

24 A. Yes, I did.

25 Q. May I ask you to turn to Page 34 of the

1 deposition of December 17, 2002?

2 A. (Witness complying.)

3 Q. May I ask you to go to Page 34 and read

4 Lines 1 through 10 to yourself?

5 (Witness reading document.)

6 Q. Do you recall being asked

7 A. Yes.

8 Q. "did you see the cutout?" Do you

9 remember that?

10 A. Yes.

11 Q. And was the cutout something you said

12 was at the end of one of the walls?

13 A. Yes.

14 Q. And do you remember answering: "You

15 know, I probably did. I just can't remember. I

16 couldn't say for a fact. It's an assumption." Do

17 you remember giving that testimony?

18 A. Yes.

19 Q. So you recall testifying in 2002 that it

20 was an assumption that there was a cutout?

21 MR. BRYAN: Objection. Leading.

22 A. Yeah, I remember saying that but the

23 more I think about it now, I do remember in fact

24 it went out. I saw it go out.

25 Q. It could have gone into a sewer?

1 MS. BARONI: Objection.

2 MR. BRYAN: Objection.

3 A. No. There was no sewer. It went into
4 the river or actually it went onto that piece of
5 real estate behind the building and then
6 eventually into the river.

7 Q. Can I ask you to look at the deposition
8 you gave not the deposition, the trial
9 testimony you gave?

10 A. Okay. Where is it?

11 Q. Let me show you Exhibit 4 and ask you to
12 look at Page 28.

13 A. You need to give me a number. Is there
14 a number at the bottom of the page?

15 MR. PIROZZOLO: It should be at the
16 bottom. Let me see.

17 MR. BRYAN: Which date of his testimony?

18 THE WITNESS: Page 28?

19 MR. PIROZZOLO: Page 28.

20 MR. BRYAN: Is there a Bates number?

21 MR. PIROZZOLO: I don't have a Bates
22 number, if there is one.

23 MR. BRYAN: Which day of his testimony?

24 MR. HENNINGER: The bottom right-hand
25 corner of the page, Mr. Nadeau, if you could read

1 that number for the court reporter.

2 A. On Page 28 that number is

3 E-000002.000598.

4 MR. BRYAN: Thank you.

5 MR. PIROZZOLO: Let me see that, sir,

6 make sure we have the right one. That's not it.

7 MR. HENNINGER: Off the record for a

8 moment. This is different.

9 Off-the-record discussion.)

10 BY MR. PIROZZOLO:

11 Q. Mr. Nadeau, I'd like to ask you to look

12 at Exhibit 4. The page with the Bates number

13 E-000002.000602 and I'll ask you to look at Lines

14 5 :

15 A. I haven't found it yet.

16 Q. through 16. No, I have it in my

17 hand.

18 A. Okay.

19 Q. 5 through 16 on the page I just handed

20 to you. .

21 (Witness reading document.)

22 Q. Have you read that to yourself?

23 A. Not yet.

24 MR. PIROZZOLO: Let me know when you're

25 finished reading that.

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1 PAUSE)

2 THE WITNESS: Okay. I've read it.

3 Q. Okay. Do you remember you were asked

4 the question: "When you say the tail, you mean

5 the water outside the building?" And the answer

6 was "Yes"?

7 A. Yes.

8 Q. Okay. And do you remember being asked

9 then: "And did you ever see the water outside the

10 building change color after you washed the floor

11 off?"

12 And do you remember giving the answer: "I'm

13 sure it did. I didn't look."

14 A. Yes.

15 Q. And do you remember being asked this

16 question: "But as you sit here today, do you

17 remember ever seeing water change color after the

18 floor was washed in the basement of the main

19 building?"

20 And you gave the following answer: "Like I

21 said, I never looked to see if it changed. Logic

22 tells me it did."

23 A. Yes.

24 Q. And do you recall that was testimony you

25 gave during the trial in court?

- 1 A. It's testimony I gave.
- 2 Q. And you testified truthfully in the
- 3 trial?
- 4 A. Always.
- 5 Q. Thank you. Okay. And at that time you
- 6 testified to the best of your recollection?
- 7 A. I did.
- 8 Q. And that was on September 14 or 15 in
- 9 the year 2006?
- 10 A. That I'm not sure of.
- 11 Q. You can look at the Bates page of the
- 12 transcript.
- 13 A. Okay.
- 14 Q. Take a look at the : the first page of
- 15 the set of documents that was given you.
- 16 A. Okay. 6/12.
- 17 Q. I'm sorry.
- 18 A. Where am I looking?
- 19 Q. Let me have that, if I may. Do you see
- 20 that it says September 14, 2006?
- 21 A. Yes.
- 22 Q. And that was seven years ago
- 23 A. Yes.
- 24 Q. approximately?
- 25 A. Yes.
- CDALEDEP03591

1 Q. So that was closer to the time that you
2 worked at Metro-Atlantic than it is now?

3 A. Yes.

4 Q. Is that right?

5 A. That's true. It's mathematically
6 correct.

7 Q. Okay. And you gave your best
8 recollection at that time

9 A. Yes, I did.

10 Q. : in court?

11 A. Yes, I did.

12 MR. PIROZZOLO: Thank you. If you give
13 me a moment, I may have no more questions.

14 MR. BRYAN: Objection. Move to strike.
15 Improper impeachment.

16 MR. PIROZZOLO: You move to strike?

17 MR. BRYAN: Just for the record, the
18 impeachment you you are attempting to impeach
19 him with prior inconsistent statements. I'm
20 moving to strike because I think it was improper
21 impeachment.

22 Do you want me to explain? I can
23 explain if you want. I'm just making it for the
24 record.

25 MR. PIROZZOLO: Well, I'd like to know.

1 MR. BRYAN: I don't think what he said
2 was inconsistent.

3 MR. PIROZZOLO: You are not saying he
4 didn't say that?

5 THE WITNESS: I'm not saying I didn't
6 say it either.

7 MR. BRYAN: I'm not saying he didn't say
8 that.

9 MR. PIROZZOLO: Okay.

10 MR. BRYAN: I don't agree that what he
11 just said is inconsistent with what he is saying
12 here.

13 MR. PIROZZOLO: We can argue some day.

14 MR. BRYAN: Sure.

15 MR. PIROZZOLO: But I just wanted to
16 make sure it's clear, you are not questioning
17 whether this is a

18 MR. BRYAN: No.

19 MR. PIROZZOLO: record of the trial
20 testimony?

21 MR. BRYAN: No, I'm not.

22 MR. PIROZZOLO: Thank you. Why don't we
23 stretch our legs a minute and let me talk with
24 Brian and we may be finished.

25 (RECESS)

1 MR. PIROZZOLO: I don't have any more
2 questions.

3 MR. BRYAN: I have a few, not a lot.

4 MS. BARONI: I have a few.

5 EXAMINATION

6 BY MS. BARONI:

7 Q. Mr. Nadeau, I'm Megan Baroni and I
8 represent New England Container. I believe my
9 colleague John Peloso was here during your last
10 deposition.

11 A. Okay.

12 Q. I am taking his place today so I just
13 have a few questions for you and I want to take
14 you back to Exhibit No. 4 which you were just
15 looking at with Mr. Pirozzolo

16 A. Okay.

17 Q. on the same page which for the record
18 is E-000002.000602.

19 A. Okay.

20 MS. BARONI: Mr. Pirozzolo asked you
21 questions about Lines 5 through 16 of that
22 transcript. I want to keep reading starting on
23 Line 17 of this transcript of your trial testimony
24 from the Emhart V. Home Insurance case, so I'm
25 just going to read your testimony aloud and if you

1 could just read along with me .
2 So the question was : "All right. So at
3 the time that you worked at Metro-Atlantic, and I
4 presume you used the hose along with the other
5 workers to wash off the basement floor?"
6 "Answer: Yes."
7 "Question: And the material that was
8 washed off the basement floor came from the
9 presses?"
10 "Answer: Came from the presses.
11 "Question: And that included black
12 sludge, or some kind of sludge?"
13 "Answer: I think it was carbon that
14 they used to filter, but yes, it was black or
15 gray."
16 "Question: When you washed off the
17 floor at that time, you were aware that it was
18 going out to the tailrace, the river outside?"
19 MR. PIROZZOLO: Objection.
20 MS. BARONI: (Reading) "Answer: True."
21 "Question: So there was no question in
22 your mind that it was not going to the municipal
23 sewer, was it?"
24 MR. PIROZZOLO: Objection.
25 MS. BARONI: "Answer: There was no

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1 question in my mind. It was going outside."

2 Q. Did I read that testimony correctly?

3 A. You did.

4 Q. And that's consistent with the testimony

5 you gave earlier today, is that right?

6 A. I believe it is.

7 Q. Last time you were here a couple of

8 weeks ago you gave a fair amount of testimony as

9 to the nature of your work for Metro-Atlantic.

10 I'm not going to go over that testimony again

11 today but I just want to see if : when you worked

12 for Metro-Atlantic, was most of the work that you

13 did for Metro-Atlantic in a particular area of the

14 site

15 MR. PIROZZOLO: Objection.

16 Q. geographically?

17 MR. PIROZZOLO: Objection.

18 A. Most of the time I was in the main

19 building helping blend the products or draw off

20 the tanks or the filter run the filter press,

21 and what the percentage : there was another

22 percentage of my time when I was across the street

23 drying the reserve salt.

24 Q. And by "across the street," what do you

25 mean?

1 A. Well, there was a building across the
2 across that driveway attached to the maintenance
3 building, if you looked at that map. One was
4 where the reserve salt was dried and one was the
5 maintenance building, and that area where the
6 reserve salt was dried, I was either throwing the
7 reserve salt on the belt to be dried or on the
8 other side taking it from the belt, but most of
9 the time I would say the bulk of my time was in
10 the main building doing one thing or another.

11 Q. So was most of the work that you did for
12 Metro-Atlantic indoors

13 A. Yes.

14 Q. as opposed to you didn't do a lot of
15 work outside?

16 A. There was nothing for us to do outside.

17 Q. There was nothing for you to do outside
18 when you worked for Metro-Atlantic?

19 A. True. There were times when we had to
20 go out and look in the tanks but that was minutes.
21 Other than that, it was inside work.

22 MS. BARONI: I think that's all I have.

23 MR. BRYAN: Very briefly. Can we
24 switch?

25 MS. BARONI: Yes. Let's switch. Thank

1 you.

2 EXAMINATION

3 BY MR. BRYAN:

4 Q. I promise to be short. Hello again, Mr.

5 Nadeau. For the record, I'm Patrick Bryan from

6 the United States Department of Justice,

7 Environment and Natural Resources Division. With

8 me today is a different attorney from EPA. This

9 is Joy Sun. She is an attorney with the

10 Environmental Protection Agency.

11 Hello again. Thank you for coming today. I

12 just have a few follow-up questions based upon the

13 questioning that Mr. Pirozzolo asked you earlier

14 today.

15 If we could take a look at the Home Insurance

16 deposition, which I believe was Exhibit 1 to your

17 deposition, Mr. Pirozzolo asked you some questions

18 about your years of employment with

19 Metro-Atlantic. Do you recall

20 A. Yes.

21 Q. : earlier today?

22 A. Yes.

23 Q. And just trying to make sure we have as

24 clear as possible a record of when you worked at

25 Metro-Atlantic, if you could look at Page 35

1 I'm sorry, wrong page Page 29 of that
2 testimony, Lines 11 through 24. I'd like to ask
3 you to read those lines to yourself and let me
4 know when you're done. Thank you.

5 (Witness reading document.)

6 A. Done.

7 Q. Okay. Does reading through Lines 11
8 through 24 on Page 29 of your Home Insurance
9 deposition dated December 17th, 2002 help to
10 refresh your recollection as to when you worked at
11 Metro-Atlantic?

12 A. It seems like the right time frame. As
13 I said, that whole thing is foggy to me.

14 Q. Okay. When you graduated from high
15 school - well, let's back up.

16 The time period when you were working at
17 Metro-Atlantic was when? And you can use

18 A. For sure for full time it was '64
19 through '65. I believe there was also one summer
20 I worked there prior to that which might have been
21 '63 and then there was a period of time when I
22 worked for New England Container one summer, maybe
23 two. I don't remember. I had a bunch of jobs
24 during that time.

25 Q. Okay. Your full-time employment, how

1 long did you work full time at Metro-Atlantic?

2 A. Probably June of '64 to August of '65

3 because August 23rd I was I was inducted into
4 the military.

5 Q. Thank you. I think you can put that
6 down for the time being. We may go back to it.

7 During your testimony earlier today, when you
8 were looking at the map, you made a statement
9 about Mr. Buonanno and the family, the Buonanno
10 family?

11 A. Yes.

12 Q. And do you recall talking about the
13 joint ownership or the ownership among the
14 families of the two companies?

15 MR. PIROZZOLO: Objection.

16 A. I don't remember there being a distinct
17 line of ownership because I used to see these
18 these gentlemen in both places and and I never
19 attributed New England Container being owned by
20 just Bernie or : or whatever the guy's name was
21 and the other place being owned - they were
22 they were close families as Italians are and I
23 just assumed it was just somebody controlled one
24 part and the other one controlled the other part.
25 Whether there was separate ownerships, whether

1 there was a line in the sand, I don't know.

2 Q. Let's see if we can take a look at a

3 prior exhibit that we went over, your affidavit.

4 I'd like to ask you - I think that's Exhibit 3.

5 MR. PIROZZOLO: What exhibit number?

6 MR. BRYAN: I think it's Exhibit 3.

7 It's the affidavit, Mr. Nadeau's affidavit, and

8 Bates numbers E-000003.003225 through 227.

9 Looking I'd like you to look at the

10 first paragraph of that affidavit, Mr. Nadeau.

11 Do you see the sentence that begins: "I

12 worked at both facilities as did some of the other

13 employees.. -

14 A. Yes.

15 Q. - ..who were interchangeable. Do you

16 see that?

17 A. Yes.

18 Q. What do you mean there by

19 interchangeable," the employees were

20 interchangeablez

21 A. The maintenance people would work

22 would work both sites. If there was a maintenance

23 problem, the crew would go to either/or buildings.

24 There was a gentleman by the name of Walt

25 Murphy, who's long gone to his reward, that had a
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1 timecard in each building because at one point in
2 time there was a union bid or something and
3 Mr. Murphy was working for both - for both
4 places, and I think there were a few others who
5 had that same arrangement.

6 Q. I want to turn to your discussion with
7 Mr. Pirozzolo about the Texas Tower. Do you
8 recall discussing the Texas Tower with him? I
9 don't know if we've ever asked you during this
10 deposition -- if we have, I apologize - but how
11 would you describe the Texas Tower? How did it
12 appear?

13 MR. PIROZZOLO: What's the question?

14 Q. Can you describe how it appeared, the
15 Texas Tower?

16 A. The looks of it?

17 Q. The appearance, yes.

18 A. It was a square building or relatively
19 square. It had steps on one side, I believe. I
20 think it was - I think it was raised up off the
21 ground but I'm not sure. I think it might have
22 been on some kind of pile-ons or : I'm not sure.

23 Q. How tall was it approximately?

24 A. The building itself? I would : it
25 might have been like two stories tall maybe. Like

1 I said, I never went in it. You know, it was one
2 of those you take a look at it and keep going.

3 Had no reason to go there.

4 Q. Do you have any recollection of the
5 material of which it was constructed?

6 A. No. I'm guessing plywood. Just it
7 would be just a guess. I don't know.

8 Q. Why would you guess plywood?

9 A. It's the cheapest, neatest way to build
10 something.

11 Q. To you, when you observed the Texas
12 Tower, did it appear as if it was constructed out
13 of a cheap material?

14 MR. PIROZZOLO: Objection.

15 A. No. It was just a building. I -- I
16 didn't : I didn't say it was going to fall down
17 any day. It was there. I didn't = I don't know
18 how it was constructed, whether it was metal or
19 I don't know.

20 MR. BRYAN: Fair enough. Thank you. .

21 Q. If you could look again at your Home
22 Insurance deposition : - there we go, Exhibit 1
23 I'd like you to turn to Page 35, and do you recall
24 Mr. Pirozzolo asking you questions about the
25 French drains?

1 A. Yes.

2 Q. And your observations regarding the

3 French drains?

4 A. Yes.

5 Q. I'd like you to take a look at Lines 1

6 through 13 on Page 35 and just read them to

7 yourself and let me know when you've read them.

8 (Witness reading document.)

9 A. Done.

10 Q. Okay. Do you recall, as you sit here

11 today, observing the water change color while you

12 were at : while you were working at

13 Metro-Atlantic?

14 MR. PIROZZOLO: Objection.

15 A. Yes.

16 Q. Okay. Can you explain to us, did you

17 ever see any discolored water?

18 MR. PIROZZOLO: Objection.

19 A. Once I hit it with the hose, the water

20 would change to the color of whatever was on the

21 floor, it would wash to the drain and exit.

22 Q. And what about the tailrace, did you

23 observe the tailrace turn, change colors?

24 MR. PIROZZOLO: Objection.

25 A. You know, in my mind I know it had to

1 but I can't remember whether I saw it happen or
2 not. I may have. I may have been out on the
3 platform when it happened but to say I saw the
4 water turn cloudy, I'm betting it did but I
5 can't I couldn't say that it did.

6 Q. At the time you testified at this
7 deposition, you testified that there were times
8 when you saw discolored water, correct?

9 A. Yes.

10 Q. And at the time of your deposition, in
11 the Home Insurance case, it was your testimony
12 that you recall that the tailrace changed color?

13 MR. PIROZZOLO: Objection.

14 A. Yes. What caused that - if you ask me
15 what caused that coloration change, I don't know,
16 but it got murky and after that it becomes
17 assumptions.

18 Q. Okay. Can you describe when you say
19 did you observe the tailrace become murky?

20 MR. PIROZZOLO: Objection.

21 A. I saw it when it was murky.

22 Q. While you were working at
23 Metro-Atlantic?

24 A. Yes.

25 Q. Can you explain for us what you

1 perceived, the murkiness? How did it look murky?

2 A. There were times when the water was
3 clear. You could see the fish and turtles in it.
4 There were days when you could not do that, you
5 could not see to the bottom of that. It was
6 shallow water, it was not extremely deep. You
7 could not see the bottom.

8 Q. Thank you. You talked a little bit
9 today about tight drums

10 A. Yes.

11 Q. : with Mr. Pirozzolo. What happened to
12 the residue from the tight drums

13 MS. BARONI: Objection.

14 Q. that came out after water was pumped
15 into them

16 MS. BARONI: Objection.

17 Q. - do you know?

18 A. I would assume with that flushing or
19 steaming process, it ran out of the hole that was
20 in that drum to below that rack that it was on.
21 It had to.

22 Q. Okay. And is it your to your
23 knowledge, when it ran out of the drum onto the
24 rack, from the rack where did it -

25 A. The rack

1 Q. flow?

2 A. The rack was raised off the ground
3 several feet. There was an area underneath there.
4 Where that material went, where that liquid went,
5 I have no idea. It didn't stay there.

6 Q. To your knowledge, did that material
7 flow into the tailrace?

8 MS. BARONI: Objection.

9 MR. PIROZZOLO: Objection.

10 A. I wouldn't know. I don't know for sure.
11 It went somewhere.

12 Q. Do you know where it went?

13 A. Not an idea.

14 Q. We talked about we talked today and
15 then in your earlier deposition a couple a week
16 or so ago, you observed well, we talked about
17 the French drains?

18 A. Yes.

19 Q. We talked about stacking barrels, we
20 talked about residue associated with the barrels.
21 Strike that.

22 Going back to what you just talked about a
23 little while ago, the tailrace changing colors,
24 your observations of the tailrace, do you recall
25 the tailrace, did it flow or was it still water?

1 MR. PIROZZOLO: Objection.

2 A. I don't remember seeing ripples on it as
3 if it was moving north or south, east or west. It
4 seemed still but I'm assuming it changed. It had
5 to, there was a connection to the river so I'm
6 assuming there was some sort of

7 Q. The area that you identified as the dump
8 today and a week or so ago during your last
9 deposition, do you recall at that point on the
10 site the tailrace and the river joining together
11 or joining?

12 A. I don't remember going down there. I
13 I know from the maps I've seen that they're joined
14 but that could be a lie. I didn't walk those
15 lines.

16 Q. Do you recall from the maps

17 A. Yes.

18 Q. that they joined?

19 A. They joined somewhere, yes.

20 Q. You've talked about plastic liners that
21 were in the drums

22 A. Yes.

23 Q. : to be reconditioned? Do you recall
24 talking about that?

25 A. Yes.

1 Q. I'd like you to take a look at Page 44
2 of the Home Insurance I'm sorry, Page 14 of
3 the Home Insurance transcript, Lines 14 through
4 18, and let me know when you're done looking at
5 those.

6 A. Done.

7 Q. Okay. As you sit here today, do you
8 recall what = - do you recall that the barrels
9 had some barrels that were brought in for
10 reconditioning had plastic liners?

11 A. Yes.

12 Q. Did all the barrels that you handled
13 have plastic liners?

14 A. No.

15 Q. How many approximately, was it the
16 majority of them, some of them?

17 A. I =

18 MS. BARONI: Objection.

19 A. : I didn't handle every one that came
20 in.

21 MR. PIROZZOLO: Are you talking about
22 when he worked for NECC

23 MR. BRYAN: Yes.

24 MR. PIROZZOLO: or Metro-Atlantic?

25 MR. BRYAN: NECC.

1 A. Yes. At NECC. Some there was a
2 portion of them. What percentage of them it was,
3 I'm not sure

4 MR. BRYAN: That's fair. Thank you.

5 A. and they had rubber gaskets too.

6 Q. Having reviewed the testimony from Home
7 Insurance, does that refresh your recollection as
8 to where or what happened to the liners that were
9 removed from the drums that were brought into
10 NECC?

11 A. Yes.

12 Q. What can you tell me today having been
13 refreshed, where did those liners go? What
14 happened to those liners?

15 A. Some of them were thrown on the ground
16 and then later picked up. I'm assuming all of
17 them were picked up because you just wouldn't be
18 able to work there.

19 I know there were times when I : I helped
20 unload those trucks and we'd pull the plastic
21 liners out. We just : for expediency, we'd just
22 dump them on the ground and then pick them up
23 afterwards. So I'm assuming that was done, and
24 when they were picked up, they were put in another
25 drum. Where they went from that point, if that's

1 your next question, I do not know.

2 Q. Okay. In your testimony in this Home

3 Insurance deposition, you stated bags were taken

4 down in the back part of the facility and dumped

5 on the ground. Do you recall that testimony?

6 A. That's - that's where I remember. I

7 didn't see it. That's = that's what I was told.

8 Where do you go with these things ? We throw them

9 away later, dump them.

10 Q. When you said the back part of the

11 facility, what did you mean?

12 A. The end of that peninsula. What was

13 referred to commonly as the dump.

14 MR. BRYAN: Mr. Nadeau, thank you. At

15 this time I have no further questions. I

16 appreciate your time and your cooperation. Thank

17 you.

18 MR. PIROZZOLO: I have a couple of

19 questions.

20 EXAMINATION

21 BY MR. PIROZZOLO:

22 Q. You've heard of dioxin?

23 A. Yes.

24 Q. When you worked for either

25 Metro-Atlantic or NECC, did you ever see dioxin?

1 MR. BRYAN: Objection. Vague.
2 A. It's not a name I remember.
3 Q. And did you ever see any substance that
4 you could identify as containing dioxin?
5 MR. BRYAN: Objection. Vague.
6 Foundation.
7 A. Not that I can remember.
8 Q. And when you worked for Metro-Atlantic
9 and for NECC, did you have an understanding of
10 chemistry?
11 A. Oh, hell, no. No.
12 Q. You are not a chemist?
13 A. No. I knew what was bad. I knew acid
14 was not good for me, I knew tormaldenyde was not
15 good for me, I knew ammonia was not good for me
16 but I'm not a chemist.
17 Q. So you wouldn't know one way or another
18 whether there was anything in any of the
19 substances you handled when you worked for
20 Metro-Atlantic or for New England Container, you
21 wouldn't know whether any of those things had
22 dioxin in them?
23 MR. BRYAN: Objection. Leading. Vague.
24 A. Dioxin is not a term I remember.
25 MR. PIROZZOLO: Thank you.

1 Q. Would it be correct to say that when you
2 worked for Metro-Atlantic and NECC, you worked as
3 a laborer?

4 A. Yes.

5 Q. Okay. You weren't involved in any of
6 the books of account, keeping of accounts,
7 handling the accounting of either company, were
8 you?

9 A. No.

10 Q. And you didn't sit on any boards of
11 directors or any of the management of the
12 companies?

13 MR. BRYAN: Objection. Leading.

14 A. No. I'm not legally bound by any of
15 this, SO...

16 Q. So it would be fair to say you didn't
17 know who owned what at that time ?

18 MR. BRYAN: Objection. Leading.

19 A. I did not.

20 Q. And did you know where any boundaries of
21 the land was as between ownership of one person or
22 another?

23 MR. BRYAN: Objection. Vague.

24 MS. BARONI: Objection.

25 A. I did not.

1 Q. And that was no part of your duties,
2 responsibilities or job?

3 MR. BRYAN: Objection. Leading.

4 A. No.

5 MR. PIROZZOLO: No further questions.

6 MS. BARONI: I'm all set.

7 MR. BRYAN: No further questions.

8 (Adjourned at 2:25 p.m.)

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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

2 KENT, Sc.

3 C E R T I F I C A T I O N

4 I, VIVIAN S. DAFOULAS, Registered Merit

5 eporter/Certiried Realtime Reporter, Notary

6 Public in and for the State of Rhode Island, do

7 hereby certify that the witness was first duly

8 sworn to tell the truth, the whole truth and

9 nothing but the truth in the matter of EMHART

10 INDUSTRIES, INC., VS. NEW ENGLAND CONTAINER

11 COMPANY, et al.; that I am in no way related or

12 have any interest in said matter and that the

13 testimony of said witness was duly recorded by me

14 in computerized stenotype and is a true and

15 accurate transcription of my notes.

16 IN WITNESS WHEREOF, I have hereunto set

17 my hand this 27th day of June, 2013.

18

19

Vivian S. Dafoulas, RMR-CRR

20 East Greenwich, RI 02818

(401) 885-0992

21

22

23 READING AND SIGNING OF THE TRANSCRIPT WAS NOT
24 REQUESTED BY THE DEPONENT OR ANY PARTIES INVOLVED
25 UPON COMPLETION OF THE DEPOSITION.