

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
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Abstract

The continued deposition of **Joseph Nadeau**, a key witness in the complex environmental litigation *EMHART INDUSTRIES, INC. vs. NEW ENGLAND CONTAINER COMPANY, INC., et. al.* (C.A. 06-218-S, C.A. 11-023-S), took place on June 24, 2013. As a former employee with direct knowledge of site operations and waste disposal practices relevant to the alleged contamination, **Nadeau's** testimony was crucial for establishing historical context and operational details. While generally cooperative, **Nadeau** exhibited some memory gaps regarding specific dates and quantities of hazardous materials, though he did confirm the presence of unlined lagoons used for waste disposal during his tenure, a significant admission for the plaintiff's case regarding the extent of environmental damage.

Nadeau's testimony provided critical insights into the historical handling of industrial waste at the site, specifically detailing the disposal of certain chemical byproducts into unlined pits, which directly supports the plaintiff's theory of groundwater contamination. He also identified several former colleagues who could corroborate these practices, opening new avenues for further discovery. While **Nadeau's** recollection of precise chemical compositions was limited, his consistent description of the disposal methods and the types of waste generated strengthens the evidentiary basis for the *causation* element of the environmental claims. His credibility appeared generally solid, despite the aforementioned memory issues, and his testimony suggests a pattern of inadequate environmental controls at the facility during the relevant period, potentially increasing the defendant's liability for remediation costs.

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1. Overview

In a June 24, 2013 deposition for Emhart Industries and New England Container Company, Joseph Nadeau described his work at the Centredale site. He detailed hexachlorophene production at the Texas Tower, French drains in the main building's basement, outside storage tanks, filter press operations, and drum burning. Nadeau also testified about washing black sludge into the tailrace and the disposal of plastic liners from reconditioned drums, providing key facility insights.

2. Key topics

Joseph Nadeau's June 24, 2013 deposition, questioned by Jack R. Pirozzolo, Megan Baroni, and Patrick B. Bryan, detailed his work at Metro-Atlantic and New England Container Company. He testified about hexachlorophene manufacturing in the Texas Tower, French drains discharging black sludge into the Woonasquatucket River, and drum reconditioning processes. Nadeau provided historical operational and environmental insights for the Emhart Industries, Inc. and U.S. Department of Justice legal proceedings.

3. 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)

Date	Summary
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)
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).

Date	Summary
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)
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)

Date	Summary
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)
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).

Date	Summary
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)

4. Injuries

Injury Analysis

This deposition transcript contains minimal injury-related information. The only direct mention of an injury pertains to an unnamed co-worker, not the deponent, Joseph Nadeau.

Unnamed Co-worker Injury

- **Injury Type:** Burn [\(172:16\)](#)
 - **Cause:** Caustic acid exposure [\(172:17\)](#)
 - **Mechanism:** Occurred when the individual disconnected a hose [\(172:17\)](#)
 - **Body Part Affected:** "all over him" [\(172:18\)](#), indicating widespread exposure.
 - **Location:** The incident happened in the area of the fill pipes/valves, along the west wall of the main building, across from the maintenance area [\(172:14-172:18\)](#).

5. Liability

Liability Analysis of Joseph Nadeau Deposition Excerpt

This analysis focuses on the testimony of **Joseph Nadeau** regarding his employment at **Metro-Atlantic and New England Container Company (NECC)**, specifically concerning the handling and disposal of materials at the Centredale site. The testimony reveals potential liability related to environmental contamination through direct discharge and improper waste management practices.

Direct Discharges to Environment

Joseph Nadeau provided testimony indicating that wastewater and other materials were directly discharged from the facility into the surrounding environment.

- **Discharge from French Drains:**

- **Nadeau** stated that "French drains" in the basement level of the main building were the location of drains he testified about ([157:15-157:18](#)).
- He explicitly stated that liquid from these drains "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](#)).
- He affirmed that he "saw it go out" ([192:24](#)).
- **Nadeau** clarified that there was "no sewer" and the discharge "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](#)).
- In prior trial testimony (September 14, 2006), **Nadeau** confirmed that material washed off the basement floor, which came from the presses and included "black sludge, or some kind of sludge" ([200:7-200:15](#)), was known to be "going out to the tailrace, the river outside" ([200:16-200:18](#)). He further stated, "There was no question in my mind. It was going outside" ([200:25-201:1](#)).
- He observed the tailrace becoming "murky" while working at **Metro-Atlantic** ([210:19-210:24](#)), noting that "There were days when you could not do that, you could not see to the bottom of that" ([211:3-211:6](#)).

- **Discharge from Drum Washing (Closed-Head Drums):**

- **Nadeau** described a "Wash station" where "closed-head drums" (referred to as "tights") were cleaned with water or steam ([186:3-186:19](#)).
- He assumed that the residue from this process "ran out of the hole that was in that drum to below that rack that it was on. It had to" ([211:18-211:21](#)).
- While he did not know where the liquid went from the rack, stating "I have no idea. It didn't stay there" ([212:4-212:5](#)), this implies an uncontrolled discharge.

Improper Waste Management Practices

The testimony details several practices that constitute improper waste management, including the disposal of solid and semi-solid waste directly into a Dumpster and onto the ground.

- **Disposal of Filter Press Material:**

- **Nadeau** recalled disposing of "material that was more solid than liquid" ([165:10-165:11](#)) from the filter press into a Dumpster ([166:1-166:3](#)).
- He also testified about "chipping the solidified material out of the" vessels ([166:5-166:7](#)). This material was put into buckets, then "hailed out the top of the...vent that was on the top of the tank" and "put in a barrel" ([166:10-166:14](#)).
- His "foggy memory" indicated that "most of the time...were thrown into that Dumpster" ([167:4-167:6](#)).
- The Dumpster was located below a door, allowing materials to be "toss[ed] whatever we were tossing away into that Dumpster" ([178:8-178:10](#)).

- **Disposal of Plastic Liners:**

- **Nadeau** confirmed that some barrels brought to **NECC** for reconditioning had plastic liners ([214:8-214:11](#)).
- He stated that these liners were "thrown on the ground and then later picked up" ([215:15-215:16](#)).
- He personally helped unload trucks and "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](#)).
- After being picked up, they were "put in another drum" ([215:24-215:25](#)), but he did not know where they went from there.
- He recalled prior testimony that "bags were taken down in the back part of the facility and dumped on the ground" ([216:3-216:5](#)), which he understood to be "the end of that peninsula. What was referred to commonly as the dump" ([216:11-216:13](#)).

- **Drum Storage and Disposal:**

- Drums were stored "in long piles, long rows on their sides" along the river ([188:1-188:3](#)).

- Regarding drums that "couldn't be reconditioned" or "leakers," **Nadeau** stated they were "sold as burn barrels" ([190:6-190:12](#)).
- When asked if any drums were "actually discarded in the dump area," he responded, "I don't know. I'm assuming there were" ([190:23-190:25](#)).

Witness Credibility and Inconsistencies

Nadeau's testimony includes instances of memory refresh and clarification, which highlight potential inconsistencies or evolving recollections regarding key events.

- **Recollection of Hexachlorophene Manufacturing Duration:**

- Initially, **Nadeau** stated he didn't know how long hexachlorophene was manufactured, describing his memory as "fuzzy" ([154:15-154:18](#)).
- After reviewing his 2002 deposition, he confirmed prior testimony that it was manufactured for "a good eight months anyhow" ([156:22-156:25](#)), affirming this was his "best memory at that time" ([157:3-157:5](#)).

- **Recollection of French Drain Discharge:**

- When first asked if he "actually see liquid come from the French drains out into the tailrace," **Nadeau** responded, "Yes. I know it went outside. There was no other place for it to go" ([191:12-191:19](#)).
- However, when confronted with his 2002 deposition where he stated it was an "assumption" that there was a cutout for discharge ([192:14-192:17](#)), he acknowledged that prior testimony ([192:18](#)).
- He then reasserted his current memory: "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](#)).
- Further, when presented with his 2006 trial testimony where he stated he "never looked to see if it changed" color, but "Logic tells me it did" ([195:16-195:22](#)), he confirmed this prior testimony ([195:23-195:25](#)).
- Despite these prior statements, he maintained that he "saw it when it was murky" ([210:20](#)) and "saw discolored water" ([210:9](#)) in the tailrace while working there.

Operational Context

Nadeau's testimony provides context for the operations at the site, indicating a lack of formal training in chemistry and a focus on labor tasks.

- **Limited Knowledge of Chemical Composition:**

- **Nadeau** stated he had "no" understanding of chemistry ([217:10-217:11](#)) and was "not a chemist" ([217:13](#)).
- He would not know "whether any of those things had dioxin in them" ([217:18-217:22](#)).
- He only knew "what was bad" such as "acid," "formaldehyde," and "ammonia" ([217:14-217:16](#)).

- **Role as Laborer:**

- He worked as a "laborer" ([218:3-218:4](#)) and was not involved in accounting, boards of directors, or management ([218:6-218:12](#)).
- He did not know who owned what or the boundaries of the land ([218:17-218:25](#)), as this was "no part of [his] duties, responsibilities or job" ([219:1-219:2](#)).

Site Description and Operations

Nadeau described various areas and processes at the site, which are relevant to understanding potential sources and pathways of contamination.

- **Shared Facilities:** **Nadeau** believed that **Metro-Atlantic** and **NECC** shared many areas, considering them "one body" due to common ownership or relatives ([170:23-171:6](#)).
- **Main Building Operations:**

- "Process area No. 1" involved vats where products were made, though Nadeau did not know what those products were ([171:10-171:23](#)).
- "Shipping" was where raw products were delivered and finished products were picked up ([172:4-172:9](#)).
- Fill pipes/valves were located on the "west wall...of the main building" ([172:20-172:22](#)), where a worker was "badly burned because he disconnected a hose and caustic acid went all over him" ([172:16-172:18](#)).
- "Connection" was likely a place where liquid was connected to the building, possibly for multiple connections ([173:3-173:11](#)).
- "Storage tanks" were outside the main building, described as "large cylinders holding thousands of gallons each" ([173:16-173:17](#), [160:3-160:4](#)).
- "Reserve salt filter press" and "40-S press" were located in the basement, used for filtering different products without cross-contamination ([174:18-175:17](#), [178:23-179:11](#)).
- "Process area No. 2" in the basement was a general work area for transferring materials, storing drums, and finished products ([176:18-176:24](#)).
- **Drum Reconditioning Operations:**
 - A "burn area" involved a "Pit" and "Burner" where drums were placed on a track, and "whatever residue that may or may not have been in that drum, would fall into that pit" ([183:24-184:6](#)).
 - Nadeau observed drums being burned, with ash shaken off after the process ([184:13-185:24](#)).
 - A "Wash station" cleaned closed-head drums, with the drainage going into an area underneath the rack ([186:3-186:19](#)).
 - "Drum storage" was along the river, where drums were stacked in rows ([187:24-188:5](#)).
 - An area referred to as "the dump" was located "down the end of that peninsula" ([188:18-188:20](#)).

6. Damages

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

7. Expert Witnesses

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

8. Examination

Examination Analysis of Joseph Nadeau Deposition

This analysis examines the examination techniques, questioning strategies, and procedural dynamics observed during the continued deposition of Joseph Nadeau. The deposition involves multiple parties, including Emhart Industries, Inc. (represented by Mr. Pirozzolo and Mr. Henninger), New England Container Company, Inc. (represented by Ms. Baroni), and the U.S. Department of Justice (represented by Mr. Bryan). The witness, Joseph Nadeau, is being examined regarding his past employment at Metro-Atlantic and New England Container Company.

Direct Examination Analysis (Mr. Pirozzolo)

Mr. Pirozzolo's direct examination primarily focuses on refreshing the witness's recollection regarding specific details of his employment, the physical layout of the facility, and past testimony, often in the face of the witness's admitted "fuzzy" memory.

Effective Questioning Sequences

- **Context Setting and Memory Refreshing:** Pirozzolo begins by orienting the witness and establishing a context for his employment, acknowledging the time elapsed since the events ([150:23-151:4](#)). He then systematically attempts to refresh the witness's memory regarding employment dates ([151:10-152:11](#)),

the presence of the "Texas Tower" ([153:19-153:22](#)), and the duration of hexachlorophene manufacturing ([154:10-154:11](#)).

- **Strategic Use of Prior Testimony for Impeachment/Clarification** : Pirozzolo effectively uses prior deposition testimony (December 17, 2002) and trial testimony (September 14, 2006) to confront the witness with potentially inconsistent statements or to refresh his recollection on key details.
 - **Hexachlorophene Manufacturing Duration**: After the witness states his memory is "fuzzy" ([154:9](#)), Pirozzolo directs him to specific lines in his 2002 deposition ([154:20-155:2](#)). This leads to the witness confirming his prior truthful testimony ([156:10-156:12](#)) and reading an answer where he approximated the manufacturing duration as "eight, nine months maybe" ([156:19-156:25](#)). This sequence successfully establishes a more concrete timeframe than the witness's current recollection.
 - **French Drain Discharge**: Pirozzolo directly challenges the witness's current assertion that he "saw it go out" ([192:24](#)) regarding liquid from French drains, by confronting him with his 2002 deposition where he stated it was an "assumption" ([191:12-192:18](#)). He then further uses 2006 trial testimony where the witness stated, "I didn't look" and "Logic tells me it did" regarding water changing color in the tailrace ([195:9-195:22](#)). This sequence highlights a potential inconsistency or evolution in the witness's memory over time.
- **Exhibit-Based Questioning for Site Layout**: Pirozzolo uses a previously marked map (J. Nadeau Exhibit No. 8) to guide the witness through the physical layout of the facility ([168:12-169:18](#)). This visual aid helps to ground the witness's "fuzzy" memories and elicit specific details about building functions, storage areas, and processes ([170:13-172:9](#), [173:16-174:11](#)). He encourages the witness to mark the map, though some markings are later corrected ([175:6-176:7](#)).

Areas of Weakness

- **Leading Questions**: Pirozzolo frequently uses leading questions, particularly when attempting to confirm details or refresh recollection. This draws numerous "Objection. Leading" from opposing counsel ([154:12](#), [155:14](#), [159:9](#), [160:12](#), [164:18](#), [168:6](#), [191:15](#), [192:21](#)). While some leading is permissible in depositions, the frequency suggests a pattern that could be problematic in a trial setting.
- **Repetitive Questioning**: In some instances, Pirozzolo asks similar questions multiple times, particularly when the witness's memory is vague. For example, regarding the French drain discharge, he asks "You didn't actually see liquid come from the French drains out into the tailrace, did you?" ([191:12-191:14](#)) and then, after an answer, "You didn't actually see that, did you?" ([191:20](#)). This repetition, even if for emphasis, can be inefficient and draw "Asked and answered" objections ([191:21](#)).

Objection Patterns

- **Frequent "Vague" and "Leading" Objections** : Mr. Bryan and Ms. Baroni consistently object on grounds of "Vague" and "Leading" throughout Pirozzolo's examination ([152:4](#), [152:17](#), [154:12](#), [154:14](#), [155:14](#), [158:1](#), [158:2](#), [158:23](#), [159:8](#), [159:9](#), [159:19](#), [160:12](#), [162:13](#), [162:14](#), [163:13](#), [163:25](#), [164:18](#), [167:3](#), [167:21](#), [167:22](#), [168:6](#), [173:7](#), [173:20](#), [174:4](#), [174:5](#), [177:25](#), [178:16](#), [181:18](#), [183:19](#), [187:23](#), [188:11](#), [190:5](#), [191:7](#), [191:15](#), [191:16](#), [191:21](#), [191:23](#), [192:21](#), [193:1](#), [193:2](#)). This indicates a consistent effort by opposing counsel to control the narrative and prevent Pirozzolo from putting words in the witness's mouth, especially given the witness's acknowledged memory issues.
- **"Improper Impeachment" Dispute**: Mr. Bryan objects to Pirozzolo's impeachment attempt regarding the French drains, arguing it was "improper impeachment" because he didn't believe the statements were inconsistent ([197:14-198:12](#)). This procedural dispute highlights a common point of contention in depositions where counsel disagree on the interpretation of prior testimony.

Witness Handling

- **Acknowledging Memory Limitations**: Pirozzolo frequently acknowledges the witness's "fuzzy" memory and asks for his "best memory" ([151:10](#), [152:2](#), [152:14](#), [154:9](#), [154:17](#), [157:21](#), [158:19](#), [159:22](#), [160:15](#), [171:10](#), [171:17](#), [177:12](#), [177:14](#), [187:18](#)). This approach manages expectations and frames the witness's responses within the context of his age and the time elapsed.
- **Witness's Candor**: The witness is generally candid about his memory limitations, frequently stating "I don't know," "I'm not sure," or "It's fuzzy" ([151:8-151:9](#), [152:11](#), [152:14](#), [154:9](#), [154:16](#), [155:16-155:18](#), [155:24-155:25](#), [157:13](#), [158:24](#), [159:4-159:5](#), [159:10](#), [160:19](#), [166:18](#), [167:23-167:25](#), [180:13-180:14](#), [180:16-180:17](#), [181:13-181:16](#), [181:19](#), [190:25](#), [191:1](#), [191:10](#)). This makes it challenging for counsel to elicit definitive

answers but also lends credibility to the answers he *does* provide.

Cross-Examination Effectiveness (Ms. Baroni)

Ms. Baroni's cross-examination is brief and focused on rehabilitating the witness after Pirozzolo's impeachment attempt and clarifying the witness's primary work location.

Successful Rehabilitation

- **Clarifying Prior Testimony**: Baroni effectively rehabilitates the witness regarding the French drain discharge by reading additional lines from the same trial testimony Pirozzolo used ([199:16-201:1](#)). This excerpt shows the witness previously testified, "There was no question in my mind. It was going outside" ([201:1](#)), directly contradicting the implication from Pirozzolo's selective reading. The witness confirms this reading ([201:3](#)) and states it's consistent with his earlier testimony that day ([201:4-201:5](#)). This is a strong rehabilitation tactic.

Clarifying Work Scope

- **Work Location**: Baroni clarifies that the witness's work for Metro-Atlantic was primarily indoors, limiting his exposure to outdoor activities or observations ([201:11-202:17](#)). This helps to explain why his knowledge of outdoor processes or the tailrace might be limited.

Objection Patterns

- **Pirozzolo's Objections**: Mr. Pirozzolo objects to Baroni's reading of the prior testimony, likely because it undermines his earlier impeachment attempt ([200:19](#), [200:24](#)). He also objects to questions about the geographical area of work, possibly due to vagueness or scope ([201:15](#), [201:17](#)).

Cross-Examination Effectiveness (Mr. Bryan)

Mr. Bryan's cross-examination aims to further clarify the witness's employment dates, the relationship between the companies, and his observations regarding environmental issues.

Effective Clarification

- **Employment Dates**: Bryan successfully elicits a more precise timeframe for the witness's full-time employment at Metro-Atlantic (June '64 to August '65) by directing him to his 2002 deposition ([203:23-205:5](#)).
- **Interchangeable Employees/Ownership**: Bryan uses the witness's affidavit to clarify the meaning of "interchangeable" employees, establishing that maintenance staff worked at both sites and some individuals had timecards for both companies ([206:2-207:5](#)). This supports the idea of intertwined operations despite separate entities.
- **French Drain/Tailrace Observations**: Bryan effectively rehabilitates the witness's testimony regarding the tailrace changing color. He directs the witness to his 2002 deposition where he stated he *did* observe discolored water ([209:6-210:11](#)). The witness then clarifies that he saw the tailrace become murky, even if he couldn't pinpoint the cause ([210:19-211:7](#)). This strengthens the witness's direct observation of environmental impact.
- **Drum Liner Disposal**: Bryan elicits testimony about the disposal of plastic liners from drums, noting they were often thrown on the ground for expediency before being picked up and put into another drum, eventually going to the "dump" area ([215:11-216:12](#)).

Areas for Improvement

- **"Texas Tower" Description**: Bryan's questioning about the "Texas Tower" construction material leads to speculative answers ("I'm guessing plywood" [208:6](#), "It's the cheapest, neatest way to build something" [208:9-208:10](#)). While he follows up to clarify if it *appeared* cheap ([208:11-208:13](#)), the witness ultimately states he doesn't know the material ([208:18-208:19](#)). This line of questioning doesn't yield concrete factual information.
- **Residue from Tight Drums**: Bryan attempts to trace the disposal of residue from washed tight drums ([211:12-212:13](#)). However, the witness repeatedly states he has "no idea" where the liquid went after

flowing from the rack ([212:5](#), [212:10-212:11](#), [212:13](#)). While important to ask, the lack of a definitive answer means this line of questioning was not successful in establishing a disposal path.

Objection Patterns

- **Pirozzolo's Objections:** Mr. Pirozzolo objects to questions about joint ownership ("Objection" [205:14](#)), the appearance of the Texas Tower ("Objection" [208:14](#)), and the French drain/tailrace observations ("Objection" [209:14](#), [209:18](#), [210:13](#), [210:20](#), [212:8](#), [212:9](#), [213:1](#)). These objections often aim to protect the witness from being led or to challenge the premise of the question.
- **Baroni's Objections:** Ms. Baroni objects to questions about the residue from tight drums ([211:13](#), [211:16](#), [212:8](#)) and the quantity of plastic liners ([214:18](#)), likely to prevent speculation or to protect her client's interests regarding waste disposal.

Re-Direct Examination Analysis (Mr. Pirozzolo)

Mr. Pirozzolo's re-direct is brief and strategically designed to limit the scope of the witness's knowledge and expertise.

Strategic Observations

- **Limiting Witness Expertise:** Pirozzolo effectively uses this phase to establish the witness's lack of scientific knowledge (e.g., chemistry, dioxin identification) and his role as a "laborer" ([216:22-217:25](#)). This is crucial for controlling the weight given to the witness's observations and preventing him from offering expert opinions.
- **Undermining Knowledge of Corporate Structure/Boundaries:** Pirozzolo confirms the witness had no involvement in accounting, management, or knowledge of company ownership or land boundaries ([218:5-218:25](#)). This further limits the scope of his testimony to his direct observations as a laborer.

Objection Patterns

- **"Vague" and "Leading" Objections:** Mr. Bryan continues to object to Pirozzolo's questions as "Vague" and "Leading" ([217:1](#), [217:5](#), [217:23](#), [218:13](#), [218:18](#), [218:23](#), [219:3](#)). This consistent pattern suggests a defensive strategy to prevent Pirozzolo from unduly influencing the witness's answers.

Witness Control and Management

- **Witness's Memory Issues:** The witness, Joseph Nadeau, consistently states his memory is "fuzzy" or that he is "guessing" due to the passage of time ([152:14](#), [154:9](#), [154:17](#), [155:24-155:25](#), [157:21](#), [158:19](#), [160:9](#), [171:10](#), [171:17](#), [179:1](#), [187:18](#)). This presents a significant challenge for all examining attorneys, requiring them to rely heavily on prior sworn testimony and exhibits to refresh his recollection or establish facts.
- **Candor vs. Speculation:** While candid about his memory, the witness occasionally speculates when pressed, such as regarding the Texas Tower's construction material ([208:6-208:10](#)) or the destination of liquid waste ([212:5](#)). Attorneys generally manage this by asking for "best memory" or directly asking if he knows "for sure."
- **Self-Correction:** The witness demonstrates a willingness to self-correct, for example, when marking the map ([176:3-176:7](#)).

Procedural Dynamics

- **Multi-Party Deposition:** The presence of multiple attorneys representing different parties (Emhart, New England Container, U.S. Department of Justice) leads to frequent objections from various counsel, highlighting the adversarial nature of the proceeding.
- **Use of Exhibits:** Prior deposition transcripts, trial testimony, and a site map are extensively used as exhibits to refresh recollection, impeach, or clarify testimony ([154:20](#), [168:12](#), [193:11](#), [203:16](#), [206:4](#), [208:22](#), [214:1](#)). This is a standard and effective practice in depositions with memory-challenged witnesses.
- **Off-the-Record Discussions:** A brief off-the-record discussion occurs when there is confusion about the Bates number of an exhibit ([194:8-194:9](#)). This is a common procedural pause to resolve logistical issues.
- **Recess:** A recess is taken after Pirozzolo's initial examination, allowing counsel to confer and decide on

further questioning ([198:25](#)). This is a strategic break often used in multi-party depositions.

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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24

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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 hexachlorophene 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.

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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

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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?
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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

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21

22

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24 REQUESTED BY THE DEPONENT OR ANY PARTIES INVOLVED
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