Thea L. Urban
REGISTERED PROFESSIONAL REPORTER
19 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60603
(312) 782-3332

6 February 1990

Mr. Philip C. Schillawski
Squire, Sanders & Dempsey
155 East Borad Street
Columbus, Ohio 43215

Re: Case No. C87-1284A
United States of America v. Amsted Industries, Inc., d/b/a American Steel Foundries
Depositions of Messrs. Thomas J. Benton and John Wories

Dear Mr. Schillawski:

Enclosed with your copies are the original transcripts of testimony taken at the Benton and Wories depositions, taken in the above-entitled cause on January 24, 1990 at Cbicago, Illinois.

I appreciate your help in submitting the originals to the witnesses for reading and signing, thereafter returning them to me,together with any corrections or changes to be made noted on the enclosed errata sheets, enclosed.

I have also enclosed copies of the respective exhibits marked at both depositions.

Thank you.

Sincerely,

Thea L. Urban

TLU
Enc.

cc Mr. Richard Clarizio
Mr. Kurt Weissmuller
Mr. Edward J. Brosius
File

1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

3

UNITED STATES OF AMERICA,)
4)
Plaintiff,)
5)
vs.) No. C87-1284A
6)
AMSTED INDUSTRIES, INC.,)
7 d/b/a AMERICAN STEEL)
FOUNDRIES,)
8)
Defendant.)
9

10 The deposition of THOMAS J. BENTON, called
11 by the Plaintiff for examination pursuant to notice and
12 pursuant to the Federal Rules of Civil Procedure for
13 the United States District Courts pertaining to the
14 taking of depositions, taken before Maureen K. Nagle,
15 Certified Shorthand Reporter and Notary Public within
16 and for the County of Cook and State of Illinois at
17 230 South Dearborn Street, Suite 1100, Chicago,
18 Illinois, on the 24th day of January, A.D., 1990,
19 commencing at the hour of 10:00 o'clock a.m.
20
21
22
23
24

COPY

1 APPEARANCES:

2

3 MR. RICHARD CLARIZIO,
(U.S. Environmental Protection Agency)
4 230 South Dearborn Street
Chicago, Illinois 60604
5 On behalf of the Plaintiff;

6

MR. PHILIP C. SCHILLAWSKI,
7 (Squire, Sanders & Dempsey)
155 East Broad Street
8 Columbus, Ohio 43215
On behalf of the Defendant;
9

10 MR. EDWARD J. BROSIUS,
(Amsted Industries, Inc.)
11 205 North Michigan Avenue
Chicago, Illinois 60601
12 On behalf of the Defendant.

13

* * * * *

14

15 ALSO PRESENT:

16 EUGENE F. MEYER

17

18

19

20

21

22

23

24

1 I N D E X

2

WITNESS:

3

4 THOMAS J. BENTON

5

EXAMINATION BY:	PAGE
Mr. Clarizio	5

6

7

8

E X H I B I T S

9

DEPOSITION EXHIBIT	MARKED
A	36
B	56

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 MR. CLARIZIO: My name is Rich Clarizio. I'm
2 representing the United States Environmental Protection
3 Agency. I would like to just point out a few ground
4 rules, so to speak.
5 If you have any questions or would like
6 to confer with your attorney at all during the course
7 of the deposition, just let me know and we can take a
8 break. If I ask you a question and you don't
9 understand it, just stop me and I will try to rephrase
10 it so you will.
11 According to the Federal Rules, you are
12 going to answer all the questions that I ask you unless
13 your attorney specifically directs you not to answer
14 them. That would mean that you would have to answer
15 them even if he objects to them.
16 At this point, I would ask you to state
17 your name and spell it for the court reporter and then
18 I will get into the questioning.
19 THE REPORTER: Do you want the witness sworn?
20 MR. CLARIZIO: Yes.
21 (Witness sworn.)
22
23
24

1 WHEREUPON:

2 THOMAS J. BENTON

3 called as a witness herein, having been first duly

4 sworn, was examined upon oral interrogatories and

5 testified as follows:

6 DIRECT EXAMINATION

7 by Mr. Clarizio:

8 Q. Would you state your name and spell it for the

9 court reporter, please.

10 A. Thomas J. Benton, B-e-n-t-o-n.

11 Q. Tom, did you prepare for this deposition at

12 all today?

13 A. No.

14 Q. You didn't review any documents or talk to

15 anybody to prepare for this deposition?

16 A. No.

17 Q. Tom, what I would like you to do is think from

18 the time you graduated high school, if you could tell

19 us the educational experiences that you have had, the

20 degrees that you have held?

21 A. From high school?

22 Q. From high school and if you could tell us the

23 dates also I would appreciate that.

24 A. I graduated from Youngstown State University

1 with a bachelor of engineering degree in metallurgical
2 engineering, and I have about another 20 some hours
3 approximately in preparing for a recent master's
4 program in business administration.
5 Q. When did you graduate from Youngstown
6 University?
7 A. I graduated in 1976.
8 Q. You said you had a specific degree in
9 metallurgical engineering?
10 A. Well, the degree is the degree of engineering
11 with an emphasis on metallurgical engineering.
12 Q. When you say an emphasis in metallurgical
13 engineering, how many classes did you take which would
14 have specifically related to metallurgical engineering?
15 A. I would have to guess at that. Probably in
16 the neighborhood of 15.
17 Q. Could you give us an idea of what the names of
18 those courses were?
19 A. Phase diagrams, X-ray diffraction, physical
20 metallurgy for three years. It would be nine courses
21 in physical metallurgy. There were two courses in
22 thermodynamics. I'm trying to think of what else it
23 would be. Ceramics, nuclear metallurgy. It has been a
24 long time.

1 Q. I can appreciate that.
2 A. Just metallurgy courses?
3 Q. Right.
4 A. I would guess that's about it.
5 Q. As part of your degree program, did you have
6 to do a thesis?
7 A. Yes.
8 Q. Can you tell me what the subject matter of
9 your thesis was?
10 A. The title is "Allotropic Phase Transformations
11 in Tin-Rich Alloys."
12 Q. In layman's terms, can you briefly explain
13 what the subject matter of the thesis was?
14 A. We were attempting to investigate the effects
15 of elements that are similar to tin in the periodic
16 chart and how that effects the phase transformation.
17 Q. When you mention phase transformation, what
18 does that mean?
19 A. Tin exists in two different crystal structures
20 depending upon the temperature. There is a high
21 temperature phase and a low temperature phase. Phase
22 transformation, which is a change in crystal structure,
23 occurs under normal pressures at 55 degrees Fahrenheit.
24 What we attempted to do was to see the

1 effects of adding a finite amount of an alloy element
2 to the tin system, the result and the effect on the
3 phase transformation temperature.
4 Q. Tom, you had mentioned that you had worked 20
5 hours, I believe it was, towards a master's in business
6 administration.
7 A. Right.
8 Q. Did you have any other advanced course work in
9 any field?
10 A. No.
11 Q. Have you taken since your master's -- I guess
12 since your bachelor's degree, have you taken what would
13 be considered continuing education courses or training
14 courses related to metallurgy?
15 A. Not directly related to metallurgy.
16 Q. What would they be related to?
17 A. I took a couple courses in optical emission
18 spectroscopy.
19 Q. When you say a couple --
20 A. Two.
21 Q. Can you briefly describe what was covered in
22 those courses?
23 A. Basically, the material covered was the
24 principle behind using the radiation generated by an

1 excited atom to identify the type and quantity of that
2 particular atom present in the analyzed sample.
3 Q. Did you take any other continuing education
4 courses or training courses related to your -- related
5 to metallurgy?
6 A. No.
7 Q. Tom, what I would like you to do, again from
8 the time you graduated college to the present, if you
9 could indicate to me who you have worked for and when
10 you have worked for them and what position you have
11 held with them?
12 A. From the time I graduated?
13 Q. College.
14 A. At the time I graduated, I was employed by
15 Youngstown Sheet & Tube Company until they closed down
16 in 1977. At that time, I was employed by Ferro
17 Engineering and worked in the Chicago area as a sales
18 engineer up until the time I went back to Sheet & Tube
19 in July of '78. In September of '78, I joined American
20 Steel Foundries where I am currently employed.
21 Q. During college, did you participate in any
22 work-study programs?
23 A. No. I worked in the mill while I was going to
24 college.

1 Q. When you say the mill, which mill?

2 A. Sheet & Tube.

3 Q. Youngs & Tube?

4 A. Righ

5 Q. Wh ungstown Sheet

6 & Tube whi ege?

7 A. rth observer.

8 Q. u have as an open

9 hearth

10 A. It to report on the

11 amount of material ged in the furnace when

12 they made the heat, to follo he heat into the pouring

13 pit, to watch the pouring practice to make sure that

14 all the quality aspects of pouring steel were adhered

15 to.

16 Q. Was Youngstown Sheet & Tube a primary steel

17 producing facility or a secondary steel producing

18 facility?

19 A. If you mean primary as far as defined as

20 the --

21 Q. Raw metals, raw materials as opposed to scrap

22 metals.

23 A. Yes, they were. They were primary.

24 Q. When you worked for Youngstown Sheet & Tube

1 from 1976 to 1977, what were your responsibilities?
2 A. I graduated from college, and I was put on as
3 what they called a metallurgical investigator and was
4 part of a group of people that were sent to various
5 departments to investigate metallurgical or
6 quality-oriented problems.
7 Q. What type of quality-oriented problems did you
8 investigate?
9 A. I spent a few months working in the strip mill
10 trying to help them determine why they were having
11 problems with erratic gauge thickness. I spent four
12 months in the open hearth writing a practice book for
13 steel making.
14 Q. What was the subject matter of that book?
15 A. Basically, it was to help them to determine
16 what materials went into the various types of heats
17 they made, grades of steel.
18 Q. When you worked for Ferro Engineering, what
19 were your responsibilities?
20 A. To maintain customer accounts, call on new
21 accounts and try to generate new business. Ferro was
22 in the business of supplying what's known as hot tops,
23 hot topping compounds, liners, watercool panels.
24 Q. What are hot tops?

1 A. They are a part of the steel making process
2 when you make deoxidized steel, fully deoxidized steel.
3 During the natural shrinkage that occurs because of a
4 change in temperature, the volume decreases so you end
5 up getting internal defects. Hot tops are a
6 sacrificial part of the ingot that is removed during
7 the rolling process to help to insure that the body of
8 the ingot is sound.
9 Q. Was Ferro Engineering, again, primarily
10 involved in selling, I guess, steel products that were
11 from primary production or secondary production?
12 A. That I don't know, as far as whether they drew
13 the line between one or the other.
14 Q. When you returned to Youngstown Sheet & Tube
15 in 1978, what were your responsibilities?
16 A. At that time, I was employed as the seamless
17 mill metallurgist.
18 Q. Can you explain what job responsibilities you
19 had?
20 A. To oversee the function of the seamless lab
21 which tested the various pieces of pipe that were made
22 as far as the integrity of the material and whether it
23 satisfied the physical requirements.
24 Q. What was produced in the seamless mill?

1 A. Various grades of seamless pipe, seamless
2 tubing, oil well country drill pipe, drill casing, a
3 variety of seamless products.
4 Q. What was it that the lab tested, the final
5 product?
6 A. Yes. It tested to make sure -- These are
7 temperate-type products, so they tested the heat
8 treatment by monitoring the physical properties.
9 Q. How many individuals did you supervise?
10 A. Oh, boy, it must have been about maybe 15.
11 Q. Did you do the testing or did they do the
12 testing?
13 A. They did the testing.
14 Q. Did you quality control their results?
15 A. I reviewed them.
16 Q. What was involved in your review of the
17 results?
18 A. Just checking to make sure that the physical
19 properties were within specification.
20 Q. Tom, you had mentioned that you had gone from
21 Youngstown Sheet & Tube to American Steel Foundries in
22 1978.
23 A. Right.
24 Q. Was that at the Alliance facility?

1 A. Yes.

2 Q. From that time until the present, can you tell

3 us what your different job responsibilities were and

4 the titles associated with them?

5 A. Yes. When I was hired in '78, I assumed the

6 responsibility of supervising the chem lab and occupied

7 that position for -- well, for all intents and

8 purposes, I still occupy that position. After about

9 two years, I was promoted to chief metallurgist.

10 Q. In 1980, you became the chief metallurgist?

11 A. I think that is the right time. I was chief

12 metallurgist for a period of about three years and then

13 was demoted to melter and worked melter until January

14 of '87. From January of '87 to the present time, I'm

15 chief metallurgist again.

16 Q. Going back to 1978 when you were initially

17 hired by American Steel Foundries as the supervisor of

18 the chem lab, what did the chem lab do?

19 A. Analyzed steel samples for the melt shop and

20 furnace department.

21 Q. When you say steel samples, that which goes

22 into the heat or that which comes out of the heat?

23 A. Basically the heat.

24 Q. That which occurs during the heat then?

1 A. During the processing and pouring.
2 Q. Did you ever do any of the analysis yourself?
3 A. Yes.
4 Q. How frequently would you say that you have
5 done the analysis?
6 A. I guess there really isn't any pattern. Let's
7 say maybe a couple times a week.
8 Q. What was involved in analyzing the steel?
9 A. Our approach in analyzing is to use an optical
10 emission spectrometer.
11 Q. Can you explain how it works?
12 A. A sample of steel is excited electrically to
13 the point that the atoms absorb enough energy to
14 achieve an excited state. At that point, kind of a
15 plasma is developed between the sample and the
16 electrode. As the atoms lose energy, they give off a
17 characteristic frequency which is measured by the
18 instrument. We calibrate the instrument to determine
19 the percentage of the elements in the sample.
20 Q. As a supervisor, how many other individuals
21 did you supervise?
22 A. When?
23 Q. As the supervisor of the chem lab from '78 to
24 present.

1 A. Three, two or three -- Actually, one or three
2 depending upon the level of operation.
3 Q. I assume that that fluctuated from '78 to the
4 present?
5 A. Yes.
6 Q. What was their responsibility?
7 A. Their responsibility would be primarily to
8 operate the spectrometer.
9 Q. Would they also make a decision as to whether
10 or not the steel that was being sampled met
11 specifications?
12 A. Not directly.
13 Q. Was that your responsibility?
14 A. I wouldn't say that either. Basically they
15 analyzed the steel and reported the results to the
16 melter who is the person that would then make the
17 decision as to what needed to be done.
18 Q. Those individuals operated strictly under your
19 direction?
20 A. The?
21 Q. The one to three people that you supervised.
22 A. Depending upon what time we are talking about,
23 I would say yes.
24 Q. During which time period would you say that

1 they didn't?
2 A. When I was working as melter, they would be
3 directly reporting to the chief metallurgist.
4 Q. In 1980, you had stated that you became the
5 chief metallurgist. Can you describe what the duties
6 you had from, I guess, 1980 to 1983 were as the chief
7 metallurgist?
8 A. During that period of time, it was my
9 responsibility to maintain the continuous operation of
10 the electric furnace department and just supervise the
11 area.
12 MR. CLARIZIO: Can you read the answer back,
13 please.
14 (Requested answer read.)
15 BY MR. CLARIZIO:
16 Q. Tom, you mentioned an electric furnace
17 department. Is that a separate department at the
18 Alliance facility?
19 A. It would be considered a separate department
20 in terms of the seniority of the people working in that
21 department.
22 Q. What were they responsible for in that
23 department?
24 A. The electric furnace department?

1 Q. Right.
2 A. To make the steel that's used in the process
3 of making castings.
4 Q. Were they responsible from the very beginning
5 when the scrap steel was placed into, I guess, the
6 electric arc furnace to the very end or at some other
7 points?
8 A. I'm not sure I understand.
9 Q. Maybe I could rephrase this.
10 The electric furnace department, from
11 what point were they involved in the steel making
12 process?
13 A. From the point where we received the scrap to
14 the point where it is in the ladle and ready to be
15 transported to the appropriate pouring area.
16 Q. After it has left the ladle, it is no longer
17 their responsibility?
18 A. No.
19 Q. Whose responsibility is it?
20 A. It would be the foundry's responsibility at
21 that point.
22 Q. What would be involved in insuring the
23 continuous operation of that department from
24 '80 to '83?

1 A. I would imagine making sure that the
2 appropriate materials are available, making sure that
3 the manpower is available, and that the people who are
4 involved in making the steel know what they need to
5 know in order to do it.
6 Q. Tom, what I would like you to do is take us
7 through the steel making process that that department
8 would have been responsible for from '80 to '83, if you
9 could just in layman's terms describe the different
10 processes and what happens.
11 MR. SCHILLAWSKI: Objection. The complaint is
12 phrased in terms of waste. We are going far into the
13 production process which is irrelevant except as it
14 might possibly indicate how wastes are generated.
15 Given that, I would prefer that you
16 phrase your questions a little more narrowly so that I
17 can know when the continuing objection as to relevancy,
18 which I think I'm going to have to make here quickly,
19 will be in effect.
20 MR. CLARIZIO: I think the questions are
21 relevant because we are trying to understand what went
22 into the process because that ultimately effects the
23 end product, so I believe they are relevant.
24

1 BY MR. CLARIZIO:
2 Q. Tom, I think you can answer the question. Do
3 you want it to be repeated?
4 THE WITNESS: Yes, that would help, thank you.
5 MR. CLARIZIO: Could you repeat the question,
6 please.
7 (Requested question read.)
8 BY THE WITNESS:
9 A. Well, we receive various types of scrap, and
10 all of the material that goes into the making of the
11 heat is scrap. We use no virgin material other than
12 the alloy materials which we purchase to enable us to
13 meet the specifications. The material is charged in
14 the furnace, and the power is turned on.
15 Once the material is melted down, we then
16 add whatever is needed in order to achieve the desired
17 end. Some specs require things that others don't.
18 Depending upon what we are trying to make, that would
19 be the direction we would go. It is really a very
20 simple process.
21 BY MR. CLARIZIO:
22 Q. How many people did you supervise in this
23 department?
24 A. Again, depending upon the level of operation

1 at the time, it would vary between six to sixteen.
2 Q. Does that vary according to the number of
3 hours that were in operation or are we just talking
4 about a normal 9:00-to-5:00 type of operation?
5 A. No, it varies by the number of shifts we
6 operate.
7 Q. Were you responsible for all three shifts?
8 A. Yes.
9 Q. When you weren' ho supervised the
10 shifts?
11 A. The me.
12 Q. Can you bilities for
13 the people that wei this
14 process? Would it b scrap was
15 there and that the cha
16 A. You mean the i t I supervised,
17 what their responsibiliti e?
18 Q. Correct.
19 A. There is a scrap craneman, and his
20 responsibility is to run the scrap crane. He brings
21 the materials that arrive by truck. It is deposited in
22 a holding area, and then his responsibility is to move
23 it from there to the appropriate bin.
24 We have a heat craneman.

1 Q. Could you repeat that?

2 A. Heat craneman. His responsibility is to

3 operate the crane that actually puts the scrap material

4 into the furnace and also holds the ladle while the

5 heat is tapped.

6 have a furnace operator who

7 phys ols to operate the

8 fur

9 rs whose job it is to

10 ries, get the alloy

11 upon what the melter feels

12 clean, do odd jobs in

13 effect.

14 Q. You had me ed the melter. Where does he

15 fit in in this process?

16 A. The melter is responsible for insuring that

17 the chemical analysis of the finished product meets the

18 specification and to supervise the day-to-day

19 operations of the furnace people.

20 Q. How did the melter insure that the steel that

21 was produced met the specifications?

22 A. How?

23 Q. Yes.

24 A. By the experience that he has received by

1 working in the department and using mathematics to
2 determine how much of the appropriate material is
3 necessary to get the desired spec.
4 Q. Were samples taken?
5 A. Yes.
6 Q. Were these samples the ones that you had
7 mentioned earlier at the chem lab?
8 A. Yes.
9 Q. This is where he would get the results and
10 analyze them?
11 A. Yes.
12 Q. Were those your duties as the melter from '83
13 to '87?
14 A. Yes.
15 Q. Other than the furnace operators, did you
16 supervise anybody as the melter?
17 A. No.
18 Q. You had mentioned that you were demoted to a
19 melter. Can you explain what happened?
20 A. There was what's called an austerity program,
21 and some of the top supervision was reduced which, of
22 course, affected the people who were below them. I
23 happened to be one of the people that was affected.
24 Q. Was there a chief metallurgist still during

1 that period of time?
2 A. Yes.
3 Q. Who was that person?
4 A. John Jenkins.
5 Q. Is he still with ASF?
6 A. No, he retired.
7 Q. You mentioned that from '87 to the present
8 that you are again the chief metallurgist?
9 A. Yes.
10 Q. Have the duties changed at all from those that
11 you had when you were chief metallurgist from '80 to
12 '83?
13 A. No.
14 Q. The number of people have remained pretty much
15 constant?
16 A. Depending upon the level of operation, yes.
17 Q. You had stated that the responsibilities for
18 the chemical composition of the sample metal was
19 conducted by the chief melter, I think it was, melter;
20 is that correct?
21 A. He is responsible for insuring that the final
22 product meets the spec chemistry wise.
23 Q. Did you review any of the sample results?
24 A. I'm not sure I understand that. All the time?

1 One time? What?
2 Q. At any point in time when you were either the
3 chief metallurgist or you were the melter.
4 A. Yes.
5 Q. You had mentioned that the steel that's
6 produced was produced according to specifications. Was
7 that always true during the time period from 1980 to
8 1987?
9 A. Well, let's see. The goal is to produce steel
10 that's according to specification. Occasionally, you
11 run into elements that do not meet the specification.
12 Q. Who determined the specifications?
13 A. The actual specification that we worked to was
14 determined by the American Association of Railroads.
15 Q. The customer didn't at all --
16 A. Well, they are the customer.
17 Q. These specifications that were used, did they
18 follow certain tolerance limits?
19 A. Maximums.
20 Q. Were those ones that were established by the
21 American Iron & Steel Institute?
22 A. No -- Well, I don't know. I can't say yes or
23 no.
24 Q. You just know they were established by the

1 American Railroad Association?
2 A. I know that we worked to those specifications
3 that were established by the American Association of
4 Railroads.
5 Q. Did those specifications indicate percentages
6 of the components of the steel end product?
7 A. It has maximum allowable percentages.
8 Q. Could you give us an example of what some of
9 those maximum allowable percentages would be?
10 A. .32 maximum carbon, 1.85 maximum manganese,
11 .04 maximum sulfur, .04 maximum phosphorus, and 1.5
12 maximum silica.
13 Q. The steel produced frequently had numerous
14 specifications that they had to meet as opposed to just
15 one chemical?
16 A. There is one chemical specification. The
17 group of -- the entire group of elements would be a
18 specification.
19 Q. What is the chemical specification that was
20 normally required to meet?
21 A. Well, there is no general. We make four
22 different kinds.
23 Q. Four different kinds of steel?
24 A. Different grades, yes.

1 Q. Could you explain what the different grades
2 are that you produce?
3 A. We make -- Well, there is what we call Grade
4 B, and it has to meet certain chemical and physical
5 requirements that were determined by the AAR. The
6 chemistry is really pretty much up to us provided we
7 don't exceed their specification limits. The way the
8 process is evolved is that the chemistry is put
9 together to provide certain physical characteristics
10 which is mandated by the AAR.
11 Q. You had mentioned Grade B. Are there other
12 grades that you produced?
13 A. Yes.
14 Q. Can you indicate what those grades are?
15 A. We make Grade C, Grade E, and Grade B
16 modified.
17 Q. Can you explain for each of those grades what
18 the differences are between them?
19 A. Grade B does not contain any intentional
20 molybdenum or chrome. Grade E has a chrome and
21 molybdenum specification. Grade C has a molybdenum
22 specification but not a chrome specification. Grade B
23 modified has a chrome specification but not a
24 molybdenum specification.

1 Q. Once the grades have been specified, you had
2 mentioned the melter would analyze the charge. How did
3 he determine whether or not it met the specifications?
4 A. By reviewing the results of the chemical
5 analysis.
6 Q. The ladle additions that were mentioned
7 earlier, are those done inside the electric arc furnace
8 or outside?
9 A. Outside.
10 Q. Is the electric arc furnace then a completely
11 enclosed device?
12 A. In what respect?
13 Q. It acts as a furnace and has four walls, a
14 top, and a bottom?
15 A. Yes.
16 Q. You had mentioned that, I guess it is, the
17 heat crane operator moves the material into the
18 furnace?
19 A. Yes.
20 Q. Is it strictly by crane operation and just
21 depositing it in there?
22 A. The scrap content is done by crane.
23 Q. What about the alloys that are added?
24 A. They are added to the ladle, and they are

1 added by an additions hopper which is located behind
2 the furnace.
3 Q. What type of hopper again?
4 A. Additions. That's just the material that goes
5 into the furnace -- into the heat.
6 Q. For the department that you were responsible
7 for, at what point in the process would particulate
8 emissions have been generated?
9 A. I would say during the tapping operation.
10 Q. What's involved in the tapping operation?
11 A. That would be the transfer of the metal from
12 the furnace to the ladle.
13 Q. If a sample of a melt did not conform with the
14 specifications, what would happen?
15 A. Which sample are we talking about?
16 Q. A sample that you had taken -- Let's say the
17 melter had received a sample analysis that showed that
18 it didn't meet the specifications of either Grade B, B
19 modified, C, or E.
20 A. If it would be the final chemistry test, which
21 would be the heat as it was being poured, if it was out
22 of specification, it is then my responsibility to
23 determine whether or not the degree to which it is out
24 of specification affects the physical properties.

1 Q. You mentioned a final chemistry test. Is that
2 different than the initial testing that was discussed
3 earlier?
4 A. Yes.
5 Q. What's the difference between them?
6 A. The initial testing is done from the melted
7 metal in the furnace. It is done to determine where
8 you are at that point in time in the overall process of
9 making the steel.
10 Q. If at that point in time the analysis showed
11 that it wasn't up to specification, what would happen?
12 A. Well, it never is up to specification at that
13 point.
14 Q. The final chemistry test time, when is that
15 taken?
16 A. That's taken during the pouring of the heat.
17 Q. What would be the procedure if the final
18 chemistry test indicated that the steel wasn't up to
19 specification?
20 A. If it didn't meet the specification, the
21 procedure would be to notify the foundry that that heat
22 was out of specification.
23 To the degree to which it is out of
24 specification, we would then determine the result and

where did the scrap go.

1 action. If it was such that it was unsuitable to be
2 poured, we would simply scrap the heat. If it was out
3 of specification and yet still salvagable, then I would
4 employ alternate heat treatment.
5 Q. Was pure metal ever added to the heats to
6 bring it up to specification if they were out of
7 specification?
8 A. No.
9 Q. Are there any pure metals that were ever added
10 to the melts from '80 to '87?
11 A. We don't use any pure metals.
12 Q. Do you ever use iron?
13 A. No.
14 Q. Coke?
15 A. Coke? Gee, that's kind of a tough one to
16 answer. We use a carbon product, but it is not used as
17 coke.
18 Q. Was it graphite?
19 A. We use graphite.
20 Q. This isn't a metal, but was limestone also
21 used? not used
22 A. No.
23 Q. Did you add any alloys during the melts?
24 A. To the furnace?

1 Q. Yes.
2 A. We add -- If the specification requires it, we
3 would add molybdic oxide.
4 Q. Are records maintained by ASF to demonstrate
5 the composition of a batch of the steel?
6 A. Chemical composition, yes.
7 Q. What are those records?
8 A. Where?
9 Q. No. What are those records called?
10 A. Report of analysis.
11 Q. Are those the only records kept?
12 A. Well, there are other copies of that record,
13 but it would be the identical data.
14 Q. Were these the same records that were kept
15 from 1980 to 1987?
16 A. Yes.
17 Q. Looking at the scrap steel that's used, what
18 metals are present in the scrap?
19 A. We run into a variety of elements, but
20 basically it is all scrap steel.
21 Q. Can you give us some of the elements that
22 are --
23 A. That are in the scrap?
24 Q. -- in the scrap?

A. Iron, chrome, nickel, moly, arsenic, vanadium, tungsten. There is a whole list of elements. I'm not sure exactly how far you want to go.

Q. I'll just ask you for a few extra ones and see if you have run across them.

Was lead ever present?

A. We have tested the heat and found lead in the steel.

Q. What about testing the scrap, is that ever done?

A. That's done occasionally but not as a stated practice. It is really meaningless.

Q. Who tested the scrap?

A. The chem lab.

Q. Why would it be meaningless?

A. The process that we use involves the addition of tons of various types of scraps in the furnace. The analysis of a single piece is not representative of the bulk charge. To analyze an individual piece tells us nothing other than the composition of that piece.

Q. Was cadmium ever present in the heat?

A. I don't know. We don't analyze for cadmium.

Q. What about mercury?

A. We don't analyze for mercury either.

1 Q. What about copper?
2 A. Yes, we analyze for copper.
3 Q. Was it present?
4 A. Yes.
5 Q. Aluminum?
6 A. Yes.
7 Q. Did you mention zirconium?
8 A. No. We don't have the ability to analyze for
9 zirconium.
10 Q. Has your department ever analyzed the electric
11 arc furnace dust?
12 A. No. We don't have that capability.
13 Q. You are not aware of what the composition of
14 that -- the chemical composition of that dust is?
15 A. At what point in time?
16 Q. At the point that it collects in the hopper.
17 A. No.
18 Q. Are you aware of it at any other point in
19 time?
20 A. Only when the time came when we tested it to
21 be disposed of in the last couple years.
22 Q. If an element is found in the charge or the
23 melt, is it logical to conclude that it would be found
24 in the --

1 MR. SCHILLAWSKI: Objection, conclusion. We
2 are not presenting him as an expert.
3 MR. CLARIZIO: I'm just trying to find out
4 what his knowledge and information is about the testing
5 results that might show the relationship between what
6 went in and what comes out. I don't believe that
7 that's expert testimony.
8 MR. SCHILLAWSKI: He can testify to his own
9 personal knowledge; but in terms of making a logical
10 conclusion, I object.
11 You may answer.
12 MR. CLARIZIO: Do you want the question
13 repeated?
14 THE WITNESS: Yes.
15 MR. CLARIZIO: Could you repeat it, please.
16 (Requested question read.)
17 BY MR. CLARIZIO:
18 Q. Striking the logical, did you observe that it
19 was found in any of the particulate emissions?
20 A. I'm not sure I understand yet.
21 Q. For example, if lead were in the scrap and
22 also found in the metal, would you have observed it in
23 the particulate emissions that may have come from the
24 foundry operations?

1 A. We have found lead in the dust, that I'm aware
2 of.
3 MR. CLARIZIO: What I would like to do is
4 introduce an exhibit at this time. Can you mark this
5 Exhibit A.
6 (Document marked.)
7 THE WITNESS: Are these the same?
8 MR. CLARIZIO: Yes. They are two different
9 copies, except I think that one has the exhibit marker
10 on it.
11 BY MR. CLARIZIO:
12 Q. Tom, are you ready for me to ask you some
13 questions?
14 A. Sure.
15 Q. I've given you an exhibit marked Exhibit A.
16 There are two different documents there. One is called
17 report of materials charged in the heat and the other
18 one is called the heat log.
19 Are you familiar with these two reports?
20 A. As a report or do you mean specifically this
21 one?
22 Q. As a report.
23 A. Yes, I'm familiar with it.
24 Q. Was your department responsible for completing

1 these reports?
2 A. These are generated by our department.
3 Q. Who would be responsible for completing the
4 reports?
5 A. Well, that responsibility would fall on really
6 two people -- well, depending upon the report. The
7 report of materials charged, the chemist and the melter
8 are responsible for producing that report. The heat
9 log, the responsibility would be the furnace operator
10 and the melter and the chem lab.
11 Q. Are you at all responsible or were you
12 responsible for quality checking these reports?
13 A. I review them.
14 Q. You review them?
15 A. Yes.
16 Q. Does that include quality checking or is that
17 just familiarizing yourself with them?
18 A. I don't know exactly what you mean by quality
19 check.
20 Q. Let's say that in reviewing this is there a
21 way to tell whether the final analysis really was, for
22 example, at the bottom right-hand side under Mn, 69?
23 Is there a method of action of determining
24 independently that it did make 69?

A. Yes, there would be a way.

Q. Okay.

A. We could reanalyze the sample.

Q. Was that your responsibility?

A. To reanalyze the sample?

Q. Yes.

A. No, we don't do that.

Q. You mainly looked at the reports to see if they were completed?

A. Yes.

Q. Were you ever responsible for completing any of these reports?

A. Yes.

Q. During what period of time would you have been responsible for that?

A. During the period of time that I operated as the melter.

Q. On the left-hand side of the report, there is a column entitled material and there are entries labeled plate, busheling, wheels, flashing, and other. This is on the first page.

Can you explain to us what each one of those categories represents?

A. That represents various scrap types that are

1 defined by the Scrap Institute. Plate represents a
2 scrap type that is a quarter-of-an-inch thick or
3 thicker. Busheling is less than a quarter of an inch.
4 Wheels is defined as railroad wheels. Flashing is the
5 salvage of a forging operation. Other is anything that
6 doesn't fit in the above categories.
7 Q. When you mentioned plate and busheling being
8 quarter-inch thick scraps, where would they have come
9 from?
10 A. They come from the scrap dealers. Where they
11 get them, I'm not sure.
12 Q. On that first page adjacent to the entry for
13 other, there is a handwritten note that says -- it
14 looks like 10,040 drop. Do you know what that means?
15 A. Yes, that's 100 percent.
16 Q. That's 100 percent?
17 A. Yes, 100 percent drop. That's a local term
18 that refers to internal scrap -- internal metal.
19 Q. That would mean that you used totally -- the
20 other components were internal metals that were used
21 here?
22 A. Right. In that particular case, that's a
23 barrel of metal.
24 Q. What would have been contained in the barrel,

1 do you know?
2 A. It would have been metal from the pouring
3 process that accumulates during the cleaning of the
4 nozzle. Metal, metal oxides.
5 Q. Would it be a solid mass in the barrel or
6 would it be a number of pieces of metal?
7 A. Normally, it would be a solid mass.
8 Q. Is it closed or open?
9 A. It is a barrel that is placed in a pit that is
10 surrounded by sand; and then any time they have a
11 problem with the heat, they just pour it in the barrel
12 rather than jeopardize it going everywhere.
13 Q. Now, the material here is solely the scrap
14 material that's used; is that correct? On the
15 left-hand side under the column material, the five
16 entries there, that would be solely scrap?
17 A. In our way of looking at it, it is scrap.
18 Q. There is another column immediately below
19 that, furnace additions. Can you explain what those
20 entries are and when they are added to the heat?
21 A. You mean lime?
22 Q. Lime, carbon raiser, molybdenum, flourspar,
23 other fluxs.
24 A. Lime is the slag former, and we add that

1 between the first and second buckets of scrap. Carbon
2 raiser is added prior to the addition of the first
3 bucket of scrap. Moly would be added before the second
4 bucket of scrap is added when required. Flourspar we
5 use occasionally. Other fluxs, there really isn't
6 anything that goes in that column.
7 Q. Why would you use lime?
8 A. Lime is the material that forms the bulk of
9 the slag which is used to refine the steel to protect
10 it from further oxidation and to keep it thermally
11 isolated from the environment.
12 Q. The carbon raiser, why would that be used?
13 A. That would be used to achieve a high enough
14 melt carbon so that we meet the specification.
15 Q. You mentioned that flourspar you rarely use?
16 A. We would use that occasionally depending on
17 the condition of the slag.
18 Q. I would like you to refer back to the last
19 page of the document for a second. It is identified --
20 MR. SCHILLAWSKI: I would like a better
21 identification than last page of the document.
22 MR. CLARIZIO: Yes. It is identified as
23 report of material charged in heat, General Heat
24 No. 2190.

BY MR. CLARIZIO:

Q. Are we all on the same page?

A. Uh-hmm.

Q. Under the furnace additions, in addition to the five that were mentioned previously, there is a sixth one that was added or is added here. It is furnace dust. Can you explain what that is?

A. Where is it?

Q. It is on the left-hand column.

A. Oh, okay, I see it.

Yes. That's the dust that was taken from the dust collector and added back to the furnace.

Q. I want to flip back to the first page for a second, please. To refer to it, it is the one that says furnace charge, Furnace No. 1, in the left-hand corner.

Furnace dust is not listed on that sheet, is it?

A. No.

Q. Was it at all used in the process other than what you see here on the last page?

A. No, I don't think so. How do you mean that?

Q. Just that the chart -- the report of materials charged in heat sheet on the first page, and if you

1 look on the second page and third page and fourth page,
2 do not show furnace dust additions. I want to make
3 sure that it is not covered under some other category.
4 A. Oh, right.
5 Q. It is not?
6 A. It is not covered under another category.
7 Q. Immediately below the furnace additions on the
8 first page of the exhibit, there is a title ladle
9 additions and then it has materials. Can you explain
10 each of those materials and when they are used?
11 A. They are all used at the same time. I need to
12 check on this, though. They are all used as ladle
13 additions to bring up to specification any elements
14 which we intentionally alloy that may be low.
15 The 50 percent ferrosilicon is a
16 manufactured product that we purchase. We would use
17 that or the one on the bottom of the list, 75 percent
18 ferrosilicon, depending upon which of the two
19 purchasing provides for us.
20 Silica manganese, which is the next one
21 down, is our source of manganese for alloy. Aluminum
22 is used as a deoxidizer. Graphidox is used as a
23 deoxidizer and to impart some additional strength
24 through the addition of some titanium. Synthetic

1 graphite is used as a recarboraiser.
2 CSF 10 is not used at all anymore.
3 Charge chrome is used to add chrome to the steel if
4 necessary. RECARB-X isn't used. The other two
5 columns, other alloys and other additives, are not
6 used.
7 Q. Is it the chief melter that would determine
8 which of those elements should be used?
9 A. Specification would.
10 Q. Specification would?
11 A. Right.
12 Q. That would be gotten from the American
13 Railroad Association?
14 A. Well, they are the ones that determine the
15 specifications. Which particular grade of steel we
16 would be making would be determined by the foundry.
17 Q. There is a particular cookbook, so to say, to
18 match the specification to the percentages of materials
19 here?
20 A. In a manner of speaking, yes.
21 Q. Is there a name for that book at American --
22 A. No. The book that you speak of really doesn't
23 exist. It is like we had discussed earlier, how much
24 of each material goes into the heat is determined by

1 the results of the melt test or actually the tap test
2 and the ability -- the knowledge of the melter.
3 Q. What about the amounts of scrap that go into
4 the heat, for example, again referring to the first
5 page of Exhibit A, there are columns under the heading
6 furnace charge, first bucket, second bucket, who
7 determines the amount of scrap that goes into the heat?
8 A. If we are making a full heat, that's
9 predetermined by the fact that we are making a full
10 heat. We add 60,000 pounds of scrap to make the heat.
11 The relative percentages of the various types is
12 determined by supply and availability.
13 Q. The percentages of scrap that's used is not
14 dependent on the grade of steel that you are trying to
15 produce at the end, is it?
16 A. No.
17 Q. What about with the furnace additions there
18 under material, there is an indication directly to the
19 left -- directly to the right of each of the entries of
20 weight, for example, lime it looks like 1400 and then
21 carbon raiser it looks like 100, who determines how
22 much of each of those elements should go in?
23 A. The melter.
24 Q. When you were a melter, how did you determine

how much of each of those elements should go in?

A. That's a good question there.

The lime content would be simply comparing to the previous heat, how did the previous heat look. If the slag condition was satisfactory, I would do the same thing. The amount of carbon raiser would also be determined by the previous heat. If the melt carbon was low, I would simply add more carbon raiser to the next heat.

Q. Would the same be true for molybdenum and flourspar?

A. Flourspar would be the material that would be added based on what the condition is that exists at the present time. The moly would be -- There is kind of a standard formula for moly.

Q. Referring back to the last page of Exhibit A, the one that is marked General Heat No. 2190, under furnace additions, the sixth entry that says furnace dust, how was that determined?

A. The quantity?

Q. The quantity.

A. That was determined by adding two or three drums of dust to the heat.

Q. Was an analysis performed to indicate that two

1 or three drums were necessary for the heat?
2 A. No.
3 Q. The addition of the furnace dust was -- the
4 determination to add or not was a different
5 determination than that which was used to determine
6 whether to add lime or carbon raiser?
7 A. Yes. How
8 Q. The first page of the document, the report of
9 materials charged to the heat, the listing of the
10 materials and ladle additions and first additions, is
11 that a complete list of everything that would have been
12 added to a particular heat?
13 A. Right. There is nothing that we would add
14 that is not listed on this page.
15 Q. The only possible deviation would be when you
16 have categories that say other alloys or other
17 additives?
18 A. Well, generally, those categories are defined
19 at the time this report is produced.
20 Q. The individual report would indicate which
21 alloys or additives were used?
22 A. As you see on the one, 100 percent drop.
23 Q. Again referring to the first page of
24 Exhibit A, under the heading furnace additions, moving

towards the midpoint of the page, there is a column entitled material, the fourth column from the left. There is an entry that says basipatch. Can you explain what that is?

A. Basipatch is a refractory material used to repair any thin or worn areas in the lining of the furnace.

Q. When is it used?

A. It is totally independent of the actual production. It is used as a maintenance item.

Q. Its use would be reported on this sheet?

A. Right. It is reported here so that accounting knows that material was used.

Q. What about GUNDOL, the same, the next one?

A. Same thing. Different composition, same application.

Q. Staset 51/PD55?

A. Same thing. Those are two different products.

Q. Do you know what chemicals are in each of those three?

A. I know the major component is manganesium oxide, MGO.

Q. Moving further to the right, there is a column entitled preliminary analysis. Under the entry for Cr,

1 there are two numbers, one is 18 and the other one 17.
2 Can you tell me what those numbers refer to?
3 A. That's the chemical composition of that
4 particular sample in terms of the chrome content.
5 Q. Is that a percentage?
6 A. That would be hundredths of a percent.
7 Q. Is it always referenced in terms of hundredths
8 of a percent?
9 A. Not always. You mean chrome?
10 Q. Well, each of the entries actually.
11 A. Not always.
12 Q. Is there a way to tell from the document
13 itself whether it is in hundredths of a percent or full
14 percentage?
15 A. Not really. If you know how to read it, you
16 would know. For example, manganese, if it was a three
17 digit number, then it would be one digit with a period
18 and then the hundredths. In that case you would be
19 talking about a percentage.
20 Q. Basically if there isn't a decimal point
21 associated with it, you are talking about hundredths of
22 a percent?
23 A. For these elements, yes.
24 Q. Are these the full range of chemicals that are

1 analyzed in a heat?
2 A. No. These are the elements of interest.
3 Q. The other elements that aren't analyzed, are
4 they reported anywhere?
5 A. They are reported -- Yes, they are reported.
6 Q. Where would they be reported?
7 A. On a report known as a report of chemical
8 analysis.
9 Q. Who would produce that report?
10 A. The same people.
11 Q. That's the lab?
12 A. The lab, yes.
13 Q. The chemical lab?
14 A. Uh-hmm.
15 Q. Tom, I would like you to page to the seventh
16 page of Exhibit A. It is the one that is entitled heat
17 log with Heat No. 499 in the upper right-hand corner.
18 A. Okay.
19 Q. What I would like you to do is explain each of
20 the first four columns, the one entitled power plus or
21 minus, tap number, temperature, and lance.
22 A. The power means that at that point in time if
23 the power was on it was a plus. The time refers to the
24 time that it was on that particular tap setting, that

1 length of time. Temperature, of course, is the
2 temperature they observed by immersing a thermocouple
3 into the molten steel. Lance refers to the amount of
4 time that they were pumping oxygen into the steel.
5 Q. The next four columns are under the general
6 heading analysis, and there are four entries there.
7 Can you tell us what those elements are?
8 A. Yes, carbon, manganese, chrome, and
9 molybdenum.
10 Q. Under the heading for chrome, there are two
11 numbers, one looks like at time 12:54 and the other one
12 it looks like time 1:02. Can you tell us what those
13 numbers refer to?
14 A. Those would be the hundredths of percent of
15 chrome that they found when they analyzed the chrome
16 twice at those times.
17 Q. Under manganese, the 27 and 30, the same, the
18 hundredths of a percent?
19 A. Yes, same way with carbon too.
20 Q. Again, the way to determine whether it is
21 hundredths of a percent versus full percentage is
22 whether there is a decimal there?
23 A. Yes.
24 Q. I would like to go back for a second to the

first page of Exhibit A again.

You had mentioned in the preliminary analysis that those were only some of the elements that were analyzed for by the chem lab. What other elements would the chem lab have analyzed for?

A. We analyze for 18 elements. Right off the top of my head, I don't think I can remember all of them; but we analyze for carbon, manganese, silicon, phosphorus, sulfur, chrome, molybdenum, nickel, copper, aluminum, arsenic, vanadium, tungsten, titanium, antimony, boron, and lead.

How many is that?

MR. CLARIZIO: Would you go back and count them.

(Discussion had off record.)

BY MR. CLARIZIO:

Q. Seventeen. You missed one.

A. Tin. Did I say tin?

Q. Tom, are you familiar with the term chromite sand?

A. I'm familiar with the term, yes.

Q. Is that at all something your department would be involved in testing?

A. We tested for the percentage of chromite sand

1 in a sand mix at one time.
2 Q. What time was that?
3 A. Back when I started there, we tested for
4 chromite sand, percentage of chromite sand.
5 Q. That's 1978?
6 A. We were doing it then, and I'm not real sure
7 when we stopped doing it.
8 Q. Can you give us the chemical formula for the
9 chromite sand?
10 A. No, I don't know what it is.
11 Q. If I were to repeat it to you, would you
12 recognize it?
13 A. I might. I have got a background in
14 chemistry.
15 Q. The formula I have is FE parenthetical CRO
16 subscript 2 end parentheses subscript 2.
17 A. I can't say I really recognize it.
18 Q. Is chromite sand sometimes referred to as
19 green sand?
20 A. Not to my knowledge.
21 Q. Can you tell us the color of the chromite
22 sand?
23 A. It is kind of a blackish-silvery color.
24 Q. Is that before it is used or after it has been

1 used?

2 A. That would be before it is used.

3 MR. CLARIZIO: I think at this point I would

4 like to just take a short break if that's okay with

5 you. We can readjourn in ten minutes.

6 MR. SCHILLAWSKI: Fine.

7 (A recess was taken.)

8 BY MR. CLARIZIO:

9 Q. Tom, I'm going to ask you some additional

10 questions.

11 You had mentioned previously, I believe,

12 that as a result of your sampling you were aware that

13 lead was in the steel scrap that was used at American

14 Steel Foundry's Alliance plant. Is that true?

15 A. We had run samples on scrap and found lead

16 occasionally.

17 Q. Had you also run any samples or had you ever

18 found chrome or cadmium?

19 A. Chrome, yes. Cadmium we don't analyze for.

20 Q. The scrap that you received, the

21 specifications for that scrap, who determined those?

22 A. I really don't know.

23 Q. You had mentioned, returning to Exhibit A for

24 a minute, looking under the preliminary analysis, that

1 there were 18 elements that you analyzed for and that
2 the ones that appear here were just a subset.
3 If the ones that are here were the ones
4 that were required -- the ones under preliminary
5 analysis were the ones that were required to determine
6 the grade of the steel, what was the purpose of testing
7 for the other chemicals?
8 A. Well, that's another good one. They were in
9 the process of analyzing for those elements when I
10 started there.
11 Q. In '78?
12 A. Yes. I really don't know why they would have
13 chosen the elements that they did.
14 Q. Have those elements remained consistent during
15 the time that you were there that you have analyzed
16 for?
17 A. The values?
18 Q. Not the values, just the elements you analyze
19 for.
20 A. Oh, yes, we continue to analyze for those
21 elements, and we have added an additional one. We now
22 analyze for cobalt too.
23 Q. When did you add that to the analysis?
24 A. In May of '89.

1 Q. You had mentioned that your department has
2 conducted analysis of the baghouse dust prior to its
3 being disposed; is that correct?
4 A. No. I stated we don't have the ability to
5 analyze the baghouse dust.
6 Q. Your department has never analyzed baghouse
7 dust?
8 A. No.
9 Q. Referring to the last page of the document
10 entitled Exhibit A, the one that is marked 9/28/87 in
11 the right-hand corner, looking at the entry under
12 furnace additions, we have the six elements there,
13 lime, carbon raiser, molybdenum, flourspar, other
14 fluxs, and furnace dust.
15 The furnace dust that was added, was that
16 to replace or supplement any of the other elements that
17 would normally be added to the furnace additions?
18 A. Not to my knowledge.
19 MR. CLARIZIO: I would like you to mark this
20 as Exhibit B, please.
21 (Document marked.)
22 BY MR. CLARIZIO:
23 Q. Are you ready?
24 A. Yes.

1 Q. Tom, have you ever seen the pages that are
2 attached to Exhibit B before?
3 A. Yes.
4 Q. Can you identify who is responsible for making
5 the entries on the pages?
6 A. I can't say for sure I know exactly who did
7 it. I have a good idea who I think did it.
8 Q. Can you tell me who you believe did it?
9 A. It would have been the yard foreman.
10 Q. The yard foreman?
11 A. Right.
12 Q. Can you explain what these are records of?
13 A. Starting with the first page, this is the
14 amount of dust removed from the dust collector system
15 on a daily basis and charged into 55-gallon drums.
16 Q. Tom, I would like you to at this point look
17 back to Exhibit A for a second.
18 Again, on the last page under the
19 category furnace dust, is there a relationship between
20 the entries on Exhibit B and the entries on Exhibit A
21 under furnace dust?
22 A. In what respect do you mean a relationship?
23 Q. For example, on Exhibit B, the first entry
24 under 5/29/87, would all of that dust have gone to the

1 furnace and would it have been marked on Exhibit A, the
2 last page, under furnace dust?
3 A. What we were trying to do is whatever dust was
4 accumulated over a period of 24 hours, recharge it into
5 the furnace and report it on this form.
6 Q. Which form is that, Tom?
7 A. Exhibit A.
8 Q. Okay.
9 A. I'm not sure that initially that was done.
10 Initially, I'm not sure what direction we were going.
11 Q. Who was it that determined how much of the
12 furnace dust went into a particular charge as indicated
13 on the last page of Exhibit A?
14 A. Let's see. I was partially responsible. I'm
15 not sure who else would be included at the time. We
16 simply tried to recharge all the dust that was
17 accumulated in a 24-hour period every day.
18 Q. When you say you were partially responsible,
19 could you explain what was included in the partial
20 responsibilities?
21 A. Well, I don't remember if the yard foreman or
22 the works engineer was a party to the discussion, but I
23 know that my input was that what I wanted to do was to
24 divide up the quantity of dust into the number of heats

1 we were going to make so that we would just kind of
2 partition the quantities to each heat.
3 Q. In equal proportions?
4 A. Roughly.
5 Q. Depending on what was generated on a
6 particular day?
7 A. Yes.
8 Q. Since your department didn't have the ability
9 to analyze the dust, I assume then that the dust was
10 not analyzed before it was charged into the heat?
11 A. Do you mean on a daily basis?
12 Q. On any basis.
13 A. There were occasional analyses taken on the
14 dust.
15 Q. How frequently?
16 A. That I really can't say. Maybe a few times.
17 Q. If it wasn't your department, who did the
18 analysis?
19 A. It was sent out.
20 Q. Did any of the results indicate that the dust
21 contained lead?
22 A. Yes.
23 Q. Did it contain lead -- Strike that, please.
24 Are you aware of the levels of lead that

are required to be met for a sample to meet the EP tox test?

A. No.

Q. Can you tell me what levels of lead were routinely found in the analysis?

A. I don't remember.

Q. Can you tell me who did the analysis?

A. It was sent out, and our engineering department was responsible for sending it out.

Q. They would know who did the analysis?

A. They should. I don't know if they do.

Q. Who in the engineering department would have sent it out?

A. Dave Statler.

Q. Do you know if the analysis indicated whether or not there were any metal oxides in the electric arc furnace dust?

A. Do I know that from the analysis?

Q. Correct.

A. No.

Q. Do you know that from personal observations?

A. I know that from, I would say, common sense that if you run an arc furnace that there will be oxides in the dust.

1 Q. There would be metal oxides found in the dust?
2 A. I would say there would be.
3 Q. The recharging of the dust that's indicated on
4 Exhibit B, how was that physically done?
5 A. Physically it was placed in a 55-gallon drum;
6 a lid was applied to it; and then we tried a variety of
7 ways to get it into the furnace, either picking it up
8 with a magnet when it was magnetic or putting it in a
9 charging bucket or using a sling-type thing with the
10 crane to get it in the furnace.
11 Q. Was it a furnace addition or a ladle addition?
12 A. Furnace.
13 Q. Turning to Exhibit B, the second to last page,
14 the top entry is 11/9/87 and in the right column it
15 says 26 BBLS. Midway down on that sheet there is an
16 entry adjacent to 11/20/87. It says, "First snow fall,
17 had no more time to spend on the EAF dust." Can you
18 explain what that entry means?
19 A. I can't explain it from the standpoint that I
20 know for sure what it would mean.
21 Q. Would the yard foreman, you suspect?
22 A. Yes, I would suspect so.
23 Q. On the last page, in the upper left-hand
24 corner it has the date entered December 7, '87, again

1 midway down the page there is an entry in the middle
2 that says M.T. collector, M period T period collector.
3 Do you know what that references to?
4 A. M.T. is used to mean exactly how it sounds
5 which would be e-m-p-t-y.
6 Q. Where it says M.T. collector --
7 A. That he emptied the collector.
8 Q. On 12/12/87 when he emptied the collector,
9 there were 50 barrels, is that how it is read?
10 A. Yes.
11 Q. Immediately below that there is a sentence
12 that says, "There are 145 barrels accumulated dust to
13 be vacuumed back through the collector system
14 12/12/87." Then parenthetically it says, "Plus six
15 limestone and dust at Neybrecht's." Can you explain
16 what Neybrecht's refers to?
17 A. Weybrecht's, that's a W. That's another
18 building that we owned as part of the property.
19 Q. What is that building?
20 A. I'm not sure how to answer that. It is a
21 building where we keep supplies, spare parts.
22 Q. Why would there be dust at the Weybrecht
23 building?
24 A. That's apparently where he decided to keep it.

1 Q. Is it accurate that it was dust that was
2 collected at the Weybrecht building?
3 A. It wasn't collected there, it was stored
4 there.
5 Q. But it was dust that was there?
6 A. I can't say for sure it was. I'm just trying
7 to interpret this sentence.
8 Q. Would the yard department foreman probably
9 know?
10 A. Possibly.
11 Q. Then the last notation discusses the total
12 barrels for a certain period of time. Is that only in
13 relationship to the EAF dust?
14 A. Yes.
15 Q. Tom, the last question I'm going to ask you
16 is: Is it your feeling that any promotion or
17 advancement at American Steel Foundries would be
18 affected by your deposition here today?
19 MR. SCHILLAWSKI: Objection, conclusion.
20 Go ahead and answer.
21 BY THE WITNESS:
22 A. I hope not.
23 MR. CLARIZIO: That is all I really wanted to
24 ask.

1 MR. SCHILLAWSKI: Signature not waived.

2 (Further deponent saith not.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF OHIO)
2 EASTERN DIVISION) SS.
STATE OF ILLINOIS)
3 COUNTY OF COOK)

4 I, MAUREEN K. NAGLE, Certified Shorthand
5 Reporter and Notary Public in and for the County of
6 Cook and State of Illinois, do hereby certify that
7 JOHN WORIES was first duly sworn by me to testify the
8 whole truth and that the above deposition was reported
9 stenographically by me and reduced to typewriting under
10 my personal direction.
11 I further certify that the said deposition
12 was taken at the time and place specified and that the
13 taking of said deposition commenced on the 24th day of
14 January, A.D., 1990, at 10:00 o'clock a.m.
15 I further certify that I am not a relative
16 or employee or attorney or counsel of any of the
17 parties, nor a relative or employee of such attorney or
18 counsel or financially interested directly or
19 indirectly in this action.
20
21
22
23
24

1 In witness whereof, I have hereunto set my
2 hand and affixed my seal of office at Chicago,
3 Illinois, this 30th day of January, A.D., 1990.
4
5
6
7
8
9
10
11 Maureen K. Nagle
MAUREEN K. NAGLE, C.S.R.
12 19 South LaSalle Street
Suite 704
13 Chicago, Illinois
Phone: (312)782-3332
14
15
OFFICIAL SEAL
16 MAUREEN K. NAGLE
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. MAY 12,1992
17
18
19
20
21
22
23
24

1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

3

UNITED STATES OF AMERICA,)
4)
Plaintiff,)
5)
vs.) No. C87-1284A
6)
AMSTED INDUSTRIES, INC.,)
7 d/b/a AMERICAN STEEL)
FOUNDRIES,)
8)
Defendant.)
9

10 This is to certify that I have read the
11 transcript of my deposition taken in the above-entitled
12 cause, and that the foregoing transcript accurately
13 states the questions asked and answers given by me.

14

15 _____
THOMAS J. BENTON
16

SUBSCRIBED AND SWORN TO
17 before me this_____day
of_____,A.D. 1990.
18

19

20

21

22

23

24

RECEIVED
Apr 11 4 45 PM '90
U.S. ATTORNEY
CLEVELAND, OH.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, -vs- AMSTED INDUSTRIES, INC., DBA AMERICAN STEEL FOUNDRIES, Defendants.	)	Civil Action No. C87-1284A Judge Thomas D. Lambros

- - - - -

DEPOSITION OF DONALD SPENCER DOLPHIN
Wednesday, March 28, 1990

- - - - -

Deposition of DONALD SPENCER DOLPHIN, called by the Plaintiff for examination under the Federal Rules of Civil Procedure, taken before me, the undersigned, Dennis A. Parise, Registered Professional Reporter, a Notary Public in and for the State of Ohio, at the offices of the United States Attorney, Suite 500, 1414 East 9th Street, Cleveland, Ohio 44114, commencing at 9:30 a.m. the day and date above set forth.

- - - - -

Computer-Aided Transcription by
DENNIS A. PARISE & ASSOCIATES
223 The Chesterfield
1801 East 12th St.
Cleveland, Ohio
(216) 241-5958

APPEARANCES:

On Behalf of the Plaintiff:

Kathleen A. Sutula, Esquire
Assistant United States Attorney
Suite 500, 1414 East.9th Street
Cleveland, Ohio 44114

and

Richard Clarizio, Esquire
United States Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

On Behalf of the Defendants:

Philip C. Schillawski, Esquire
Squire, Sanders & Dempsey
Bancohio National Plaza
155 East Broad Street
Columbus, Ohio 43215

ALSO PRESENT:

Catherine A. McCord
United States Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

1 DONALD SPENCER DOLPHIN

2 called by the Plaintiff for examination under the Federal
3 Rules of Civil Procedure, after having been first duly sworn,
4 as hereinafter certified, was examined and testified as
5 follows:

6 EXAMINATION

7 BY MR. CLARIZIO:

8 Q Mr. Dolphin, my name is Rich Clarizio. I'm with the
9 U.S. Environmental Protection Agency in Chicago. What I want
10 to do is just give you a brief idea of what we are going to
11 be doing this morning.

12 Basically, I will be asking you questions. If at any
13 time during the questioning you have questions about what I
14 have said, please just stop me and ask me to repeat the
15 question or to clarify the question.

16 You may during the course of the questioning hear
17 objections. Under the Federal Rules, you are required to
18 answer all questions to the best of your ability. So even
19 though you may hear an objection, let the person speak their
20 objection and then I will direct you to answer the question.
21 Okay?

22 A Yes.

23 Q If at any time you need to take a break, just let me
24 know and we can take a break.

25 Generally, the questions I will be asking you concern

1 the time period from 1980 to 1987. Unless I specify
2 otherwise, assume that that is the time period that I'm
3 talking about.
4 What I would like you to do right now is to state your
5 full name for the court reporter and to spell it for him.
6 A Donald Spencer Dolphin, D-o-l-p-h-i-n.
7 Q Mr. Dolphin, are you represented by counsel here today?
8 A No. My counsel decided that he wasn't needed.
9 Q Okay. So you are not represented by counsel.
10 Did you have an opportunity to discuss today's
11 deposition with anybody?
12 A Only my wife.
13 Q Only your wife. Did you review any documents prior to
14 coming to today's deposition?
15 A No, sir.
16 Q And what was the nature of the conversations you had
17 with your wife on today's deposition?
18 A Basically, it was wondering what this was all about.
19 Q Okay. So you didn't discuss with her any of the
20 specifics of your employment at American Steel Foundries or
21 any activities that you did when you were employed at
22 American Steel Foundries?
23 A Nothing that related directly to this case.
24 Q Mr. Dolphin, what I would like you to do is from the
25 time you graduated high school, I would like you to give me a

1 synopsis of your work history up to the time 1987.
2 A All right. I did not graduate from high school. I
3 left school in my senior year. I graduated into that year of
4 school. I went to work for the Union Switch & Signal Company
5 out of Swissville, Pennsylvania.
6 Q What year was that?
7 A Approximately 1942.
8 Q And what did you do for Union Switch & Signal?
9 A I was a signalman. In other words, we installed
10 electronic equipment on the railroad systems for centralized
11 traffic control, for retarder systems and railroad crossings.
12 Q And how long were you employed with Union Switch &
13 Signal?
14 A Until I went into the Navy in 1944.
15 Q Were you always a signalman with Union Switch & Signal?
16 A Yes.
17 Q And in the Navy, what did you do when you were in the
18 Navy?
19 A I went to several Navy schools and became a fire
20 control man.
21 Q What were those schools that you went to?
22 A The first one was, naturally, boot camp. Then I went
23 to fire control school and then I went to fire control and
24 maintenance school.
25 Q What was entailed in fire control school?

1 A The Navy term is that we don't take care of fires, we
2 start fires on the enemy ships.
3 Q Okay.
4 A In other words, we were in charge of all the firing and
5 aiming of the guns.
6 Q Okay. So it was in relationship to ammunition as
7 opposed to putting out fires?
8 A Yes.
9 Q You had mentioned a fire control and maintenance
10 school. Is that a different school than the fire control
11 school?
12 A Yes, it is.
13 Q What did you learn at the fire control and maintenance
14 school?
15 A Fire control and maintenance school was basically the
16 everyday care of fire control equipment.
17 Q Again, that would be the ammunition and equipment, the
18 guns?
19 A No. This was dealing with the equipment that fired the
20 guns.
21 Q Could you give me an example just of some of the
22 equipment?
23 A We had the main battery director, we had the plotting
24 room, we had the slue sites, we had the aiming and firing
25 devices for 40 millimeter and 20 millimeter guns.

1 Q And after you had gone to these schools, what were your
2 responsibilities in the Navy?
3 A When I went on board ship, I was in charge of the daily
4 maintenance of a main battery director.
5 Q How long were you with the Navy?
6 A Till somewhere in 1946.
7 Q What occurred after 1946? Where were you employed?
8 A I went back to the Union Switch & Signal company.
9 Q Were you honorably discharged from the Navy?
10 A Yes, I was.
11 Q And how long were you with Union Switch & Signal?
12 A Probably until around 1950 -- 1949.
13 Q You said until 1949?
14 A Approximately 1949.
15 Q What were your duties with Union Switch & Signal from
16 1946 to 1949?
17 A Similar to what I had -- when I first started working
18 for them.
19 Q Where did you go after Union Switch & Signal in 1949?
20 A I went to the Canton Drop Forge.
21 Q Can you repeat that again?
22 A Canton Drop Forge.
23 Q What did you do at Canton Drop Forge?
24 A I was an electrician.
25 Q What did those duties entail?

1 A Complete maintenance of the electrical systems in the
2 plant.
3 Q What type of forge did they operate at Canton Drop
4 Forge?
5 A Steam.
6 Q So it wasn't an electric arc furnace?
7 A No.
8 Q When you say that you were in charge of all the
9 electrical systems, is it fair to characterize them basically
10 as the light systems or was there more to the electrical
11 systems?
12 A Well, to begin with, I wasn't in charge of it. I was a
13 class A electrician. It was the maintenance of all of the
14 electrical systems in the plant, operating equipment,
15 furnace. Anything that dealt with the electrical equipment
16 in the shop.
17 Q How long were you at Canton Drop Forge?
18 A I don't know the exact dates, but probably 3 years,
19 which would put that around 1954.
20 Q Okay. 1952?
21 A Something around there, '2 or '3.
22 Q 1952 to 1954.
23 You had mentioned that you started there as a class
24 A electrician. Is that the position you held throughout your
25 employment there?

1 A Yes.
2 Q And where did you go after Canton Drop Forge?
3 A I went to the Union Drawn Division of Republic Steel.
4 Q I'm sorry. Could you spell that? I'm not quite sure.
5 Union --
6 A Union Drawn Division of Republic Steel.
7 Q Okay. And where was that located?
8 A Massillon, Ohio.
9 Q What did you do at Republic Steel?
10 A Class A electrician.
11 Q Were the duties the same as the duties at Canton Drop
12 Forge?
13 A Very similar with the exception of some different types
14 of equipment.
15 Q Did they operate an electric arc furnace?
16 A No, sir.
17 Q And how long were you at at the Union Drawn Division?
18 A Around 5 years.
19 Q To approximately 1959?
20 A About that, yes.
21 Q Were you always a class A electrician?
22 A Yes.
23 Q Where did you go after that in 1959?
24 A I took a few part-time jobs until I was employed by
25 American Steel Foundries in Alliance.

1 Q When were you employed by American Steel Foundries?
2 A The dates are kind of tough. Probably '60, 1960.
3 Q And the part-time jobs, can you characterize them?
4 A I worked for a privately owned electrical firm. We
5 installed equipment in plants and house wiring and we
6 maintained lighting.
7 Q Do you remember the name of that firm?
8 A Rance Electric.
9 Q In 1960 when you were first employed by American Steel
10 Foundries in Alliance, what was your position there?
11 A I hired in as a class B electrician.
12 Q What is the difference between a class A and a class B
13 electrician?
14 A The class B electrician is a starting position. You
15 have a period of time to prove your capabilities. You either
16 are hired in as a permanent employee or you are discharged.
17 Q And the class A electrician?
18 A Class A electrician is an increase in wages after the
19 people become satisfied with your abilities.
20 Q Is there a reason why you were hired as a class B
21 electrician when you had previously been a class A?
22 A That was company policy.
23 Q Company policy. So all new employees would be class B
24 electricians?
25 A As far as I know.

Q Okay. How long were you employed at American Steel Foundries?

A 30 years.

Q Till 19- --

A '86.

Q During that time period, what were the positions that you held at American Steel Foundries?

A From electrician A, I went to planner in the maintenance department, I went to supervisor of planning and scheduling in the maintenance department. In fact, my entire time at American Steel was in the maintenance department.

Q Okay.

A After supervisor, planning and scheduling, I went to line foreman, to assistant general foreman, and this title becomes very shaky. It was general foreman of the maintenance department. Some people call it superintendent of the B&E, some people call it master mechanic, some people call it general foreman of the B&E.

Q What is B&E?

A Building Billing and equipment.

Q Mr. Dolphin, what I want to do is go back through each of these positions. You mentioned that you were planner of the maintenance department. What did that entail and when did you hold that position?

A Well, the plant was under a work order system in the

1 maintenance department. We received jobs assigned by the
2 superintendent of planning and scheduling. We went out and
3 looked the jobs over, decided what crafts were needed, what
4 material was needed, arranged time scheduling for departments
5 and crafts.
6 Q So would you arrange the scheduling of the shift
7 operators of the, let's say, electric arc furnace?
8 A No. Strictly maintenance.
9 Q Okay. So as a planner in the maintenance department,
10 your duties were mainly to do what?
11 A To accumulate materials required on a job, to schedule
12 craft and operating departments.
13 Q How long were you a planner?
14 A Probably 2 years.
15 Q Then you mentioned that you were supervisor of planning
16 and scheduling. How long were you a supervisor?
17 A I'm not going to be able to give you all these dates
18 exactly.
19 Q That's fine. Just to the best of your ability.
20 A I was probably in that position for a year.
21 Q And how many people did you supervise?
22 A At the most, 5.
23 Q Were they all planners that you supervised?
24 A Yes.
25 Q Then you mentioned that you were a line foreman. How

1 long were you a line foreman?
2 A I'm going to say approximately 3 years.
3 Q And what is it that a line foreman does?
4 A Well, the line foreman oversees the actual work by the
5 crafts on any one of the 3 shifts in the plant.
6 Q What were the crafts that were employed at American
7 Steel Foundries' Alliance facility?
8 A Part of the time period you are talking about, there
9 were millwrights, electricians, welders, machinists,
10 carpenter, painter, tinner, apprentices. Of course, there
11 was electricians. I don't think I mentioned them.
12 I think that's about it.
13 Q Okay. And as a line foreman, how many people did you
14 supervise?
15 A That varied, depending on the production at the plant.
16 It could be as many as 15 and as few as 5.
17 Q You had mentioned that you were assistant general
18 foreman. How long, approximately, were you an assistant
19 general foreman?
20 A Maybe 3 years.
21 Q Okay. And what were the duties of the assistant
22 general foreman?
23 A General foreman was in charge of all of the line
24 foremen in the B&E department, the planning and scheduling
25 supervisor, and all clerks, plus he assisted the general

1 foreman in his duties.

2 Q You had mentioned that you were an assistant general

3 foreman and that the general foreman was responsible for the

4 line foremen, the planning and scheduling supervisors, and --

5 I'm sorry. What was the other thing?

6 A The clerks in the B&E department.

7 Q What were the clerks in the B&E department? What did

8 they do?

9 A There was a timekeeper and a clerk that worked with the

10 planning and scheduling supervisors. I don't recall what his

11 position was titled.

12 Q Okay. You had mentioned after being the assistant

13 general foreman, you were the general foreman of maintenance,

14 so I assume that you were, then, in charge of all of these

15 functions then?

16 A Yes.

17 Q How many people, roughly, did you supervise?

18 A Again, this depended on the production at the plant,

19 but there were approximately 7 supervisors, assistant general

20 foremen that I had direct supervision over, and final

21 decisions over approximately 120 craftsmen.

22 Q Is it fair to say the supervision of the 120 craftsmen

23 was through the 7 or so supervisors that reported to you?

24 A Yes.

25 Q Did you have any direct contact or did you give direct

1 orders to the 120 craftsmen?
2 Q How long were you the general foreman for maintenance?
3 A 12 years.
4 Q Did you hold that position during the time period of
5 1980 to 1986, when you retired?
6 A I retired -- I was terminated in 1986.
7 Q Okay.
8 A May 16.
9 Q And can you tell me the reason that was given to you
10 for your termination?
11 A It was in the best interest of the company.
12 Q Was it further explained why that was in the best
13 interest of the company?
14 A About 3 years later it was.
15 Q And what was that explanation?
16 A It was in a civil suit in the Northern District of
17 Ohio.
18 Q And what was the explanation given?
19 A It is almost impossible to tell everything that was
20 brought out as their company's reasoning for me being
21 terminated.
22 Q Was that a suit that you brought against the company?
23 A Yes, it was.
24 Q What was the basis for your suit against the company?
25 A Age discrimination.

1 Q Has that case been decided yet?
2 A Yes, it has.
3 Q When was it decided?
4 A I think it was August 18, but I'm not 100 percent sure
5 of that date.
6 Q Of 1989?
7 A Of '88.
8 Q Was that case decided --
9 A Stop there a minute.
10 Q Sure.
11 A '89.
12 Q Was that case decided as a result of a judgment by a
13 judge or settlement?
14 A It was decided by a jury.
15 Q Okay. What was the jury's decision?
16 A There were 5 counts against the company and the jury
17 found in my favor on all 5 counts.
18 Q Can you just briefly summarize what the 5 counts were
19 that you alleged?
20 MR. SCHILLAWSKI: Objection.
21 Relevance.
22 Q You may answer.
23 A I don't remember the exact charges at this point as to
24 what they found, what the jury found.
25 Q Do you remember what they found?

1 A They found in my favor in 3 with monetary adjustments
2 and 2 that they found in my favor that there was no monetary
3 adjustment.
4 Q Okay. Do you remember the name of the case?
5 A I think it was Donald S. Dolphin versus American Steel
6 Foundries and Amsted Industries. I believe that was the
7 title.
8 Q And do you remember when the case was filed?
9 A Prior to May 16 of '88.
10 Q So it was filed on May 16, 1988 --
11 A Prior to the 16th.
12 Q Oh. Prior to?
13 A Yes.
14 Q Do you have an idea of how much prior? Like are we
15 talking a year or what?
16 A Within a few days.
17 Q When you were terminated in 1986, were your duties at
18 that time still the duties of a general foreman of the
19 maintenance department?
20 A Yes, they were.
21 Q So for 12 years, you were general foreman in the
22 maintenance department?
23 A Yes.
24 Q As part of your duties at American Steel Foundries, you
25 or anyone you supervised, were they responsible for the

1 maintenance of the electric arc furnace bag house?

2 A Yes.

3 Q Were they responsible for any of the other bag houses

4 located at American Steel Foundries?

5 A The maintenance department did all the work required to

6 maintain them.

7 Q What about the trucks that were used at American Steel

8 Foundries?

9 A We maintained all the trucks.

10 Q Did you also operate the trucks?

11 A No, sir.

12 Q Did you operate any of the equipment related to the

13 discharge of materials from the electric arc furnace bag

14 houses?

15 A No. That was all electric and mechanical devices that

16 at that time discharged the materials.

17 Q We are talking about from 1980 to 1987?

18 A I don't know about anything after 1986.

19 Q Yes. I'm sorry. 1980 to 1986.

20 A Yes. I was off work for a period of time in there and

21 I don't know what took place in, say, the last 6 months, if

22 there had been any changes.

23 Q Are you talking about 6 months prior to your

24 termination?

25 A Yes.

1 Q When you say that the equipment was all electrical
2 equipment, did anyone operate that electrical equipment?
3 A There were ways to operate it manually, but most of it
4 was automatic.
5 Q So the discharge of dust from the hot burner of the
6 electric arc furnace bag house, that would have been in the
7 electrical system that was operated automatically?
8 MR. SCHILLAWSKI: Objection.
9 A Electric mechanical.
10 Q Electric mechanical. So by that, to see if I
11 understand what you are saying, basically, it was electric,
12 but somebody would operate that?
13 A There was a --
14 MR. SCHILLAWSKI: Objection.
15 Q You may answer.
16 A There was a timing device that it would operate
17 automatically, there was a push-button device that would
18 operate it manually, and there was an electrical and
19 mechanical system involved.
20 Q Do you know if the timing device that you are talking
21 about was always part of the discharge system of the electric
22 arc furnace bag house dust discharging system?
23 A It wasn't always used because of electric or mechanical
24 problems. At that time, it was operated manually.
25 Q Was it installed when the electric arc furnace dust bag

house was installed?

MR. SCHILLAWSKI: Objection.

A I believe so.

Q Do you know when that bag house was installed?

A When the electric furnace was installed.

Q Okay. Next question. Do you know when the electric furnace was installed?

A I think it was in 1971.

Q The timing device, do you know if it was set for discharge at a particular time during the day?

MR. SCHILLAWSKI: Objection.

Q You may answer.

A I don't know if it was a particular time during the day, but it was generally based on the operation of the electric furnace.

Q Do you know how it was based on the operation of the electric arc furnace?

MR. SCHILLAWSKI: Objection.

Q You may answer.

A Well, the longer the electric furnace operated, the longer the timing device operated.

Q So if the electric arc furnace operated for 2 hours, how long did the timer operate?

MR. SCHILLAWSKI: Objection.

A It would operate for a period of time after the furnace

1 shut down, and then the bags automatically shut down, usually
2 at the requirements of the filling of the hopper.
3 Q You had mentioned that there was a push-button device.
4 I assume that was -- let me ask. Was that only for the
5 purposes of manual override --
6 MR. SCHILLAWSKI: Objection.
7 Q -- of the electrical timing device?
8 A I believe that could be used at any time.
9 Q Do you know who would be responsible for operating that
10 push-button device?
11 A The truck driver that hauled the materials would.
12 Q Do you know if that push-button device was always part
13 of the electric arc furnace system?
14 MR. SCHILLAWSKI: Objection.
15 A Yes.
16 Q So from 1971 -- do you want to take a break?
17 A No.
18 Q Okay. Mr. Dolphin, you had mentioned that you did
19 graduate from -- I'm sorry. Did you say you graduated from
20 high school?
21 A No, sir.
22 Q Have you taken any additional course work either to get
23 an equivalency degree or any training?
24 A I have taken considerable amount of training, but that
25 dealt basically with the signal equipment that I worked on

1 and the maintenance in the electrical field and the handling
2 of people.
3 Q So management training courses?
4 A Management training.
5 Q Did you ever have any training in the management of
6 hazardous waste?
7 A No, sir.
8 Q Did you ever have any training in the management of
9 solid waste?
10 A No, sir.
11 Q As an employee at American Steel Foundries, did you
12 ever conduct any training?
13 A Yes, we did.
14 Q You had mentioned that you conducted training. Did you
15 personally or was it just your department?
16 A All the supervisors in the department were involved in
17 some form of training.
18 Q What kind of training do you remember that you
19 personally conducted?
20 A The training of supervisors, the training of supervisor
21 planning and scheduling.
22 Q Did you ever train your supervisors in health and
23 safety practices?
24 A Yes.
25 Q What did that training entail?

1 A Normally, it was by a pamphlet that was handed out by
2 the company.
3 Q That pamphlet, do you remember what subjects it
4 covered?
5 A It dealt with the biggest range of safety within the
6 plant.
7 Q Did it deal with the handling of hazardous waste?
8 A I don't believe it did at that time. But we did get
9 how to take care of yourself if you were contaminated by some
10 of the chemicals in different dispensers.
11 Q Did it deal with how to handle being around electric
12 arc furnace dust?
13 A Nothing directly, but it was normal practice to wear
14 respirators when you worked in that area, as far as the
15 maintenance people were concerned.
16 Q And this pamphlet that you mentioned, do you remember
17 if it was published in 1980 or before that?
18 A It was after 1980 and it was accumulation and ongoing
19 collection of the warnings on materials.
20 Q Do you remember approximately how long after 1980?
21 A Well, I don't think it started in 1980, but it was in
22 effect before I was terminated.
23 Q So somewhere between 1980 and 1986.
24 Mr. Dolphin, did you ever observe the operation of the
25 clarifier?

A Yes, I did.

Q Let me ask you a series of questions about different items here.

A Okay.

Q Did you ever observe the operation of the discharges from the electric arc furnace bag house?

A Yes, I did.

Q And what about from the shot blast furnace?

A Yes, I did.

Q Did you ever observe the placement of clarifier from the clarifier and dust from the electric arc furnace into the trucks that were used to transport them?

A Yes.

Q And did you ever observe the placement of materials at the Sebring landfill at American Steel Foundries?

A No, I didn't have occasion to do any of that.

Q Was the maintenance department responsible at all for maintenance of the landfill?

A Only if a truck broke down. Then we would have to go out and -- somebody from the maintenance department would have to go out and get the truck running.

Q Was anybody else responsible for the maintenance of the Sebring landfill?

A I can't answer that.

Q Did you ever observe the insulation of monitoring walls

1 a he Sebring facility?

2 A No, sir.

3 Q And did you ever observe United States Environmental

4 P ection Agency or Ohio Environmental Protection Agency

5 i ections?

6 A No, sir.

7 Q Mr. Dolphin, what I would like to do is look at the

8 el ric arc furnace bag house for a minute, please.

9 The bags that are associated with that bag house, are

10 th replaced at all?

11 A Yes, sir.

12 Q Do you know how frequently they were replaced while you

13 wer employed?

14 MR. SCHILLAWSKI: Objection.

15 Q You may answer.

16 A Normally, they were replaced every year during the

17 plar shut-down, or during a PM inspection. When it was

18 four that the bags had torn, they were replaced at that

19 time

20 Q What is a PM inspection?

21 A Preventive maintenance.

22 Q How frequently were those conducted?

23 A That was scheduled by computer, depending on the number

24 of hc s of operation of the furnace.

25 Q as there a routine number that was programmed into the

computer, like after 400 hours of operation?

A I can't recall the number.

Q Was that something your department would have been responsible for?

A The preventive maintenance program was the responsibility of the B&E department, but it was basically established by the engineering department.

Q So I'm going to characterize what I think the understanding is.

The building and equipment department did the work and the engineering department did the sort of scheduling of that work when it would be necessary?

MR. SCHILLAWSKI: Objection.

A I think through the engineering department and the maintenance department, we come up with the proper times to do this, plus the companies that manufactured the equipment.

Q You had mentioned that they were replaced every year during the plant shut-down?

A Yes.

Q When did that occur, plant shut-down?

A That varied depending on customer requirements.

Q Would you have a plant shut-down more than once a year?

A Not a planned shut-down.

Q So it was conceivable that there would be more than one shut-down, though?

1 A Not unless it was an emergency breakdown.
2 Q Okay. During the period of time when you were employed
3 at American Steel Foundries from 1980 to 1987, other than
4 once a year planned shut-down, were there any emergency shut-
5 downs?
6 A Yes.
7 Q Can you tell me how many you remember?
8 A I think the one that stands out the most in my mind was
9 the circulating fan for the dust collector burned out a
10 bearing and it had to be replaced so the plant could go into
11 operation. Fortunately or unfortunately, it happened on a
12 week-end, including the January 1 date.
13 Q Now, do you remember what year that was?
14 A No, I don't.
15 Q Okay. During that emergency shut-down, other than the
16 replacement of the circulating fan, were any of the bags in
17 the bag house replaced?
18 A If it was required.
19 Q Do you know who would have been responsible for
20 replacing the bags in the bag house?
21 A The maintenance department.
22 Q Do you know who the person in particular was?
23 A Depend on who we assigned to the job. He would have
24 been a millwright classification.
25 Q How many millwrights were employed by American Steel

1 Foundries from '80 to '87?
2 A Depending on production requirements.
3 Q Just give me a range.
4 A 48.
5 Q So any one of 48 people may have been responsible
6 for --
7 A No. There were -- more than one person was assigned to
8 that job. If it was on a vacation shut-down, we would have
9 about 12 people working on it.
10 Q How many bags were in the bag house?
11 A 660.
12 Q So you kept yourself busy. Would it ever occur that
13 all 660 would be replaced at once?
14 A At vacation shut-down.
15 Q And that would be once a year?
16 A Once a year.
17 Q What time of the year would that have been?
18 A Normally in the summer months.
19 Q How long did it take to replace those?
20 A 2 weeks.
21 Q Where were those bags disposed of?
22 MR. SCHILLAWSKI: Objection.
23 A They were put in a Dempster box.
24 Q And how long were they kept in the Dempster box?
25 A Until the plant started operating again.

1 Q So approximately from 1 to 2 weeks?
2 MR. SCHILLAWSKI: Objection.
3 A Possibly, yes.
4 Q Where was the Dempster box located on the plant
5 property?
6 MR. SCHILLAWSKI: Objection.
7 A At that particular time, it was by the dust collector
8 area.
9 Q After they were placed in the Dempster box, what
10 happened to the Dempster box?
11 MR. SCHILLAWSKI: Objection.
12 A After the plant began operation again, they were hauled
13 away.
14 Q Who did the hauling?
15 MR. SCHILLAWSKI: Objection.
16 A The truck driver from the yard department.
17 Q Do you know where he was directed to haul them to?
18 MR. SCHILLAWSKI: Objection.
19 A No, I don't know.
20 Q Would that have been under your department's
21 supervision or under the yard department?
22 A Under the yard department.
23 Q During the time from 1980 to 1986, do you remember the
24 names of any of the truck drivers that may have been
25 responsible for driving the Dempster?

1 A No, I don't.
2 Q Do you remember the name of the supervisor of the yard
3 department?
4 A I can't recall his name right now. There were 2 or 3.
5 Q Okay. Do you know if there was any testing done of the
6 bags?
7 MR. SCHILLAWSKI: Objection.
8 A The only testing that I was involved in was a shrink
9 test prior to the installation of the bags.
10 Q That would be of the new bags?
11 A Of the new bags.
12 Q So to your knowledge, no tests were done of the bags
13 that were placed in the Dempster?
14 MR. SCHILLAWSKI: Objection.
15 A The B&E department had no responsibility for that.
16 Q Do you know if the Dempster had any markings or labels
17 placed on them?
18 MR. SCHILLAWSKI: Objection.
19 A At one time, it had the logo of the company on the side
20 of the truck, on the driver's side.
21 Q When it was moved into place for receipt of the
22 discarded bags, was a date placed on the Dempster indicating
23 that the bags started to accumulate?
24 MR. SCHILLAWSKI: Objection.
25 A Not that I know of.

1 Q Mr. Dolphin, you had mentioned that you had observed
2 the operations of the electric arc furnace; is that correct?
3 A Yes.
4 MR. SCHILLAWSKI: Objection.
5 Q Did you ever observe the placing of raw materials into
6 the furnace?
7 MR. SCHILLAWSKI: Objection.
8 Q You may answer.
9 A Yes, sir.
10 Q What were those raw materials?
11 MR. SCHILLAWSKI: Objection.
12 A Everything that was required to make it heat.
13 Q There is a distinction between scrap metal and scrap
14 materials versus virgin materials such as iron and lime. Did
15 you observe the placement of iron or lime into the furnace?
16 MR. SCHILLAWSKI: Objection.
17 A I do recall lime, yes.
18 Q Do you recall seeing virgin iron ore placed into the
19 furnace?
20 MR. SCHILLAWSKI: Objection.
21 A I really don't believe I remember that.
22 Q Okay. I'm going to switch now back to the bag house
23 hopper for a second.
24 Do you know what the capacity of the hopper was?
25 MR. SCHILLAWSKI: Objection.

1 A Not offhand, I don't.
2 Q Do you know anyone who would?
3 A It should be on drawings at the plant in the
4 engineering department.
5 Q And who would be responsible for those drawings?
6 A The chief engineer.
7 Q Okay.
8 A Now, I don't know if these titles are the same today as
9 they were when I was there.
10 Q Okay. Are these titles that you remember when you were
11 there?
12 A They are the titles when I was there.
13 Q Were you still employed with American Steel Foundries
14 on August 6 of 1986?
15 A I'm having trouble with dates.
16 Q That's okay. Take your time.
17 A No.
18 Q When you observed the --
19 MR. CLARIZIO: Let's take a break.
20 (Recess taken.)
21 BY MR. CLARIZIO:
22 Q Mr. Dolphin, what I want to do is go back for a second
23 to your discussion of the timer that was operating on the
24 electric arc furnace bag house. That timer, did it operate
25 the bags, the exhaust fan, or the discharge of dust from the

1 hopper?

2 A It was a combination of the fan and the bags.

3 Q Okay. So it did not have anything to do with the

4 discharge of dust from the hopper?

5 A I don't believe it did.

6 Q What would have controlled the discharge of dust from

7 the hopper?

8 MR. SCHILLAWSKI: Objection.

9 A The manual push button.

10 Q And was there a timing device at all associated with

11 the manual push button, to your knowledge?

12 MR. SCHILLAWSKI: Objection.

13 A I don't believe so.

14 Q Okay. I would also like to ask one question on the

15 dumpster that was placed underneath the bag house for receipt

16 of the used bags. Was it ever labeled that the bags were

17 hazardous waste or that hazardous waste was a content of that

18 Dempster?

19 MR. SCHILLAWSKI: Objection.

20 A Not to my knowledge.

21 Q Okay. Who would have been responsible for the

22 labeling?

23 MR. SCHILLAWSKI: Objection.

24 A I don't know.

25 Q Did you observe the operation of the discharge of

electric arc furnace dust at any time during the U.S. EPA inspection?

A No, sir.

Q At any time during an Ohio EPA inspection?

A Not to my knowledge.

Q You stated that you did observe the discharge of dust from the electric arc furnace hopper; correct?

MR. SCHILLAWSKI: Objection.

A Yes.

Q When you observed it, what did you see?

MR. SCHILLAWSKI: Objection.

Q You may answer.

A I think my first concern was that the chain drive mechanism was in operation and that the materials flowed into the Dempster box.

Q When did you observe it?

A I had occasion several times a day to pass that area, and if it was in operation, I usually watched to see what was going on.

Q Was there a specific time of day when it was discharging from the hopper into the Dempster?

MR. SCHILLAWSKI: Objection.

A I really can't say for sure.

Q Your observations, were they only to discharge it into a Dempster?

A No. At some period in that time frame, they put it in a sludge tank.

Q Do you remember what year that would have been?

A No, I don't.

Q Do you remember if the discharges from the bag house hopper were sent into a sludge tank in 1980?

MR. SCHILLAWSKI: Objection. He has already said he doesn't remember.

A I don't recall.

Q Okay. When the dust was placed into the Dempster, was there anything else in the Dempster?

MR. SCHILLAWSKI: Objection.

A Not to my knowledge.

Q Can you describe what a Dempster is for me.

A It is a large metal container that can be picked up by a Dempster truck without any manual operation on the outside of the truck.

Q Does it have a top to it?

A Some do and some don't.

Q The ones that were used at American Steel Foundries, did they have tops to them?

A Some did and some didn't.

Q The ones that received the electric arc furnace dust, did they have tops to them?

MR. SCHILLAWSKI: Objection.

1 A Yes, they did.
2 Q And those are the ones that you observed?
3 A Yes, sir.
4 Q The top, did it cover the entire top of the Dempster?
5 A To the best of my recollection, yes.
6 Q Was there an opening for the dust to go into the
7 dumpster?
8 A Yes, there was.
9 Q And how large was that opening?
10 A Somewhere around 2 foot square.
11 Q Was the top in place when the dust was placed into the
12 dumpster?
13 A Yes, it was.
14 Q Was it possible for you as an observer to see how much
15 dust was being placed into the dumpster?
16 A No, sir.
17 Q Was there a physical connection between the bottom of
18 the hopper to the top of the Dempster?
19 MR. SCHILLAWSKI: Objection.
20 A Yes. There were several different devices.
21 Q Can you explain the devices that you had seen?
22 MR. SCHILLAWSKI: Objection.
23 A There was different types of tubing, different
24 materials used in this tubing. Canvas. I believe that is
25 all I remember.

1 Q (y. Did the tubing go all the way into the Dempster?
2 A was supposed to, yes.
3 Q I it all times that you observed?
4 MR. SCHILLAWSKI: Objection.
5 A (occasion, it would blow out or not be in a good
6 positic
7 Q t would happen when it blew out that you observed?
8 MR. SCHILLAWSKI: Objection.
9 A I the discharge was operating, it would just go
10 outsidc he Dempster box and be blown around in the area.
11 Q D you ever observe that occurring?
12 MR. SCHILLAWSKI: Objection.
13 A Y .
14 Q W n did that occur? Do you remember the years?
15 A N I don't.
16 Q D you remember what the response of the American Steel
17 Foundri employees were to that sort of blowout?
18 MR. SCHILLAWSKI: Objection.
19 A I ould say that almost any employee that was walking
20 past th area and saw that condition would stop the
21 dischar and make sure that the sleeve or tube was placed
22 back in the opening in the box.
23 Q W placed the sleeve or tube in the box?
24 MR. SCHILLAWSKI: Objection.
25 A T truck driver.

1 Q Would it be the truck driver's responsibility to stop
2 the discharge?
3 A If he was there.
4 Q Was it common practice for the truck driver to be there
5 during discharges?
6 MR. SCHILLAWSKI: Objection.
7 A No.
8 Q Was there an American Steel Foundries rule that truck
9 drivers had to be there during the discharge?
10 MR. SCHILLAWSKI: Objection.
11 A Not that I can recall.
12 Q You had stated earlier that the truck driver is the one
13 that pushed the manual button to stop the discharges?
14 MR. SCHILLAWSKI: Objection.
15 Q Is that correct?
16 A Yes.
17 Q When discharges stop?
18 MR. SCHILLAWSKI: Objection.
19 A I couldn't tell you that for sure.
20 Q Did it require someone to push the button again to
21 start the discharges?
22 MR. SCHILLAWSKI: Objection.
23 A Normally, yes.
24 Q You had stated that the truck drivers weren't always
25 present during the actual process of discharging into the bag

house. I'm not sure, and I want to just verify this. You said that that was normal operating procedure?

MR. SCHILLAWSKI: Objection.

A There was a stand device under the dust collector and the box was set on that stand.

Q Okay.

A The truck driver then proceeded to other duties.

Q The Dempster top, was it a tarp or was it a metal?

A Metal.

Q And it was not removable?

MR. SCHILLAWSKI: Objection.

A It could be removed if it had to have maintenance on it, yes.

Q But as part of the discharging to the Dempster, it would not have been removed?

A No, sir. There was a cover on the opening that would have to be opened up and closed after the job was completed there.

Q Okay. Do you know if the Dempster, on the days when you were observing it being discharged, contained other material such as slurry?

MR. SCHILLAWSKI: Objection.

A In the tanks, yes. But not in the Dempster box.

Q Is there a physical reason why it would not be in the Dempster boxes?

MR. SCHILLAWSKI: Objection.

A I would have no idea.

Q Is it possible that the Dempster boxes would leak liquid material?

MR. SCHILLAWSKI: Objection.

A They could.

Q Were there seams to a Dempster box?

A Yes, sir.

Q Were there seams on the tanks?

A Yes, sir.

Q On the Dempster boxes, where would the seams be?

A Around the perimeter, at corners, and the bottom and the top.

Q Is the Dempster box your basic rectangular box?

A It can be, yes.

Q Was that the case at American Steel Foundries?

A We had both, the long boxes and the small boxes.

Q And the tanks, were those cylindrical basically?

A They were something like a tank you see on a railroad car.

Q And where would the seams on those tanks be?

A They were a weldment, probably 2 on each end, and several horizontal and vertical through the rest of the tank, plus baffles inside the tank.

Q Did you ever look into one of the Dempster boxes when

1 it was receiving dust?
2 A Only to see how full the box was.
3 Q And what did you observe?
4 A Various conditions of --
5 MR. SCHILLAWSKI: Objection.
6 A -- material in the box.
7 Q Were there any liquids in the box?
8 A Not that I recall.
9 MR. SCHILLAWSKI: Objection.
10 Q Did the box only contain dust at that time?
11 MR. SCHILLAWSKI: Objection.
12 A As far as I could tell.
13 Q And how full was the box at the time?
14 A Various stages of fullness.
15 Q Do you remember the capacity of the box?
16 A No, sir.
17 Q Do you remember the size of the box?
18 A No, I don't know the capacity of the box. See, that
19 could vary, depending on how much material remained in the
20 box after it was dumped.
21 Q Was one box used on more than one occasion to contain
22 the dust?
23 MR. SCHILLAWSKI: Objection.
24 A At the electric furnace, it was only one box used at a
25 time.

1 Q If the Dempster received dust on one day, what happened
2 to the dumpster after it received the dust?
3 MR. SCHILLAWSKI: Objection.
4 A After the box was filled, at some point the yard truck
5 driver or the Dempster truck driver would remove the box.
6 Q Did you observe the removal of the box?
7 MR. SCHILLAWSKI: Objection.
8 A I have.
9 Q And where did he remove the box to?
10 MR. SCHILLAWSKI: Objection.
11 A I can't say for sure.
12 Q Where was he supposed to take the box to, do you know
13 that?
14 MR. SCHILLAWSKI: Objection.
15 A To the Lake Park landfill.
16 Q The Lake Park landfill is the same landfill that we
17 referred to as the Sebring landfill?
18 MR. SCHILLAWSKI: Objection.
19 A Apparently.
20 Q Okay.
21 A Is that the one that is considered on Lake Park
22 Boulevard?
23 Q Yes, it is.
24 A Then it is the same place.
25 MR. SCHILLAWSKI: Objection again.

1 Q The Dempster, was it possible for someone to observe
2 how much dust had been placed in there?
3 A Only the fact that the box filled up.
4 Q And how would somebody on the outside be able to tell
5 if the box filled up?
6 A On the outside of the system?
7 Q Well, in the ambient area.
8 A Normally, you can see the sleeve would bulge.
9 Q Did the sleeve bulge at any time when you were
10 observing the discharges from the hopper to the Dempster?
11 A On some occasions, I may have shut the equipment down.
12 Q And what happened after the equipment was shut down?
13 Was another dumpster placed --
14 A After the yard department was notified, they would
15 remove the box.
16 Q Would the discharges continue into another box that
17 same day?
18 MR. SCHILLAWSKI: Objection.
19 A Yes, after the box was dumped.
20 Q And did you observe that occurring?
21 A Occasionally.
22 Q After the dust was added to the Dempster, was anything
23 else added to the Dempster?
24 MR. SCHILLAWSKI: Objection.
25 A Not to my knowledge.

1 Q Was the box in any way weighed?
2 A Not to my knowledge.
3 Q When the sleeve bulged, what happened to the dust that
4 was contained within the sleeve?
5 MR. SCHILLAWSKI: Objection.
6 A The material buildup in the box could be pushed back so
7 that the other material would fall down.
8 Q And is that what occurred when you were observing the
9 bulging of the --
10 A It is possible.
11 MR. SCHILLAWSKI: Objection.
12 Q Did you observe the discharge of materials from any
13 other bag house operated at American Steel Foundries?
14 A Yes.
15 Q What were those other bag houses?
16 A Do you mean the manufacturer name or the location?
17 Q Just the location and how American Steel Foundries
18 would refer to them.
19 A There was one on the driveway adjacent to the C and F
20 flogging floor. It had a unit number. I don't recall that
21 right now. But I believe that was a Fuller dust collector.
22 Q You mentioned C and F unit floor?
23 A C and F flogging floor and cooling bed.
24 Q What does "C and F" stand for?
25 A Chipping and finishing.

1 Q Is that the only other bag house that you observed?
2 A No, sir.
3 Q What other ones?
4 A There was one on the robot blast dust collector
5 adjacent to the equipment in the C and F.
6 Q Okay.
7 A There was one on the slogger gun system and sand system
8 in the C and F that was right next to the robot blast dust
9 collector.
10 Q Okay.
11 A There were several small dust collectors on various
12 equipment in the plant, on silos, sand-handling devices.
13 Q The discharges that you observed, what were they to?
14 A To Dempster boxes.
15 Q Was that Dempster box ever the same one that was used
16 to collect dust from the electric arc furnace?
17 A No, sir. They were designed for that particular job.
18 There was one more dust collector that was referred to as a
19 wet collector in foundry working and that was for sand mills
20 and sand-handling equipment.
21 Q If it would help any, you don't have to direct your
22 response to me. You can direct it directly to the court
23 reporter, if that makes it easier.
24 Do you know as to the Lake Park landfill, the date that
25 American Steel Foundries became the owner of that?

MR. SCHILLAWSKI: Objection.

A I don't know that.

Q Do you know when materials from the Alliance plant were first taken there?

MR. SCHILLAWSKI: Objection.

A No, sir.

Q Have you ever driven by the Lake Park landfill?

A Yes, sir.

Q Do you remember the year that you drove by it?

MR. SCHILLAWSKI: Objection.

A Probably through the 30 years that I worked at American Steel Foundries, there were times that I drove by just going to and from work.

Q When you drove by, was there a fence around the Lake Park landfill?

MR. SCHILLAWSKI: Objection.

Q Did you observe a fence?

A I don't think there always was a fence.

Q Do you know when the fence was installed?

A No, sir.

Q Can you describe the area around the Lake Park landfill?

MR. SCHILLAWSKI: Objection.

A The observation from the road is a wooded section plus a trailer park, and there is 2 small lakes, I believe, in the

1 vicinity on the east side -- no, south side. That would be
2 more towards Route 62, and I think the other road at right
3 angles to Lake Park was Thompson Road.
4 Q What road did you drive on?
5 A Lake Park, Thompson to 62, and then sometimes I just
6 went out 62.
7 Q Other than the trailer park, was there any other human
8 habitation around the Lake Park landfill?
9 MR. SCHILLAWSKI: Objection.
10 Q Immediately adjacent to it?
11 A I can't say for sure.
12 (Recess taken.)
13 MR. CLARIZIO: Would you mind reading
14 the last question and answer?
15 (The record was read by the reporter.)
16 Q During the period from 1980 to 1987, were you aware if
17 American Steel Foundries had any employees working at the
18 Lake Park landfill?
19 MR. SCHILLAWSKI: Objection.
20 A I had knowledge of the fence being installed, but that
21 was installed, I believe, by an outside contractor.
22 Q Was there a guard at the Lake Park landfill prior to
23 the fence being installed?
24 MR. SCHILLAWSKI: Objection.
25 A Not to my knowledge.

1 Q Is that something that your department would have been
2 responsible for?
3 A I don't understand the question.
4 Q The guarding or the security of the Lake Park landfill,
5 if a guard were needed, would that be your department's
6 responsibility or some other department's?
7 A It would be the personnel department's responsibility.
8 Q And who would that person report to once they were
9 hired?
10 MR. SCHILLAWSKI: Objection.
11 A You mean a guard?
12 Q Yes.
13 A I don't know.
14 Q Did you ever observe a member of the public walking on
15 to the Lake Park property?
16 MR. SCHILLAWSKI: Objection.
17 A No, sir.
18 Q Did you ever hear of anybody from the public walking
19 onto Lake Park property?
20 MR. SCHILLAWSKI: Objection.
21 A Yes, sir.
22 Q Who did you hear it from?
23 MR. SCHILLAWSKI: Objection.
24 A I heard through different periods of times that there
25 were other people dumping refuse at the landfill.

1 Q Who told you that?
2 MR. SCHILLAWSKI: Objection.
3 A It was common knowledge in the conversations between
4 the engineering and maintenance department.
5 Q What was the common knowledge based on?
6 MR. SCHILLAWSKI: Objection.
7 A They would see the type of materials that were at the
8 landfill.
9 Q Did they ever see anyone else directly deposit the
10 materials at the Lake Park landfill?
11 MR. SCHILLAWSKI: Objection.
12 A Not to my knowledge.
13 Q Did you ever tell anyone of the public not to go to the
14 Lake Park property?
15 MR. SCHILLAWSKI: Objection.
16 A I had no responsibility for that area.
17 Q And who would have had responsibility for that area?
18 MR. SCHILLAWSKI: Objection.
19 A I would guess the engineering department.
20 Q Prior to today, did you ever have any contacts with
21 Miss Catherine McCord of U.S. EPA?
22 A No, sir.
23 Q Do you know of the materials that were dumped by
24 American Steel Foundries personnel at the Lake Park landfill?
25 MR. SCHILLAWSKI: Objection.

1 A Would you repeat that question?
2 Q Sure. Do you know what materials were taken by
3 American Steel Foundries employees to the Lake Park landfill?
4 A Not all of the materials.
5 Q What materials are you aware of that were taken there?
6 MR. SCHILLAWSKI: Objection.
7 A Sludge from the clarifier, dust from the electric
8 furnace dust collector, materials from the Fuller dust
9 collector, the robot dust collector, and the slaughter gun
10 dust collector, broken cores, possibly some waste sand, wood
11 products, paper products. That's probably the best knowledge
12 I have of what went there.
13 Q Okay. Do you know if Stoddard solvents were ever taken
14 there?
15 A Not to my knowledge.
16 Q Do you know if trichloroethylene was ever taken there?
17 MR. SCHILLAWSKI: Objection.
18 A Not to my knowledge.
19 Q Do you know if trichloroethane was ever taken there?
20 MR. SCHILLAWSKI: Objection.
21 A Not to my knowledge.
22 Q I will ask the same question for the following. Were
23 lubricants ever taken there?
24 MR. SCHILLAWSKI: Objection.
25 A Possibly.

1 Q When you say, "possibly," is that based on your
2 personal observation?
3 MR. SCHILLAWSKI: Objection.
4 A I was informed by the engineering department that we
5 were getting some oil deposits in the clarifier system.
6 Q When were you informed of that?
7 A I don't know the exact date.
8 Q Was it prior to 1980?
9 A I can't say that for sure.
10 Q So the lubricants that would have been taken there were
11 lubricants that were in the clarifier slurry?
12 A Yes.
13 Q Were oils ever taken there?
14 MR. SCHILLAWSKI: Objection.
15 A Well, "lubricant" can be grease or oil.
16 Q Were paints ever taken there?
17 MR. SCHILLAWSKI: Objection.
18 A Possibly.
19 Q When you say, "possibly," what is that based on?
20 MR. SCHILLAWSKI: Objection.
21 A Empty cans.
22 Q Empty cans that --
23 A Empty paint cans.
24 Q -- that you observed at Lake Park?
25 MR. SCHILLAWSKI: Objection.

1 A That would be considered refuse, and the refuse was
2 hauled out of the plant by the yard department and apparently
3 to the landfill.
4 Q So that would be within the responsibility of the yard
5 department, then?
6 MR. SCHILLAWSKI: Objection.
7 A Yes.
8 Q Did you ever observe empty cans being taken to the Lake
9 Park landfill?
10 MR. SCHILLAWSKI: Objection.
11 A Not especially. I knew the cans were emptied, and the
12 cans became refuse and they disappeared from the plant
13 property.
14 MR. SCHILLAWSKI: Objection.
15 Rich, could we put years on these?
16 MR. CLARIZIO: Sure.
17 MR. SCHILLAWSKI: Because a lot of my
18 objections are just time period objections.
19 MR. CLARIZIO: Well, the beginning
20 was that we are talking about '80 to '87.
21 MR. SCHILLAWSKI: I understand that.
22 But witnesses don't always remember the
23 introductory comments that well.
24 Q Just a reminder, Mr. Dolphin, that the time period we
25 are primarily concerned with, unless I indicate otherwise, is

1980 to 1987.

A I wasn't there in 1987.

Q I'm sorry. 1986. I should say that even though you weren't there, your answer is not limited to only when you were employed. If you happen to have driven by the Lake Park facility after your employment and observed certain things, you can testify to that, also. So I'm looking for 1980 to 1987. I realize that you were only employed until '86. But if you happened to observe anything after '86, please answer.

A I haven't had occasion to be at the plant after I was discharged.

Q Okay.

A I have driven by the plant.

Q Okay. I want to go back to Lake Park landfill for a second. Did you observe thinners being taken to the Lake Park landfill during the period of 1980 to 1987?

A Similar to the paint cans, they became refuse and they disappeared from the plant property.

Q Did you ever have the opportunity to examine the refuse during the 1980 to 1987 time period?

A Not especially. If that had to be done, I would have probably assigned somebody else to do it.

Q Who would have been assigned that? What job category?

A Probably line supervisor.

Q Was it American Steel Foundries' practice to have that

1 refuse examined by someone before being disposed of?
2 MR. SCHILLAWSKI: Objection.
3 A Not to my knowledge.
4 Q When you mentioned that empty cans were taken, did you
5 ever observe the condition of those cans when you were taken
6 to the landfill?
7 A No, sir.
8 Q I'm going to return to Lake Park landfill a little
9 later on. For now, I want to move on to the clarifier. You
10 had mentioned that you had observed the operation of the
11 clarifier system?
12 A Yes.
13 Q Have you ever observed discharges from the clarifier
14 system?
15 MR. SCHILLAWSKI: Objection.
16 A Only the sludge.
17 Q Sludge. And what did you observe?
18 MR. SCHILLAWSKI: Objection.
19 A Meaning what?
20 Q When the discharges were occurring, what happened?
21 A The discharge at one time went through a special filter
22 system that became obsolete. In place of that, there were
23 storage tanks installed. The sludge was pumped from the
24 center of the clarifier to the storage tanks and then pumped
25 into the Dempster tank.

1 Q Was it ever discharged into a torpedo car?
2 MR. SCHILLAWSKI: Objection.
3 A What do you mean by a torpedo car?
4 Q I think earlier we had talk about a cylindrical --
5 A This was the one I was referring to.
6 Q So it was a cylindrical --
7 A It was a sludge tank.
8 Q The discharges into the sludge tank, how did those
9 occur?
10 MR. SCHILLAWSKI: Objection.
11 A The operator would back the truck under the discharge
12 area and open a valve and fill the tank to a specified level.
13 Q Did you observe that ever occuring?
14 MR. SCHILLAWSKI: Objection.
15 A On occasion.
16 Q Again we are talking about the period from 1980 to
17 1987. How frequently would you have observed that?
18 A I couldn't set an exact time on it, but normally I made
19 a pretty good round of the plant every day and took a look at
20 the general operation of the plant.
21 Q Were you there during the entire period of the
22 discharge or just during part of the discharge?
23 A Just part of it.
24 Q You mentioned that the driver would open the valve and
25 then have it discharge into the sludge tank and then he would

1 measure. How did he measure how much would go in there?
2 MR. SCHILLAWSKI: Objection.
3 A Visible observation.
4 Q And where would he be when he made those visible
5 observations?
6 MR. SCHILLAWSKI: Objection.
7 A By the discharge end of the tank.
8 Q Would be looking into the tank, then?
9 A When he felt it was getting close to full, yes.
10 Q Was it the practice to fill the sludge cars till they
11 were completely filled?
12 MR. SCHILLAWSKI: Objection.
13 A No, sir.
14 Q What was the practice?
15 MR. SCHILLAWSKI: Objection.
16 A There was a specified level to -- well, let's start
17 back at the beginning. At one time the sludge was not taken
18 into the electric furnace at the time. At that point, it was
19 filled to a specified height. When the tank started going to
20 the electric furnace dust collector, it had a lesser amount
21 of sludge in it, so it has capacities for the dust from the
22 electric furnace dust collector.
23 Q At what time was that, the shift from not going to the
24 dust collector?
25 A I couldn't set a time on it.

1 Q Was it before 1980?

2 MR. SCHILLAWSKI: Objection.

3 A I couldn't say for sure.

4 Q Did you ever observe it when it was filled in

5 anticipation of going to the dust collector?

6 MR. SCHILLAWSKI: Objection.

7 A Not especially, no.

8 Q Did you ever observe the placement of dust from the

9 dust collector into the tank that had clarifier sludge?

10 MR. SCHILLAWSKI: Objection.

11 A I probably had.

12 Q When would that have been?

13 MR. SCHILLAWSKI: Objection.

14 A Sometime in my normal tour of the plant.

15 Q How would you have known that there was sludge in the

16 tank?

17 A He wouldn't have used the sludge tank for the

18 collection of dust if there wasn't sludge in it.

19 Q From the exterior, other than looking inside the sludge

20 tank, is there any way of discerning how much sludge is in

21 the sludge tank?

22 MR. SCHILLAWSKI: Objection.

23 A Not that I know of.

24 Q When the sludge was placed into the sludge tank, were

25 you the plant supervisor at that time?

1 MR. SCHILLAWSKI: Objection.
2 A At some period of time I was, yes.
3 Q Can you specify that period of time, please?
4 MR. SCHILLAWSKI: Objection.
5 A No, sir.
6 Q Were you the general foreman of the maintenance
7 department at that time?
8 MR. SCHILLAWSKI: Objection.
9 A Probably, yes.
10 Q And the time that we are talking about is from 1980 to
11 1987?
12 A Yes.
13 Q Was the only way of measuring how much sludge should be
14 placed in the torpedo car by visible observations?
15 MR. SCHILLAWSKI: Objection.
16 A The tank probably had a capacity, and the level of the
17 sludge was determined by the capacity of the tank as being at
18 what point they wanted to stop putting the materials in.
19 Q Was there any measuring device or was it just visible
20 observation?
21 MR. SCHILLAWSKI: Objection.
22 A I believe it was just visible.
23 Q Did you ever have occasion to direct how much sludge
24 was going to a particular sludge car?
25 A No, sir.

1 Q And again, that was the truck driver that was
2 responsible for that?
3 MR. SCHILLAWSKI: Objection.
4 A The yard department and the truck driver.
5 Q Are you aware of how many trucks would be filled on a
6 per-day basis with sludge from the clarifier?
7 MR. SCHILLAWSKI: Objection.
8 A No. That was based on the production of the plant.
9 Q So it could vary from day to day?
10 A Yes, it could.
11 Q The visible observations of the sludge going into the
12 sludge tank car, was that only from the top of the sludge car
13 or would it also be determined from on the ground?
14 MR. SCHILLAWSKI: Objection.
15 A It had to be on the tank, or behind the tank at the
16 discharge end.
17 Q How would it be possible to observe it at the discharge
18 end?
19 A I think there were ladders on the tank.
20 Q And would somebody climb the ladder to the top of the
21 tank, then?
22 MR. SCHILLAWSKI: Objection.
23 A Probably the truck driver.
24 Q Was it the truck driver's responsibility to ensure that
25 the sludge was filled in the tank car to a specified level?

1 MR. SCHILLAWSKI: Objection.
2 A As far as I know.
3 Q You had mentioned that the truck driver operated a
4 valve to discharge the sludge into the sludge tank car; is
5 that correct?
6 A Yes.
7 Q Was that a manual valve?
8 MR. SCHILLAWSKI: Objection.
9 A It was a manual valve.
10 Q And the piping that went into the sludge tank car, did
11 it move up and down?
12 MR. SCHILLAWSKI: Objection.
13 A I don't believe it did.
14 Q Did it move horizontally?
15 MR. SCHILLAWSKI: Objection.
16 A No. It was on a pivot, if I remember correct.
17 Q And which way did it move on the pivot?
18 A It would move in an arc, probably 120 degrees.
19 Q And did the piping extend all the way into the sludge
20 tank car?
21 MR. SCHILLAWSKI: Objection.
22 A No, I don't believe it did.
23 Q How wide was the opening on top of the sludge tank car?
24 A I don't recall.
25 Q Was it larger than 2 feet in diameter?

1 MR. SCHILLAWSKI: Objection.
2 A Possibly.
3 Q Was it lighted at all so that you could see what went
4 into the sludge tank car?
5 A There were outside lights for use at night, yes.
6 Q Discharges into the sludge tank car, did they occur
7 throughout the day?
8 MR. SCHILLAWSKI: Objection.
9 A Again, this was determined by the production
10 requirements, but there were 2 and 3 shifts' use of the
11 Dempster truck at different periods of time.
12 Q And again, this would be the responsibility of the yard
13 department?
14 MR. SCHILLAWSKI: Objection.
15 A Yes.
16 Q And they would know about the scheduling of the
17 discharges into the sludge tank car?
18 MR. SCHILLAWSKI: Objection.
19 A On the first shift, the supervisor in the yard would
20 know. On the second and third shifts, the truck driver would
21 know.
22 Q Did you ever observe any night discharges, evening
23 discharges?
24 MR. SCHILLAWSKI: Objection.
25 A No. I was fortunate. I didn't have to work nights.

1 Q During the period from 1980 to 1987, you had mentioned
2 that somewhere in there, in that time period, sludge from the
3 tank car was taken to the electric arc furnace dust bag house
4 area and dust from the bag house area was discharged into the
5 tank car; is that correct?
6 A Yes, sir.
7 Q Did that occur only during the day?
8 MR. SCHILLAWSKI: Objection.
9 A I can't tell you that.
10 Q Is that again something in the yard department?
11 A The yard department would know the schedule for that,
12 yes. Plus the guard at the front gate would know the log of
13 the trucks going in and out.
14 Q The log at the gate, what was required to be entered on
15 the log?
16 MR. SCHILLAWSKI: Objection.
17 A I don't know for sure.
18 Q On the first shift, when you would have been fortunate
19 enough to be at the plant, during the winter months, winter
20 months being the period of from November to basically March,
21 did you ever observe the discharge of slurry into the slurry
22 tank car with the tank car then being placed over with the
23 bag house dust into the bag house?
24 A Yes, as long as the plant was operating.
25 Q When you observed that, was it at a time period when

there was natural sunlight or was it in the early morning hours?

A It could have been in the early morning hours.

Q When does the first shift start?

A 7:00 o'clock. I started before 7:00.

Q Okay. Were are you aware if any chromite sand may have been in the slurry from the clarifier system?

MR. SCHILLAWSKI: Objection.

A Yes, sir.

Q I'm sorry.

A Yes.

Q How are you aware of that?

A Because ~~it was a very~~ cost-effective thing if you could reclaim the chromite sand, and the engineering department was working on a chromite reclaimer.

Q Are you aware if any chromite sand would have been in the actual discharge into the tank car?

A The reclaimed sand went through a hydro blast system, the sludge went to the clarifier, materials from the heavies, as they called it, from the clarifier went to the storage tanks and then went into the sludge tanks.

Q Is it possible that the sludge would have contained chromite sand?

MR. SCHILLAWSKI: Objection.

A A good guess would say that it did.

1 Q Is that based on any testing on your part?
2 A No, sir.
3 Q Is it based on knowledge of any testing done by
4 American Steel Foundries on the sludge?
5 A It is possible.
6 Q Who would have done the testing?
7 A Somebody in the engineering department.
8 Q Did anyone from the engineering department ever tell
9 you that the sludge from the clarifier contained chromite
10 sand?
11 MR. SCHILLAWSKI: Objection.
12 A The general talk in the engineering department between
13 them and myself was about the reclamation of chromite sand.
14 Q Do you remember if that included discussions about the
15 analysis of the sludge?
16 MR. SCHILLAWSKI: Objection.
17 A Personally, I don't know of any other place that the
18 chromite sand could have gone.
19 Q Okay. Do you remember the time when you would have had
20 these discussions?
21 MR. SCHILLAWSKI: Objection.
22 A No, sir.
23 Q Do you remember the date?
24 A No, sir.
25 Q The discussions that you had with the engineering

1 department about the reclamation of the chromite sand, do you
2 remember the dates that that occurred?
3 MR. SCHILLAWSKI: Objection.
4 A No, sir.
5 MR. SCHILLAWSKI: Wasn't that the
6 question you just asked?
7 MR. CLARIZIO: No. That was on the
8 analysis of the sludge from the slurry.
9 MR. SCHILLAWSKI: Okay.
10 Q Do you remember with whom you had those discussions?
11 MR. SCHILLAWSKI: Objection.
12 A Probably various people in the engineering department.
13 Q Can you remember a name of any of those people?
14 MR. SCHILLAWSKI: Objection.
15 A At some point, probably John Difloure, Wilbur Borden,
16 and Ray DiGeronimo.
17 Q Okay.
18 A There is one other person that may have been involved
19 in some of these discussions, and that was John Wasem. He
20 was the chief engineer from Chicago.
21 Q Can you spell the last name?
22 A W-a-s-e-m.
23 Q How often was John Wasem at the plant, to your
24 knowledge?
25 A I couldn't put a frequency on it.

1 Q Did he come out when there were process changes at the
2 plant?
3 A Sometimes he would, yes.
4 Q Did he come out prior to the time when the sludge was
5 taken from the clarifier to the bag house dust?
6 A I don't think he would have come especially for
7 an observation of that operation.
8 Q Would he have come for discussions about whether the
9 sludge should be mixed with dust from the bag house?
10 MR. SCHILLAWSKI: Objection.
11 A Repeat the question.
12 Q Sure. Would he have been at the plant or discussing
13 with the engineering department at the plant the change from
14 just taking the sludge directly to Lake Park facility to
15 taking it to the bag house dust and mixing it with bag house
16 dust and then taking it to the landfill?
17 MR. SCHILLAWSKI: Objection.
18 A He probably wouldn't have had a direct conversation
19 with me, but either him or one of his representatives would
20 have discussed it with the engineering department.
21 Q Was it the engineering department's decision to place
22 the electric arc furnace dust into the sludge tank car?
23 MR. SCHILLAWSKI: Objection.
24 A American Steel Foundries and Amsted Industries have a
25 very delicate chain of command system, and through the past

1 years, it has been almost impossible for anybody at the local
2 level to make a complete decision on any change of
3 applications.
4 Q So a decision such as mixing the electric arc furnace
5 dust with the clarifier sludge would have been approved by
6 the corporate individuals in addition to the local?
7 MR. SCHILLAWSKI: Objection.
8 A I would think it should have.
9 Q Do you know the size of the clarifier tanks?
10 A You mean the storage tanks?
11 Q Yes.
12 A They were of enough capacity -- there were 2 of them,
13 and the capacity was such that they could store a
14 considerable amount of sludge without having to haul it away.
15 Q What would you define as "considerable amount of
16 sludge"?
17 A Probably 4 sludge tanks' worth.
18 Q Do you know if any chemicals were added to the
19 clarifier system to enhance the separation of the waste
20 waters from the sand?
21 MR. SCHILLAWSKI: Objection.
22 A Yes. There was an employee that that was his
23 particular job.
24 Q What was the employee's name?
25 A I don't recall.

1 Q Do you know --
2 A There were more than one at different times.
3 Q Who did he report to?
4 MR. SCHILLAWSKI: Objection.
5 A I really don't know. Possibly the superintendent of
6 the foundry or general foreman of the foundry.
7 Q Who was responsible for operating the clarifier system?
8 MR. SCHILLAWSKI: Objection.
9 A Probably the foundry.
10 Q Did you ever observe the chemicals being added to the
11 clarifier?
12 A Some of them were fed automatically, and I did see that
13 operation.
14 Q Do you remember what those chemicals were?
15 A The only one that I recall was aluminum sulfate.
16 Q Were others added manually?
17 MR. SCHILLAWSKI: Objection.
18 A They went into mixing tanks and the materials were
19 mixed, and I don't believe it was added manually.
20 Q Did you ever observe the addition of these?
21 A With the pumps, yes.
22 Q Do you remember what those chemicals were?
23 A Like I said, the only one I recall is that aluminum
24 sulfate.
25 MR. CLARIZIO: I want to mark an

1 exhibit, please. If you can mark this as
2 Exhibit A.
3 It is entitled the Yard Department
4 Dempster Report. I will give you 2 copies.
5 It has already got an exhibit number on it
6 from Mr. Rude's deposition. The exhibit
7 number is E.
8 - - - - -
9 (Deposition Exhibit E was
10 marked for identification.)
11 - - - - -
12 Q Mr. Dolphin, just take a few seconds to familiarize
13 yourself with that. After you have had a chance to look at
14 it and you are ready to answer some questions, just let me
15 know.
16 A The first thing I'm looking at is dates on this, and I
17 only see the dates of the deposition.
18 Q Correct.
19 A So I can't relate to when it is -- oh, 1982. Excuse
20 me.
21 Q Are you ready?
22 A Okay.
23 Q The exhibit that I have handed you is called the Yard
24 Department Dempster Report. Are you familiar with this
25 report?

1 A It is the first I have ever seen it.
2 Q So you have never seen this report before.
3 Is anyone in your department responsible for completing
4 this report?
5 MR. SCHILLAWSKI: Objection.
6 A No, sir.
7 Q I have no other questions on that exhibit.
8 Let me go back to the exhibit for one second. Have you
9 ever seen a report similar to this one?
10 A No, sir.
11 Q I would like to return for a second to the refuse that
12 you had mentioned was at times located on the Alliance
13 property. And that refuse, you had stated, may have
14 consisted of empty paint cans and maybe empty solvent cans;
15 is that correct?
16 MR. SCHILLAWSKI: Objection.
17 A Yes, sir.
18 Q Was the refuse at all separated?
19 MR. SCHILLAWSKI: Objection.
20 A Not to my knowledge.
21 Q Did you ever observe it being separated?
22 A No, sir.
23 Q Did anybody ever tell you that it was separated?
24 MR. SCHILLAWSKI: Objection.
25 A No, sir.

1 Q So is it possible that the refuse may have contained
2 empty paint cans, paper, empty thinner bottles, and other
3 materials?
4 MR. SCHILLAWSKI: Objection.
5 A Yes, sir.
6 Q Were there any separate boxes for the placement of
7 different pieces of refuse?
8 MR. SCHILLAWSKI: Objection.
9 A Not to my knowledge.
10 Q Mr. Dolphin, in addition to the empty paint cans that
11 you observed in the scrap refuse pile, did you ever observe
12 any scrap paint?
13 MR. SCHILLAWSKI: Objection.
14 A Repeat that.
15 Q Did you ever observe any paint chips?
16 A I never observed them, but I know that in one
17 department in the C and F, there was a paint spray booth and
18 there was quite a bit of material, basically paint, that
19 accumulated, and on occasion the C and F department had to
20 clean that material out and it had to be removed from the
21 plant.
22 Q And was it placed in this refuse pile?
23 MR. SCHILLAWSKI: Objection.
24 A I don't know.
25 Q You had mentioned a spray booth, I believe it is. Were

1 there any filters on the painting equipment?
2 A Yes, sir.
3 Q Were filters from the painting equipment also included
4 in the refuse?
5 A I have never seen them as such, but it had to be that
6 way.
7 Q Was old paint ever discarded in the refuse?
8 MR. SCHILLAWSKI: Objection.
9 Q I mean, paint that was no longer useable?
10 A I can't say.
11 Q You had mentioned that solvent cans may have also been
12 placed there?
13 MR. SCHILLAWSKI: Objection.
14 Q Do you know what the solvents would have been used for?
15 A The only one that I'm familiar with would be the
16 thinners that would be used in painting with the maintenance
17 department.
18 Q Your familiarity, is that personal familiarity of what
19 your department handled?
20 A Yes.
21 Q Do you know if degreasers were ever used at the
22 foundry?
23 MR. SCHILLAWSKI: Excuse me. What
24 was the last word?
25 MR. CLARIZIO: At the foundry.

1 A They were used in the maintenance department.
2 Q And what were the degreasers used for?
3 A To clean equipment that was being repaired and
4 occasionally out in the plant to clean large pieces of
5 equipment.
6 Q Do you know the name of the company that manufactured
7 the degreasers?
8 A There were several companies that -- you were always
9 trying to get something a little bit better.
10 Q What were some of the ones that you remember that were
11 used?
12 A There was so many different names, I couldn't even tell
13 you the names.
14 Q Is there a record of those names?
15 MR. SCHILLAWSKI: Objection.
16 A Probably in the purchasing department some place.
17 Q Were the orders for the degreasers at the direction of
18 the maintenance department or was it something that the
19 purchasing department did?
20 MR. SCHILLAWSKI: Objection.
21 A Anything we wanted to order through the maintenance
22 department, we had to make out an A-2, which was a
23 requisition to purchase. It went through the purchasing
24 department, and unless the maintenance department specified a
25 particular material, the order was put out for bids and the

1 bid went to the lowest price.

2 Q The thinners that were used by the maintenance

3 department, do you remember the name of the manufacturer?

4 A No, sir.

5 Q Again, would that be something that the purchasing

6 department might have in the requisition sheets?

7 MR. SCHILLAWSKI: Objection.

8 A A lot of the paint that the maintenance department used

9 came from Stewart Brothers in Alliance. The purchasing

10 department would probably have a record of that.

11 Q Do you remember the types of thinners that were used?

12 MR. SCHILLAWSKI: Objection.

13 A Not especially, no.

14 MR. CLARIZIO: I think what I would

15 like to do at this time is just take maybe a

16 5- or 10-minute break, then we can come back,

17 if that's okay with everybody.

18 (Recess taken.)

19 BY MR. CLARIZIO:

20 Q Basically, what I want to do right now is just ask you

21 a few additional questions.

22 Going back to the period from 1980 to 1987, when you

23 observed dust being placed from the bag house into the sludge

24 tank, were there any predetermined levels of how much dust

25 should be placed in the sludge tank?

MR. SCHILLAWSKI: Objection.

A I don't know.

Q Do you know who would know?

A Probably the operator of the truck.

Q The operator of the truck.

Was the operator of the truck the one responsible for those discharges from the hopper into the sludge tank?

MR. SCHILLAWSKI: Objection.

A Almost always. And some occasions, it might be the superintendent of the electric furnace.

Q Under what conditions would it have been the superintendent of the electric furnace?

MR. SCHILLAWSKI: Objection.

A If there was an emergency situation.

Q Do you remember any emergency situations occurring?

A There is always emergencies. I couldn't put a date on it.

Q Were there any emergencies that would have required the discharge of the electric arc furnace dust into either a Dempster or the sludge tank?

MR. SCHILLAWSKI: Objection.

A Yes, and also into the atmosphere.

Q And when were those emergencies?

MR. SCHILLAWSKI: Objection.

Q Do you remember?

A I couldn't put a date on it.

Q You mentioned that there may have been discharges into the atmosphere. Under what conditions would that have occurred?

MR. SCHILLAWSKI: Objection.

A If the discharge from the electric furnace to the bag house reached a temperature that was too high, it was automatically by-passed to the atmosphere. That was so the bags wouldn't catch on fire.

Q So these discharges were not from the hopper, they were from a different point?

A From an exhaust stack.

Q During any of these emergencies, would there have been discharges from the hopper, also?

MR. SCHILLAWSKI: Objection.

A I don't believe so.

Q When you observed discharges of dust into the sludge tank, could you tell how much volume of dust was placed into the sludge tanks?

MR. SCHILLAWSKI: Objection.

A No, sir.

Q Was that because it was physically impossible for you to determine that?

MR. SCHILLAWSKI: Objection.

A No. I wasn't in the habit of climbing up on the boxes.

1 Q Would there be any records of how much dust was
2 discharged to a particular sludge tank?
3 MR. SCHILLAWSKI: Objection.
4 A I don't know.
5 Q Was the same dumpster used for -- let me back up for a
6 second. I'm going to shift here from the sludge tank to the
7 dumpster.
8 Was the same dumpster used when discharges were made
9 from the hopper into the dumpster?
10 MR. SCHILLAWSKI: Objection.
11 A Over the years, there were several different boxes used
12 where there were improvements made in the containment of
13 dust. Normally, there would be no discharge when that box
14 was taken out.
15 Q I'm sorry. Can you repeat that again?
16 A Well, the screw mechanism that moved the dust into the
17 box was shut off when the box was removed. I don't believe
18 there were 2 boxes used at any time.
19 Q Okay. Did either the sludge tank car or the dumpster
20 have any identifying information on it other than the company
21 logo?
22 MR. SCHILLAWSKI: Objection.
23 A The box or the tank didn't have a logo. It was on the
24 truck, and the only identification there is the unit number
25 that was welded on the piece of equipment.

1 Q What was the unit number used for?

2 MR. SCHILLAWSKI: Objection.

3 A To identify the piece of equipment.

4 Q Is there a department at the Alliance plant responsible

5 for making signs for the plant?

6 MR. SCHILLAWSKI: Objection.

7 A At the direction of other departments, the B&E

8 department or maintenance department would at one time make a

9 sign.

10 Q So that would have been your department during the

11 period of 1980 to 1987?

12 MR. SCHILLAWSKI: Objection.

13 A Yes.

14 Q Was your department ever asked to create any signs for

15 the Dempster or the sludge trucks?

16 MR. SCHILLAWSKI: Objection.

17 A Not to my knowledge.

18 Q Were you asked to maintain any signs or to repair any

19 signs?

20 MR. SCHILLAWSKI: Objection.

21 A Strictly for them?

22 Q Just for those 2.

23 A Not to my knowledge.

24 Q Were you requested to make any signs for the Lake Park

25 landfill?

1 MR. SCHILLAWSKI: Objection.
2 A I don't know for sure.
3 Q Do you know who might know?
4 A Probably somebody from the yard department might know.
5 It might have been at their request or requested by the
6 engineering department.
7 Q Do you know if your department was asked to maintain
8 any signs at the Lake Park landfill?
9 MR. SCHILLAWSKI: Objection.
10 A Not to my knowledge, no.
11 Q Do you know if there were any signs at the Lake Park
12 landfill?
13 MR. SCHILLAWSKI: Objection.
14 A I think there were some, but I couldn't tell you what
15 they are.
16 Q Do you know if there were any signs saying "Do not
17 enter"?
18 MR. SCHILLAWSKI: Objection.
19 A Possibly.
20 Q Do you know where those signs may have been placed?
21 MR. SCHILLAWSKI: Objection.
22 A If there was a sign, it would have been at the entrance
23 to the landfill from Lake Park.
24 Q And where is that entrance on Lake Park?
25 A Off Lake Park Boulevard.

1 Q And would that have been true prior to the time the
2 fence was installed at the Lake Park landfill?
3 MR. SCHILLAWSKI: Objection.
4 A I couldn't say for sure.
5 Q Have you ever observed drum materials at the Lake Park
6 landfill?
7 MR. SCHILLAWSKI: Objection.
8 A What do you mean by "drum materials"?
9 Q A drum with something in it or just a drum by itself at
10 Lake Park landfill.
11 MR. SCHILLAWSKI: Objection.
12 A Most of the metal drums at the plant were retained for
13 use at the burn-out pits in the foundry. They were used for
14 garbage cans. There were probably some scrap cans because of
15 damage that were sent out there and possibly some cardboard
16 containers or drums, if you want to call them that, that
17 material was received in.
18 Q When the drums were used for the burn-out pits, do you
19 know the purpose of their use?
20 MR. SCHILLAWSKI: Objection.
21 A Yes. The drums were made in such a position that the
22 slag from the bottom of the ladle went into that drum. It
23 accumulated in a safe position.
24 Q Do you remember what drum materials were received at
25 the Alliance plant?

MR. SCHILLAWSKI: Objection.

A There is too many that I would -- really couldn't tell you.

Q If we were to show you records of some of the material, would that refresh your recollection?

A Possibly.

Q Did degreasers come in drums?

MR. SCHILLAWSKI: Objection.

A Yes.

Q Did paint come in drums?

MR. SCHILLAWSKI: Objection.

A I think some of the production paints came in drums, but most of the maintenance department came in nothing bigger than a 5-gallon container. Usually one gallon.

Q Did solvents come in drums?

MR. SCHILLAWSKI: Objection.

A Yes.

Q The solvents and degreasers and general refuse that the maintenance department generated, how were those disposed of?

MR. SCHILLAWSKI: Objection.

A Some of it went down drains.

Q And what about others?

MR. SCHILLAWSKI: Objection.

A Possibly just swept around until it was thinned out enough that it evaporated into the air.

1 Q Was any of it ever disposed of in the refuse piles that
2 you had mentioned previously?
3 MR. SCHILLAWSKI: Objection.
4 A Possibly.
5 Q Did you ever observe any of it in the refuse pile?
6 MR. SCHILLAWSKI: Objection.
7 A No, sir.
8 Q Was any of it ever disposed of in the area south or
9 east of the plant?
10 MR. SCHILLAWSKI: Objection.
11 A You say south or east of the plant?
12 Q The southern part of the plant, as I understand, there
13 is a piece of property that there is no buildings on, but
14 that it is part of the plant property. It is vacant,
15 basically.
16 A There were a lot of materials deposited there at the --
17 I'm trying to get my direction, now -- at the Broadway end of
18 the plant on what would be the east side, the northeast
19 corner.
20 Q Did you observe materials being disposed of there?
21 A Yes.
22 Q What did you observe?
23 A Sludge from the clarifier and an assortment of
24 materials. Broken cores, waste wood, things like that.
25 Q Did you observe solvents or degreasers ever being

1 disposed of there?

2 MR. SCHILLAWSKI: Objection.

3 A Not especially.

4 Q Did you ever observe paint drums or paint pails ever

5 being disposed of there?

6 MR. SCHILLAWSKI: Objection.

7 A If they are, they were covered up with that material.

8 Q Were any paint filters or paint chips disposed of

9 there?

10 MR. SCHILLAWSKI: Objection.

11 A Not to my knowledge.

12 Q Was there any written or oral policy about where wastes

13 from the maintenance department should be disposed of?

14 MR. SCHILLAWSKI: Objection.

15 A The only one that I would be familiar with would be

16 PVC.

17 Q Can you define for me what "PVC" is?

18 A It is a coolant oil in transformers.

19 Q And what was the policy and procedure for disposal of

20 that?

21 MR. SCHILLAWSKI: Objection.

22 A Once we were notified by the engineering department

23 through the Chicago offices, we had to drain the existing oil

24 out, put it in containers, and then a disposal company picked

25 it up and removed it from the property.

1 Q Did you observe any of this?
2 A Pardon?
3 Q Did you observe any of this disposal activity?
4 A Yes. Only as far as the plant proper.
5 Q Okay.
6 A Not outside the plant.
7 Q Do you know if the coolants contained any chemical by
8 the name of polychlorinated biphenyls?
9 A I think that is PVC.
10 Q PCB that is.
11 A PCB. Excuse me.
12 Q You have to be very careful with the acronyms.
13 A I said, "PVC" the first time.
14 Q Did the coolants contain any polychlorinated biphenyls,
15 to your knowledge?
16 A Yes. That is why we had to remove it.
17 Q And your knowledge is based on actually seeing data
18 indicating the contents of the coolant?
19 A I don't recall that I saw the data from it, but because
20 of the age of most of the equipment, it was a common practice
21 by manufacturers to put this material in the transformers.
22 Q The coolant was used during the period of 1980 to 1987?
23 A I think we had removed it all prior to that.
24 Q Prior to 1987?
25 A Yes.

Q I mean prior to 1980?

A Prior to 1980, or right around that period of time.

Q To your knowledge, was any of the coolant ever taken to Lake Park landfill?

A Not to my knowledge, no.

Q Who would have been responsible for taking it to Lake Park landfill if it were taken there?

MR. SCHILLAWSKI: Objection.

A The yard department would have -- they would have had the operation of actually physically moving it. Who they would be told to do it by, that would be different.

Q Did you ever see this coolant being disposed of in the area that we have talked about on the south or eastern end of the property?

MR. SCHILLAWSKI: Objection.

A Not to my knowledge.

Q The policy that you mentioned, was it a written policy or verbal policy?

A It was mostly communication by paper, letter forms, and there was a record kept of when the materials were removed. The transformers had to have a tag put on them. It was a special effort to remove the materials.

Q Do you remember the disposal company that was contracted for the disposal?

A No. That was handled by the engineering department.

1 Q Do you remember when that paper communication would
2 have been for the disposal of the transformers and the
3 coolants in the transformers?
4 A No, I don't.
5 Q Do you remember who that would have been from?
6 A The letters?
7 Q Yes.
8 A The man in charge of the EPA operation at Amsted is in
9 the Chicago offices, and I would guess that it came from him
10 or his department.
11 Q Do you know who that person was at the time of these
12 letters?
13 A I should know his name really good. Mr. Bernard.
14 And that Charley Rude that you mentioned was in his office.
15 Q You had mentioned that the coolant and transformer
16 policy was a written policy. Were there any other written
17 policies concerning the management of the waste materials
18 generated at the Alliance plant?
19 MR. SCHILLAWSKI: Objection.
20 A The only one that I dealt with, and the only one I was
21 knowledgeable of, are the materials that you would come
22 across in the spray can, this type of operation, or greases
23 or detergent materials, things like that that the maintenance
24 people would come in contact with.
25 Q Was that a written policy, also?

A Yes, and it was an ongoing policy.

Q Who would have written that policy?

A I think the policy probably came from the Chicago offices directly, and the information contained came from the manufacturers of the product.

Q Previously you had mentioned that solvents from the B and E department may have been poured down drains; is that correct?

MR. SCHILLAWSKI: Objection.

A Yes, sir.

Q Do you know who directed that type of activity?

MR. SCHILLAWSKI: Objection.

A I don't think anybody directed it. It was just an area that a lot of equipment was cleaned.

Q How was it that it was poured down the drain? Was it just sort of sprayed along the ground?

MR. SCHILLAWSKI: Objection.

A Well, they used degreasing machines, and the excess materials just ran down the drain.

Q What about the handling of waste paints and solvents? Who would have directed the policy to dispose of those in the drain?

A I don't know that paints were disposed of in drains. But in the maintenance department, once the paint was used, it became junk and it was disposed of.

1 Q And that disposal, would that have been in the refuse
2 pile?
3 A In the Dempster box normally.
4 Q The drains that you are mentioning, where are they
5 located?
6 A One was between the railroad tracks coming into the
7 B and E department, which would be directly east of the B and
8 E office.
9 Q Was there another one, also?
10 A That is where the bulk of the maintenance department
11 cleaning took place, unless it was out in the plant.
12 Q The cleaning that occurred at that point, what was the
13 equipment that was being cleaned?
14 A Electrical motors and an assortment of mechanical
15 devices.
16 Q Was it cleaned on the ground or on some platform?
17 A Sometimes, depending on the size of the equipment, it
18 would be on a work buggy or a metal buggy or possibly set on
19 the ground or on a pallet on the ground.
20 Q How were the cleaning agents applied to those?
21 A By hot steam spray or hot water spray.
22 Q Was there any containment device to collect the run-off
23 from the steam spray?
24 A No.
25 Q Is it sloped at all in that location?

A Yes.
Q Is it sloped towards the discharge area that you mentioned?
A It slopes to the drain.
Q To the drain. Okay.
Do you know where the drains lead to?
A No, sir.
Q Are they municipal drains, by any chance?
A I couldn't tell you that.
Q Are they storm drains?
A Possibly.
Q I want to shift for a second now back to the dumpsters. Were tops always used on top of the dumpsters?
A For the electric furnace and dust collectors?
Q Yes.
A There is a possibility that at one time, on some of them, there may have been canvas used.

MR. CLARIZIO: What I would like to do is for you to mark it as an exhibit. I think we are still on Exhibit -- make it Exhibit B.

- - - - -

(Deposition Exhibit B was marked for identification.)

- - - - -

1 Q I want to hand you a blank sheet of paper marked
2 Exhibit B, and I'm going to hand you a pen because you are
3 going to need it for a second. Can you make a drawing,
4 please, of the dumpsters that were used to collect the
5 electric arc furnace dust?
6 A Do you want the dry and the wet?
7 Q The dry. I don't need the sludge tank. Just the dry.
8 (Pause.)
9 A There you are.
10 Q Okay. Can you label these 1, 2, and 3.
11 A Okay. 1, 2, and 3 or do you want top, bottom --
12 Q For now let's do 1, 2, and 3. But I like your idea.
13 Let's do top and bottom, also.
14 A (Witness complies.)
15 Q Now, Mr. Dolphin, the drawings that you have depicted
16 on Exhibit B, those are drawings of the dumpster that was
17 used solely for the collection of electric arc furnace dust
18 at the Alliance plant?
19 A At that time, yes.
20 Q All right. And the time that we are speaking of is
21 what time?
22 A '80 to '87.
23 Q '80 to '87.
24 MR. SCHILLAWSKI: Objection.
25 Q Was this used prior to the time when dust was added to

1 the slurry in the sludge cars?
2 A Yes.
3 Q On Drawing 1, you have placed at the very top what
4 appears to be a line with an arrow, a double arrow. What
5 does that represent?
6 A That indicates a lid, a hinged lid. Similar to a door
7 on a house.
8 Q The lid, does that go through the entire length of the
9 dumpster or is it --
10 A Just at the opening.
11 Q Just at the opening. And the diagonal lines that you
12 have drawn beneath that hinged lid, does that represent the
13 sides of the top of the dumpster?
14 A Yes. It was a frustum of a pyramid.
15 Q It has been long since I have had math. Could you
16 explain frustum?
17 A It is a pyramid with a section of the top cut off.
18 Q And that was affixed to the bottom square area that is
19 depicted in figure 1?
20 A Yes.
21 Q Was that metal or some other material?
22 A It was metal.
23 Q In figure 2, you appear to have the same frustum of a
24 pyramid. But it does not go the full length of the figure.
25 Is that because the frustum does not extend the full length?

1 A That's correct.
2 Q The area on the top which is not the frustum of the
3 pyramid, what is that?
4 A It is just a level covered area.
5 Q And how is that area covered?
6 A With metal.
7 Q And then the top view that is depicted in figure 3, is
8 it correct to say that the top portion of that figure is the
9 frustum of the pyramid with the bottom part the metal part?
10 A Correct.
11 Q Okay. Now, under the electric arc furnace bag house,
12 the discharges from the hopper, can you mark where on figure
13 3 those occurred? And mark it with a -- let's try A.
14 A You are asking for the area that the material went into
15 the box?
16 Q Yes.
17 A And you want that marked?
18 Q On figure 3.
19 A (Witness complies.)
20 Q Can you do the same on figure 2 and 1, also.
21 A (Witness complies.)
22 Q Okay. Now, when the box was ready to be unloaded of
23 its contents, where did the discharge occur?
24 A At the back end.
25 Q And can you put a B where that is?

1 A (Witness complies.)
2 Q Now, you have labeled B on figure 2. Does that
3 discharge point extend the full length from top to bottom of
4 the dumpster or is it a discreet portal?
5 A It is 99 percent of the rear end of the box.
6 Q And how is that operated? Is it a door which is
7 mechanically opened or is it --
8 A There is a mechanical latching device.
9 Q It is a door, then, that is lowered?
10 A No. It is hinged at the top, and when the mechanical
11 device unlatches, the Dempster box can be tilted on the
12 Dempster truck and the materials flow out the back end.
13 Q You had mentioned that some dumpsters may have been
14 tarped?
15 A At one time, yes.
16 Q The dumpsters that were tarped, were they used for
17 collecting dust from the electric bag house hopper?
18 A No, sir.
19 Q So only the dumpsters that you have depicted on Exhibit
20 B were the type that were used for collecting just the
21 electric arc furnace dust?
22 A With the exception of the sludge tank.
23 Q Correct. Was the sludge tank ever used solely for the
24 collection of electric arc furnace dust from the hopper?
25 MR. SCHILLAWSKI: Objection.

1 A Not to my knowledge.
2 Q So there was also another material in the sludge tank?
3 A To the best of my knowledge, yes.
4 Q Do you know the time frame it would take to fill one of
5 the dumpsters that you have depicted in Exhibit B?
6 MR. SCHILLAWSKI: Objection.
7 A That would probably depend on the amount of materials
8 in the storage hopper under the dust collector. The speed
9 was constant on the discharge, and really, I couldn't say how
10 long it would take to fill a box.
11 Q Mr. Dolphin, previously you had mentioned that a Mr.
12 Difloure was one of the chief engineers at the Alliance
13 plant. Do you know if he is still one of the chief engineers
14 there?
15 A My last knowledge of Mr. Difouure was that he was the
16 superintendent of maintenance.
17 Q So he is still employed there?
18 A As far as I know.
19 Q Do you know when he became the superintendent of the
20 maintenance department?
21 A Approximately a month after I was terminated.
22 Q So he replaced you, then; is that correct?
23 A From the position of assistant works manager.
24 Q Do you know if he had any other titles when you were
25 employed at Alliance?

1 A He was the plant superintendent.
2 Q During what period of time?
3 A I couldn't put a day on it, no.
4 Q Was he the plant superintendent before 1980?
5 A I believe he was.
6 Q And did he continue in that position from 1980 to 1986?
7 A No, sir.
8 Q During that time period, did he become the chief
9 engineer?
10 A He was the chief engineer first, then he was the plant
11 superintendent, then he was assistant works manager, then he
12 became the general foreman of the -- or superintendent of the
13 B and E department.
14 Q When you were employed at the Alliance plant, were you
15 ever informed by the Alliance management or the corporate
16 management about this particular suit that EPA filed against
17 Alliance?
18 A No, sir. The first knowledge that I had was on mail
19 deliveries to my home.
20 Q Were you ever directed to change any of the waste-
21 handling methods used by your department as a result of the
22 EPA suit?
23 MR. SCHILLAWSKI: Objection.
24 A Not to my knowledge.
25 Q We will return for a second to the observations you had

1 when the tank car was being filled with dust from the hopper.
2 You previously testified that drivers were responsible
3 for operating the button which caused the discharges; is that
4 correct?
5 A Yes, sir.
6 Q And you previously testified that the drivers were not
7 always present during the entire time of the discharge; is
8 that correct?
9 A That is correct.
10 MR. SCHILLAWSKI: Objection.
11 Q And that would mean that the drivers were not present
12 at times when the discharge from the hopper went into the
13 sludge tank; is that correct?
14 MR. SCHILLAWSKI: Objection.
15 A Correct.
16 Q Mr. Dolphin, you had mentioned previously the lawsuit
17 that you filed against American Steel Foundries based on age
18 discrimination. Can you tell us what court that was filed
19 in?
20 A The Northern District Court of Ohio. Federal. Is it
21 Federal?
22 MS. SUTULA: Yes.
23 A The Northern District Court of Ohio, yes.
24 Q Can you tell us who your attorney was?
25 A Ellen Sax.

1 Q Can you tell us what her address and telephone number
2 are?
3 A I don't have my book with me with that information, but
4 she is in the -- her suite is 1500 in the bank building on
5 Euclid.
6 MS. SUTULA: What is the name of the
7 office?
8 THE WITNESS: Spangenberg, Shibley,
9 Lancione.
10 MS. SUTULA: We will ask that the
11 court reporter put the proper name of
12 Spangenberg, Shibley, Traci & Lancione.
13 Q Can you tell me who the judge was for the case?
14 A It was Judge Batchelder.
15 Q Would it be possible for you to provide us with a copy
16 of the pleadings that were involved in the case?
17 MR. SCHILLAWSKI: Objection.
18 A Probably through my attorney.
19 Q Can you tell us who testified on your behalf in the
20 case?
21 MR. SCHILLAWSKI: Objection.
22 A Myself, there was a professor, economics professor from
23 Cleveland State University. That was our case.
24 Q Do you remember his name?
25 A No, I don't.

1 Q Do you remember who testified for American Steel
2 Foundries?
3 A Yes. There was Mr. Bernard, Mr. Dixon, Mr. Difloure,
4 and there was a young woman from the personnel department
5 that I really didn't know.
6 MR. CLARIZIO: That's it.
7 MS. SUTULA: I just wanted to, since
8 you are not represented by counsel today, Mr.
9 Dolphin, the Government has subpoenaed you for
10 this deposition; is that correct? We mailed
11 you a notice?
12 THE WITNESS: I received 2 letters.
13 It didn't look like a subpoena to me. But if
14 you say they were, I guess they were.
15 MS. SUTULA: Well, one should have
16 been a subpoena from the U.S. Marshal.
17 THE WITNESS: No, ma'am, I didn't
18 get anything like that.
19 MS. SUTULA: Well, if that did not
20 come, then I would ask that you waive any
21 defect in notice so that we may use your
22 testimony.
23 MR. SCHILLAWSKI: Objection.
24 MS. SUTULA: And I really don't know
25 who to ask it to. But Phil, if you would.

1 But I was told they did serve it.
2 THE WITNESS: They served it on who?
3 I wasn't even here.
4 MS. SUTULA: Maybe that was the
5 case.
6 But in any event, my real question is:
7 Prior to today's deposition, have you had any
8 conversations with any of the Government
9 personnel present today or with any other
10 Government personnel about the substance or
11 contents of your testimony that you have given
12 here today?
13 THE WITNESS: No, I haven't.
14 MS. SUTULA: Okay. That's all.
15 MR. SCHILLAWSKI: I have some
16 questions for Mr. Dolphin.
17 - - - - -
18 EXAMINATION
19 BY MR. SCHILLAWSKI:
20 Q I just want to clarify a few things here. It is
21 correct that you were not in charge of any of the discharge
22 operations of electric arc furnace dust either in the
23 dumpsters or sludge tanks? Is that correct?
24 A Only the maintenance.
25 Q That is maintenance of the equipment itself?

1 A Of the equipment.
2 Q And your knowledge of how the discharge occurred is a
3 result merely of your observations as you happened
4 occasionally to walk by that piece of equipment while the
5 discharge was occurring; is that correct?
6 A As the general foreman of the department, it is my
7 responsibility to know how all equipment works. Regardless
8 if I see it or not, I would know the operation of the
9 equipment. But it was my general practice to make a round of
10 the plant at least once or twice a day.
11 Q So your testimony, in terms of the actual method by
12 which the discharge occurred, was based on your observations
13 in a round of the plant on once or twice a day?
14 MS. SUTULA: Objection.
15 Q Is that correct?
16 A I had detailed drawings of all the equipment. I was
17 completely familiar with the mechanical and electrical
18 systems in the equipment, and it was part of my job to know
19 how this equipment operated.
20 Q You do not remember, do you, the years in which the
21 Dempster boxes were used for electric arc furnace dust as
22 opposed to years when the tank sludge car, whatever, was used
23 for discharge?
24 A No, I don't remember the dates.
25 Q And it was not your responsibility to determine what

1 materials would be taken to the Lake Park landfill and what
2 materials might be disposed of in some other place?
3 A It was not my responsibility.
4 Q It was not your responsibility to determine whether any
5 paint cans, empty thinner cans, that type of material would
6 be taken to Lake Park or to some other disposal place?
7 A I was never directed to do anything with them other
8 than the fact that it was refuse.
9 Q So your knowledge is not complete in that all refuse
10 went to Lake Park at all times; is that correct?
11 A I can't say that all of it went there, no, sir.
12 Q All refuse from the plant may have been taken to other
13 disposal areas, other landfills at some point in time; is
14 that correct?
15 A The only other one that I know of was off of Route 62
16 that went back into the Lake Park area.
17 Q Are you aware of any commercial or municipal landfills
18 that were used for refuse at any time?
19 A I would have had no knowledge of that.
20 Q So the refuse may have been disposed of at commercial
21 and municipal landfills rather than Lake Park; is that
22 correct?
23 A I have no knowledge of that.
24 Q When you spoke of emergency discharges from the bag
25 house, were you actually present during any emergency

1 discharges?
2 A It was my job to be present during some portion of the
3 emergency, yes.
4 Q Do you recall what years that would have occurred?
5 A It could have been any time between the time of the
6 installation of the electric furnace and the time I was
7 terminated.
8 Q When you spoke of the use of the Dempster box,
9 referring to Exhibit B, I just want to clarify that you do
10 not remember the time period when that box was used as
11 opposed to the sludge tank; is that correct?
12 A I think it would probably be hard to put a time on that
13 from my memory since there were so many different types of
14 boxes used from the time the furnace was installed.
15 Q If we can go to the degreasing operations that you
16 spoke of. Do you recall the time period when those
17 operations took place?
18 A From the time I started there as a B electrician until
19 I was terminated.
20 Q Back when we were talking about the seams on the
21 Dempster boxes and the sludge tank, you had indicated that
22 there was a weldment seam; is that correct?
23 A Yes.
24 Q Those seams would not normally leak, would they?
25 MR. CLARIZIO: Objection.

1 A "Normal" in that type of operation is a very funny
2 word. They were a box that was continually banged and
3 damaged. The gates were sealed with rubber that had occasion
4 to deteriorate. The tops were damaged on many occasions.
5 The sludge box, the sludge tank, if that was overfilled, as
6 the Dempster truck rounded a corner, sludge would come out
7 the back end and splatter around on the road or the car that
8 was right behind it.
9 Q When you are speaking of gates and tops, you are
10 referring to the Dempster boxes rather than the sludge tanks?
11 A Correct.
12 Q Now, Mr. Dolphin, the jury verdict that you got in the
13 age discrimination suit, that verdict has not been converted
14 into any actual monetary award to you at this present time,
15 has it?
16 A The jury awarded me, at the conclusion of their
17 findings, a specific amount of money. The judge, because of
18 the many briefs that the representatives of American Steel
19 Foundries, Amsted filed, the judge, with her workload, is in
20 a position where she can't determine all the factors in the
21 conclusion of the case.
22 Q So there is still some movement and opposition left in
23 that age discrimination case? It is not completely over at
24 this time; correct?
25 A There is no opposition movement as far as I'm

1 concerned.
2 Q But you have not received a jury award and American
3 Steel Foundries has filed briefs that the judge is
4 considering with respect to that jury award; is that correct?
5 A I don't know what the briefs are that she is holding up
6 the award on. As far as I know and as far as I can determine
7 from my legal advisors is that I have received my award in
8 escrow and that I'm receiving interest every day until she
9 decides the case.
10 MR. SCHILLAWSKI: That is all the
11 questions I have.
12 MS. SUTULA: I will ask.
13 - - - - -
14 FURTHER EXAMINATION
15 BY MS. SUTULA:
16 Q Mr. Dolphin, your testimony here today, as you know, is
17 under oath. Was it motivated in any way by any feeling of
18 animosity or bias against Amsted? And I ask that in light of
19 the lawsuit.
20 A You know, you work for a company for 30 years and you
21 raise a family. I have 5 children. I got a lot of things
22 from that company and I gave them a lot. The only thing that
23 disturbed me in the whole situation and the only thing I have
24 against anybody at the company are the people that downright
25 lied about me.

1 Q But those feelings would not cause you to have lied
2 here today, would they?
3 A I have no reason to lie.
4 MS. SUTULA: That is all I wanted to
5 know. Thank you.
6 Mr. Parise will transcribe this
7 deposition into a written document, and you
8 have the right to read and review that and
9 sign it.
10 You live in the Canton area?
11 THE WITNESS: No, I live in Salem.
12 MS. SUTULA: Salem. At the time we
13 get the deposition, I will have it mailed to
14 you so that you can read it and make any
15 changes, and then you can send those back to
16 us.
17 Okay. I'm going to ask him not to waive
18 his signature.
19 You have the right to waive it, but I'm
20 going ask you not to waive it.
21 THE WITNESS: You talk corrections.
22 I did a lot of stuttering and repeating. You
23 don't want that type of thing corrected?
24 MS. SUTULA: No. But if you said,
25 "dumpster" and Mr. Parise heard some other

1 word -- you know, we have had ventilation
2 problems, we had problems in the beginning
3 with another deposition, so he may have
4 misheard, or you may have said, "PCB" and it
5 comes out "PVC." Those type of corrections.
6 You will send them to me, and if I think
7 they are not the kind the law allows for, I
8 will contact you and discuss them with you.
9 Okay?
10 THE WITNESS: Okay.
11 Could I ask a personal question?
12 MS. SUTULA: Off the record.
13 (Discussion off the record.)
14 - - - - -
15 (Deposition concluded.)
16 - - - - -
17
18
19
20 _____
21 Donald Spencer Dolphin
22
23
24
25

The State of Ohio,)
) SS: CERTIFICATE
County of Cuyahoga.)

I, Dennis A. Parise, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named DONALD SPENCER DOLPHIN was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him/her was by me reduced to stenotypy in the presence of said witness, afterwards transcibed upon a computer, and that the foregoing is a true and correct transcript of the testimony so given by him/her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

I do further certify that I am not a relative, counsel or attorney of either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio on this 10th day of April, 1990.

Dennis A. Parise

Dennis A. Parise, Notary Public
in and for the State of Ohio.

My Commission expires 2-16-93.

COPY

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

United States of America,	)	
Plaintiff;	)	
vs.	)	No. C87-1284A
Amstead Industries, Inc., DBA American Steel Foundries,	)	Judge Lambros
Defendant.	)	

- - - -

Deposition of JOSEPH J. FREDLE, a Witness herein, taken by the Defendant upon adverse party examination before Joyce L. Polinsky, a Notary Public within and for the State of Ohio, at the offices of the United States Department of Justice, 1404 East Ninth Street, Cleveland, Ohio, commencing at 10:20 A.M., Wednesday, November 1, 1989, pursuant to notice and stipulations of counsel.

- - - -

FREDLE DEPOSITION EXHIBIT INDEX

Number		Page
1	Five pages of handwritten inspection notes captioned 'Am. Steel Foundries Sampline,'	20
2	A one-page Memorandum to Catherine McCord from Joseph J. Fredle, dated February 9, 1987; attached five-page 'RCRA Sampling Inspection' report	30
3	A one-page memorandum to William Muno from Joseph J. Fredle, dated December 2, 1986; attached five-page 'RCRA Sampling Inspection' report	31
4	A photograph	68
5	A photograph	69
6	A photograph	69
7	A one-page Environmental Protection Agency 'Chain of Custody Record,' dated August 7, 1986	78
8	A one-page photocopy of pages 406 and 407 from the Code of Federal Regulations	93
9	A one-page photocopy of pages 378 and 379 from the Code of Federal Regulations	95
10	A multi-paged document captioned 'Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846 Second Edition,' dated 1982	96
11	A one-page memorandum from Andrea Jirka to 'Files,' dated November 5, 1986	106
12	Various field investigation worksheets	109

1 APPEARANCES:

2 U.S. Department of Justice, by
Ms. Kathleen Ann Sutula,

3 On behalf of the Plaintiff;

4 Squire, Sanders & Dempsey, by
5 Mr. Philip C. Schillawski,

6 On behalf of the Defendant.

7 - - - -

8 JOSEPH J. FREDLE, of lawful age, a
9 Witness herein, called by the Defendant for
10 the purpose of adverse party examination, as
11 provided by the Ohio Rules of Civil Procedure
12 for the District Courts of the United States,
13 being by me first duly sworn, as hereinafter
14 certified, deposed and said as follows:

15 - - - -

16 EXAMINATION OF JOSEPH J. FREDLE

17 BY MR. SCHILLAWSKI:

18 Q. Mr. Fredle, my name is Philip Schillawski.
19 I'm an attorney with Squire, Sanders and
20 Dempsey. We represent Amsted Industries,
21 Incorporated and American Steel Foundries, who
22 are defendants in an action that the United
23 States has filed.

24 I'm going to be asking you some questions
25 regarding any involvement that you may have

had with American Steel Foundries in your occupation. I want my questions to be clear to you. If there is anything that I ask, that you don't understand, please let me know and I'll try to rephrase the question, make sure that you understand what I'm trying to get from you.

A. Okay, fine.

Q. Would you please state your full name for the record?

A. Joseph J. Fredle.

Q. And what is your business address?

A. 25089 Center Ridge Road, Westlake, Ohio.

Q. By whom are you employed?

A. The U.S. Environmental Protection Agency.

Q. The notice of deposition requested that you bring certain documents with you to this deposition. Do you have any documents with you?

A. No, I don't.

MS. SUTULA: He has never seen the notice, Phil. May I see the notice?

MR. SCHILLAWSKI: Sure.

MS. SUTULA: Can we take a break? I'm going to go back to my office, see

1 if I have any documents that fall under this.
2 MR. SCHILLAWSKI: Sure.
3 - - - -
4 (Thereupon, a recess was had.)
5 - - - -
6 MS. SUTULA: Put on the record
7 that during the break I went back to my office
8 and reviewed certain documents that Mr. Fredle
9 brought with him, which I did not know and he
10 did not know were pursuant to the notice. I
11 looked through them for privileged materials
12 and there were none, and I'm handing you the
13 documents from the files that Mr. Fredle
14 brought with him.
15 Off the record.
16 - - - -
17 (Thereupon, a discussion was had off the
18 record.)
19 - - - -
20 Q. Mr. Fredle, do you keep a diary of your
21 activities for U.S. EPA?
22 A. Not any particular diary, no.
23 Q. Do you keep a personal diary at all?
24 A. No.
25 Q. Do you keep a journal or any notes regarding

1 your activities?
2 A. Not a journal. I do make notes on my --
3 Q. Would those notes be included in the files of
4 materials which you provided here?
5 A. Yes.
6 Q. In preparing for this deposition, did you
7 refer to any documents to refresh your
8 recollection?
9 A. Yes, I did.
10 Q. And are all of those documents produced in
11 your file materials that you produced here?
12 A. Yes.
13 Q. To prepare for your deposition, who did you
14 speak with?
15 A. I spoke with Mrs. Sutula, I spoke with Rich
16 Clarizio and Kurt Waltheimer.
17 MS. SUTULA: Weissmuller.
18 THE WITNESS: Sorry.
19 Q. Did you speak with anyone else?
20 A. Catherine McCord.
21 Q. Was an attorney present during the time when
22 you spoke with Catherine McCord?
23 A. Yes.
24 Q. Was an attorney present at all times when you
25 spoke with Catherine McCord?

1 A. This is in relation --
2 MS. SUTULA: Yes or no. In
3 relation to this case, to the deposition.
4 A. In relation to the deposition?
5 Q. Yes.
6 A. No.
7 Q. Can you describe what you spoke with Catherine
8 McCord about during the times that an attorney
9 was not present?
10 MS. SUTULA: Objection.
11 You may answer.
12 THE WITNESS: I may answer?
13 MS. SUTULA: Yes.
14 A. Basically setting up a meeting time to get
15 together with the attorneys.
16 Q. Did you discuss anything of substance
17 regarding this case with Catherine McCord,
18 when an attorney was not present?
19 A. Not that I can recall.
20 Q. Where did you go to high school?
21 A. Wickliffe High School.
22 Q. And what did you study when you were there?
23 Was it college preparatory, vocational
24 education, essentially what fields?
25 A. College prep.

1 Q. And did you go to college?
2 A. Yes.
3 Q. Junior college at all?
4 A. No.
5 Q. Where did you go to?
6 A. Valparaiso University.
7 Q. What were your major and minor fields in
8 college?
9 A. Civil engineering, no minor.
10 Q. Did you attend any other college besides
11 Valparaiso?
12 A. No.
13 Q. Have you had any post graduate college
14 education?
15 A. No.
16 Q. Have you had any technical training after
17 graduation from college?
18 A. I have had numerous training courses in
19 relation to my employment.
20 Q. Can you please tell me what those courses were
21 and what the topics were that were covered in
22 those courses?
23 A. No, not right offhand. It's -- I can't recall
24 all the courses that I have taken.
25 Q. Well, maybe we can pick them up as we go along

here. In college, did you have any formal courses in chemistry?

A. Yes.

Q. To what extent were those courses?

A. As I recall, I had one year of chemistry that included organic and inorganic chemistry.

Q. Was that all the chemical courses you took?

A. As I recall, yes.

Q. Did you have any courses in statistics in college?

A. No.

Q. Did you have any courses in environmental law or regulations in college?

A. No.

Q. After you left college, did you have any other classroom training in chemistry?

A. Nothing specific in chemistry, no.

Q. Was there any on the job or other type of training in chemistry after college?

A. I'm not sure what you mean by on-the-job training.

Q. In the process of any employment, were you involved with chemical related issues?

A. Yes. I have been involved with chemical related issues on the job in numerous

1 occasions.
2 Q. As part of your working on the job with
3 chemicals, have you had occasion to do any
4 research into chemistry or the background of
5 various chemicals?
6 A. Somewhat, yes.
7 Q. Has that research included inorganic chemistry
8 as it would apply to heavy metals?
9 A. Not that I can recall.
10 Q. Have you had any formal training in statistics
11 after college?
12 A. No.
13 Q. Any on-the-job or other training in statistics
14 after college?
15 A. No.
16 Q. Any formal training in environmental
17 regulations or law after college?
18 MS. SUTULA: By "formal," you
19 mean formal training at a university?
20 A. Well, I have been through numerous courses
21 that involve -- or, seminars that involve
22 getting into what the regulations are and so I
23 would have to say yes.
24 Q. Which regulations were your seminars involved
25 with?

A. Regulations involving the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, and the Superfund Act.

Q. Approximately how many seminars have you attended that dealt with the Resource Conservation and Recovery Act?

A. I can't recall offhand.

MS. SUTULA: Off the record.

- - - -

(Thereupon, a discussion was had off the record.)

- - - -

Q. What was your first employment after leaving college?

A. I worked for the City of Cleveland.

Q. In what capacity?

A. As a staff engineer.

Q. And when did you start that employment?

A. In the summer of 1971.

Q. And how long were you employed in that position?

A. Approximately a year.

Q. Did you have promotions to another position or did you go to another employer?

A. No, I went to another employer.

1 Q. While you were working for the City of
2 Cleveland, what were your job duties?
3 A. My duties were to inspect the construction of
4 sewage treatment plants.
5 Q. Was this inspection related to the mechanical
6 construction of the plants, the chemical
7 processes that went on there or some other
8 type?
9 A. It was more related to the actual construction
10 versus the process that was involved, the
11 treatment processes that were involved.
12 Q. After you left the City of Cleveland, who were
13 you employed by?
14 A. The U.S. Public Health Service.
15 Q. And that employment started in?
16 A. In the spring of '72.
17 Q. What was your position with the Public Health
18 Service?
19 A. Field engineer.
20 Q. And what were your duties in that position?
21 A. I was involved with the design, construction
22 and -- basically the design and construction
23 of water and sewer systems in some of the
24 Indian villages --
25 Q. I'm sorry, I didn't hear you.

1 A. In some of the Indian villages that were
2 served by the Public Health Service.
3 Q. Did those duties include actual design of the
4 process?
5 A. There was some involvement with that, yes.
6 Q. Did you handle any of the chemical aspects of
7 the processing?
8 A. I don't believe there were very many chemical
9 aspects. It was mainly biological treatment,
10 when we did do treatment.
11 Q. How long were you employed by the Public
12 Health Service?
13 A. Three years.
14 Q. And were you in the same position for those
15 three years?
16 A. Yes.
17 Q. Did your job duties in that position change at
18 all during the three years?
19 A. No.
20 Q. Where did you -- where were you employed after
21 you left the Public Health Service?
22 A. I was then employed by the U.S. Environmental
23 Protection Agency.
24 Q. When did that employment start?
25 A. In June of '74, 1974.

1 Q. And in what position were you employed by the
2 U.S. EPA when you started?
3 A. I was a staff engineer at that time.
4 Q. And what were your duties in that position?
5 A. My duties were involved with the drinking
6 water program, and we inspected water
7 treatment plants and also provided technical
8 assistance to water treatment systems
9 throughout the country that were having
10 problems.
11 Q. Did your technical -- did the technical
12 aspects of your job involve drinking water
13 standards or --
14 A. Yes.
15 Q. -- some other type?
16 A. Standards and treatment.
17 Q. And were you involved with the inorganic
18 drinking standards for, say, heavy metals?
19 A. Yes.
20 Q. Were you given any specific training regarding
21 those standards?
22 A. As I remember, I had training. Whether they
23 were specifically related to those standards
24 or which standards, I don't recall.
25 Q. How long were you involved with the drinking

1 water aspect?
2 A. About three years.
3 Q. And were you in the same position for those
4 three years?
5 A. Yes.
6 Q. After those three years ended, approximately
7 what date are we?
8 A. We're at -- in the spring of 1977.
9 Q. Did you move to a new position at that time?
10 A. Yes.
11 Q. What was that new position?
12 A. I was an on-scene coordinator.
13 Q. Could you describe what an on-scene
14 coordinator is?
15 A. An on-scene coordinator would respond to
16 emergency situations that involve spills of
17 chemicals or petroleum products and try to
18 make sure that everything was being done to
19 have them properly cleaned up.
20 Q. And did your duties at that time involve
21 taking any samples?
22 A. Yes.
23 Q. Did they involve chemistry of any kind?
24 A. I did not perform any chemistry, no.
25 Q. Were you given any training at this time in

1 sampling techniques?
2 A. I'm sure that during some of the training that
3 I had, we touched on sampling.
4 Q. Was there -- was that training in depth?
5 A. I don't really recall the depth of the
6 training.
7 Q. Do you recall whether any manuals or
8 instruction booklets or publications were used
9 regarding sampling in that training?
10 A. No, I don't recall.
11 Q. How long were you involved as an on-scene
12 coordinator?
13 A. About seven years.
14 Q. And were you involved with the taking of
15 sampling -- taking of samples during that
16 entire period?
17 A. Yes.
18 Q. After you were an on-scene coordinator, what
19 were you?
20 A. A staff engineer.
21 Q. At what time did you take up those duties?
22 A. That would have been in 1984.
23 Q. What were your duties in that position?
24 A. In that position, I became more of an
25 inspector.

1 Q. Can you describe what your duties were as an
2 inspector?
3 A. We would go to different facilities as
4 requested and perform inspections relating to
5 the regulations, and whether these facilities
6 were meeting those regulations, different
7 environmental regulations.
8 Q. Were the environmental regulations in a
9 specific area; in other words, the Clean Water
10 Act, RCRA?
11 A. They were basically in most areas that EPA
12 gets involved with.
13 Q. Was the Resource Conservation and Recovery
14 Act, RCRA, one of those areas?
15 A. Yes.
16 Q. And during this time that you were an
17 inspector, did you do sampling?
18 A. Yes.
19 Q. Were you given any other instruction or
20 training in sampling techniques during this
21 time?
22 A. I don't recall.
23 Q. How long were you an inspector?
24 A. Four years.
25 Q. And are you still an inspector?

1 A. No.
2 Q. What are your present duties?
3 A. I'm an on-scene coordinator.
4 Q. Is this essentially the same duties that you
5 were -- that you had before you were an
6 inspector?
7 A. Yes.
8 Q. And were there any other duties intervening
9 between being an inspector and your present
10 duties?
11 A. No.
12 Q. Do you recall any individuals who gave you any
13 training in sampling techniques or chemistry?
14 A. No.
15 Q. Who were you supervised by during your period
16 as an inspector?
17 A. I had a number of supervisors. One was Martin
18 Trembly.
19 Q. Do you know how to spell his name?
20 A. T-r-e-m-b-l-y.
21 Q. Was there anyone else?
22 A. Rich Winklhofer.
23 Q. Can you spell that?
24 A. W-i-n-k-l-h-o-f-e-r.
25 Q. Was there anyone else that you can recall?

1 A. Not that I can recall.
2 Q. Your period as an inspector ran between the
3 years when?
4 A. 1984 and 1988.
5 Q. Did you ever supervise anyone in your tenure
6 as an inspector?
7 A. Yes.
8 Q. Who did you supervise?
9 A. There was a point when Mr. Trembly had left
10 and there were basically different people in
11 our sections taking turns as supervisor of a
12 section.
13 Q. And how many people would there have been in
14 the section?
15 A. Approximately six or seven.
16 Q. During the time periods that you went on
17 inspections, did you supervise anyone?
18 A. Yes.
19 Q. Can you describe what those supervisory duties
20 entailed?
21 A. They entailed supervising the sampling team
22 and inspection team that was involved in the
23 different inspections and projects that I was
24 involved with.
25 Q. Did you hold the position or the job duties of

1 an inspector during August of 1986?
2 A. Yes.
3 Q. And during that time, were you present at a
4 sampling inspection of the American Steel
5 Foundries' facility in Alliance, Ohio and
6 Sebring Township, Ohio, that would have been
7 August 6th and 7, 1987?
8 A. Yes.
9 Q. I'm sorry, 1986.
10 A. Right.
11 Q. Who else from U.S. EPA was present at that
12 sampling inspection?
13 A. Besides myself, there was Scott Thomas and
14 Mike Patton and Catherine McCord from the U.S.
15 EPA.
16 Q. Was -- were those people present at the
17 sampling inspection on August 6th?
18 A. Yes.
19 Q. Were they all present at the sampling
20 inspection on August 7th?
21 A. No.
22 Q. Who was present at the inspection on August
23 7th?
24 A. All of the previously named people, except for
25 Scott Thomas.

1 Q. At that August 6th and 7, 1986 sampling
2 inspection, who was in charge of the sampling
3 procedures?
4 A. I was.
5 Q. Who made the decisions regarding what
6 materials were to be sampled?
7 A. That was a joint effort. The actual decisions
8 on what was to be sampled was up to Catherine
9 McCord.
10 Q. Who made the decisions regarding the methods
11 that would be used in taking the samples?
12 A. I would say it was a joint decision between
13 Catherine and myself.
14 Q. Did Mr. Thomas have any part in the
15 decision-making about which samples were to be
16 taken or how they were to be taken?
17 A. No.
18 Q. Did Mr. Patton have any part in that
19 decision-making?
20 A. No.
21 MR. SCHILLAWSKI: Can you mark
22 this as Defendant's Exhibit 1?
23 - - - -
24 (Thereupon, five pages of handwritten
25 inspection notes entitled 'Am. Steel Foundries

1 Sampling,' were marked for the purpose of
2 identification as Defendant's Exhibit 1.)
3 - - - -
4 Q. Mr. Fredle, I'm handing you a document that's
5 been marked as Defendant's Exhibit Number 1,
6 and I should note for the record that this
7 document had been produced at Mr. Patton's
8 deposition previously and also bears a marking
9 from that production.
10 Do you recognize this document?
11 A. Yes.
12 Q. Can you describe what it is?
13 A. These are notes that I took during that
14 inspection.
15 Q. Do these notes cover the entire period of the
16 August '86 sampling inspection?
17 A. They seem to cover mainly the 6th -- no,
18 here's the 7th, also. Yes, they do cover that
19 period.
20 Q. I believe that the files which you brought
21 with you today contain the original of these
22 notes. If you could take the originals out of
23 the files and please compare them with the
24 copy and then I would like you to answer
25 whether or not the copy which has been marked

1 as Defendant's Exhibit Number 1 is a true and
2 correct copy of the original.
3 MS. SUTULA: Do you have problems
4 with the authenticity of this?
5 MR. SCHILLAWSKI: No.
6 MS. SUTULA: Do you expect me to
7 have problems with authenticity?
8 MR. SCHILLAWSKI: You might.
9 MS. SUTULA: I don't think there
10 are. I'm wondering why you're going through
11 this.
12 MR. SCHILLAWSKI: If you want to
13 stipulate to the correctness of the copy,
14 that's fine.
15 MS. SUTULA: If these are what we
16 produced, I would. But then again, I would
17 have him count the pages to make sure.
18 A. I have already counted the pages. There is
19 the same number of pages. I'm just looking at
20 my writing here to make sure that it's the
21 same, it still says the same thing.
22 As best as I can tell, these are exactly
23 the same as the original notes.
24 Q. What is the physical condition of the original
25 notes? In other words, what were the notes

1 made on?
2 A. White paper.
3 Q. Are they bound at all?
4 A. No.
5 Q. Were these notes made by you in the ordinary
6 course of your business as a U.S. EPA
7 inspector?
8 A. Yes.
9 Q. Is there a U.S. EPA standard operating
10 procedure which defines whether or not notes
11 are to be taken at a sampling inspection?
12 A. No.
13 Q. Do you know of any other requirements that
14 U.S. EPA has for the taking of notes during a
15 sampling inspection?
16 A. No.
17 Q. Do you know of any requirements for, any U.S.
18 EPA requirements, for what should be included
19 in any notes that are taken during a sampling
20 inspection?
21 A. No.
22 Q. If we can take a look at your notes, and if
23 you could use them to refresh your
24 recollection if you need them, is -- let me
25 first ask, when did you arrive at American

1 Steel Foundries on August 6th?
2 A. I don't have a time noted in my notes as to
3 when we arrived.
4 Q. Do you recall approximately what time you
5 arrived?
6 A. Approximately nine -- between nine and ten
7 o'clock.
8 Q. And where did you go first when you went to
9 American Steel Foundries?
10 A. We went to the landfill site.
11 Q. Was there any American Steel Foundry personnel
12 at the landfill site when you arrived there?
13 A. No.
14 Q. Had you made advanced arrangements to go to
15 the landfill site?
16 A. Yes.
17 Q. Were the advanced arrangements made with
18 American Steel Foundries?
19 A. No.
20 Q. Do you know whether or not American Steel
21 Foundries was notified that the sampling
22 inspection was going to take place?
23 A. As far as I'm aware, they were not notified.
24 Q. How long were you at the landfill site before
25 anyone from American Steel Foundries arrived?

1 A. As I remember, I would say approximately a
2 half hour.
3 Q. What did you do during that time?
4 A. Waited.
5 Q. Did you personally just wait?
6 A. Yes.
7 Q. Did you walk around the site at all, look at
8 things?
9 A. I believe we may have walked around the site
10 some.
11 Q. Did you take any pictures?
12 A. I did not take any pictures.
13 Q. Did you take any samples?
14 A. No.
15 Q. Did anyone take any pictures?
16 A. I can't recall.
17 Q. Did anyone else take any samples?
18 A. No.
19 Q. What happened when American Steel Foundries
20 personnel arrived?
21 A. We watched a truck dump a load of waste and
22 leave.
23 Q. Did you contact the truck driver at all?
24 A. No.
25 Q. Did the truck driver see you?

1 A. I don't know.
2 Q. Did you take any action when you saw the truck
3 arrive?
4 A. Not that I remember.
5 Q. Did anyone else take any action when the truck
6 arrived?
7 A. Not that I remember.
8 Q. Did anyone else contact the truck driver?
9 A. I don't believe so.
10 Q. When did you first make contact with American
11 Steel Foundry personnel?
12 A. As I remember, it was the second load of
13 material that came in and was dumped, and that
14 truck driver noticed us and came over and
15 asked us what we were doing, and we explained,
16 and that was the first point.
17 Q. Did you actively make contact with the truck
18 driver or did the truck driver approach you?
19 A. The truck driver approached us.
20 Q. Did you or anyone else of the U.S. EPA
21 personnel take any actions when the second
22 truck arrived?
23 A. Not that I remember.
24 Q. What happened after the truck driver had
25 conversed with you?

A. I believe he radioed to the facility and a couple of men came out from the facility.

Q. Do you recall who those people were?

A. Not offhand. I have their names. I know the names are in the report.

Q. Did you talk with these new people?

A. Yes.

Q. What was the substance of that conversation?

A. As I remember, we -- they asked us what our intentions were, and we told them why we were there and we then proceeded to -- proceeded with the inspection.

Q. How did you proceed with the inspection?

A. We tried to determine what the material was that was already dumped from information provided by the facility personnel.

Q. Did you determine what that material was?

A. Yes, I believe it was eventually determined.

Q. What was that material?

A. I don't recall right offhand.

Q. What happened after you determined what the material was?

A. We decided to sample those two loads, the material that was dumped from those two loads.

Q. How was that sampling conducted?

No samples taken on 8/6/

A. We went to each particular pile. The loads were dumped on the ground and they were still in a pile, and we randomly grabbed samples from that pile, put them in a mixing container, and then we mixed the -- we mixed up that composite sample and split the mix -- split that mixed up material into two sample containers and gave one to the facility and kept one ourselves.

Q. Did the facility people request that you split samples with them?

A. I believe we asked them if they wanted a split and they said yes, they would take the split.

Q. How did you determine where the random grab samples were to be taken from in the pile of material?

What material Joe talking about being homogeneous

Next page maybe ok

A. Well, the material, as I remember, was very homogeneous, and it was basically a random sampling of just walking around the pile and every so often, grabbing a spoonful of the material.

Q. Did you use any random number tables or generators to determine where those random samples were to be taken?

A. No.

1 Q. What did you do after you had taken those
2 samples?
3 A. We went back to the -- we went to the
4 facility.
5 Q. This is the facility in Alliance, Ohio?
6 A. In Alliance, yes.
7 Q. What did you do there?
8 A. We tried to determine if the material that we
9 really wanted to get a sample of was going to
10 be generated that day.
11 Q. What was the material that you really wanted
12 to get a sample of?
13 A. A mixture of some electric arc furnace dust
14 and some slurry. I believe it was a
15 sand/slurry mix.
16 Q. And did you determine whether or not it would
17 be produced that day?
18 A. The facility told us that there wouldn't --
19 would be no waste of that sort disposed of
20 that day.
21 Q. Did you take any samples of that material that
22 day?
23 A. That day what we did was we went around the
24 facility in Alliance and collected samples
25 from different points, and yes, we did get a

What other pts.

1 sample of the electric arc furnace dust in
2 question and the slurry mix and a few other
3 waste strains at the facility.
4 Q. Were those samples taken, the samples of the
5 electric arc furnace dust and the slurry mix,
6 taken on the 6th?
7 A. As I remember they were.
8 Q. This is a fairly important point. If your
9 notes could help you reflect your
10 recollection, I would appreciate it if you
11 would look.
12 A. May I refer to the report?
13 Q. Certainly. Why don't we just mark that now.
14 - - - -
15 (Thereupon, a one-page Memorandum to
16 Catherine McCord from Joseph J. Fredle, dated
17 February 9, 1987; attached five-page 'RCRA
18 Sampling Inspection' report, was marked for
19 the purpose of identification as Defendant's
20 Exhibit 2.)
21 - - - -
22 Q. I have handed you a copy of what's marked as
23 Defendant's Number 2. Can you identify this?
24 A. Yes, this is a copy of the report that was
25 generated after the sampling inspection at the

1 American Steel Foundry facility in Alliance.
2 Q. Can you read the first line of the body of the
3 first page of the report?
4 A. "Attached you will find an amended final
5 report for the above mentioned sampling
6 inspection, reflecting a re-analysis of
7 samples --" it's hard to read here -- "D9,
8 S11, S --" I'm sorry -- "S10, S11 and S14 by
9 the CRL" period.
10 MR. SCHILLAWSKI: Can you now
11 mark this as Defendant's Exhibit Number 3?
12 - - - -
13 (Thereupon, a one-page memorandum to
14 William Muno from Joseph J. Fredle, dated
15 December 2, 1986; attached five-page 'RCRA
16 Sampling Inspection' report, was marked for
17 the purpose of identification as Defendant's
18 Exhibit 3.)
19 - - - -
20 Q. Can you identify what's been marked as
21 Defendant's Number 3?
22 A. Yes.
23 Q. What is it?
24 A. It is a copy of the sampling inspection for
25 American Steel Foundries, Alliance, Ohio.

1 Q. Is this the same document as was marked
2 Defendant's Number 2?
3 A. Not exactly.
4 Q. What is the difference between the two
5 documents?
6 A. The difference between the two documents is
7 that there were a few changes made in the
8 analytical results between the Defendant's --
9 the Exhibit 3 and Exhibit 2 documents.
10 Q. What was the reason for the changes in those
11 analytical results?
12 A. The reason was a re-analysis of the samples
13 that --
14 Q. Why was that --
15 A. -- produced somewhat different results.
16 Q. What was the re-analysis done for?
17 A. The re-analysis was done for samples D9, S10,
18 S11 and S14.
19 Q. What was the reason for that re-analysis?
20 A. The reason was that after the first set of
21 analyses were complete, our quality assurance
22 office decided that there was -- that there
23 was a need to have a re-analysis done.
24 Q. Do you know what that need was?
25 A. My understanding is that the need was because

the results were very close to the standards and that they wanted to make sure that the results were correct.

Q. Do you know of any other -- do you recall any other reason at this time, why that re-analysis needed to be done?

A. No, not that I can recall.

Q. Going back to the -- my earlier question about whether samples of EAF dust and the dust/slurry mixture were taken on the 6th, can you answer that now?

A. The samples of the EAF dust and sand/slurry were taken on the 7th, not the 6th.

Q. Can you tell me what samples were taken on the 6th?

A. Yes. The two composite samples that were collected at the landfill of the loads that were dumped that morning, a sample of the carrier blast dust collector, a sample of the knockout dust collector, a sample of the cabinet blast dust collector, and a sample of the tumblast dust collector.

Q. Can you describe for me how the sample from the carrier blast dust collector was taken?

A. As I recall, the samples from the dust

1 collectors were taken by removing material
2 from the dust collectors and putting them in a
3 mixing pan, mixing them and then splitting
4 samples for giving the facility a sample and
5 ourselves keeping a sample.
6 Q. Were the methods used for all the dust
7 collectors the same?
8 A. I don't recall exactly.
9 Q. Well, let's take the carrier blast dust
10 collector, do you recall how the material was
11 removed from that dust collector?
12 A. No.
13 Q. Do you recall how it was determined which
14 material was to be removed from the dust
15 collector?
16 A. No.
17 Q. Let's go to the knockout dust collector. Do
18 you recall how that material was removed?
19 A. No.
20 Q. Do you recall how that material was chosen to
21 be removed?
22 A. No.
23 Q. Do you recall either the method by which
24 material was removed or the method by which it
25 was determined which material to remove for

1 any of the dust collectors?
2 A. Not the ones collected on the 6th.
3 Q. If we can move on to the 7th, were any samples
4 taken involving electric arc furnace dust on
5 the 7th?
6 A. Yes.
7 Q. What was the first activity which you
8 conducted on the 7th as far as your sampling
9 inspection?
10 A. We sampled the south end sand system.
11 Q. Do you recall how that sample was taken?
12 A. No, I don't.
13 Q. What was your next activity?
14 A. We then sampled the sand wash and wet scrubber
15 slurry.
16 Q. Do you recall how that sample was taken?
17 A. As I recall, it was a tank that we just dipped
18 the sample out of.
19 Q. Do you recall what device was used to take the
20 sample?
21 A. I believe -- no, I can't recall.
22 Q. Do you recall how it was determined whether
23 the sample was to be taken from the tank?
24 A. No.
25 Q. What did you do next?

A. We then sampled the electric arc furnace dust.
Q. And how was that sample taken?
A. That was sampled by removing the dust from the hopper that collected the electric arc furnace dust in a pan, the pan was then mixed and the sample was split.
Q. How was the dust removed from the hopper?
A. It was removed at the bottom of the hopper where the -- where they would normally load trucks at.
Q. What was the physical process that you went through to get this sample? Did you climb a ladder?
A. I don't believe we had to climb a ladder. There was an access way that we could get to it, as I recall, and we just got up there and had it opened a little bit and got the sample out of there.
Q. Was there more than one grab taken of this material that was then composited together?
A. Not as I recall.
Q. Was there a truck under the baghouse at the time the sample was taken?
A. I don't recall. I don't remember.
Q. Was there any spillage during this sample

1 taking?
2 A. I don't -- not that I can remember.
3 Q. Which sample number refers to the electric arc
4 furnace dust sample that you took?
5 A. Sample S09 and S10.
6 Q. Do your notes reflect anything regarding the
7 way that these samples were taken?
8 A. My notes reflect that the electric arc furnace
9 dust was collected before it was loaded into
10 the truck, and it reflects that they were
11 collected at 1300 hours on that date.
12 Q. Can you please read for the record your
13 handwritten entry at 1300 hours?
14 A. 1300, "sample D09 and S10 duplicate. EAF dust
15 before loaded into truck --" no, that's --
16 that's different.
17 Q. Is there an actual sample labeled S09?
18 A. The sample was labeled -- I'm not sure if the
19 sample was labeled S09 or D09.
20 Q. If you can refer to your report, Exhibit
21 Number 2 --
22 A. Yes.
23 Q. -- does that help with what the labeling might
24 have been?
25 A. No.

Q. If we can take your notes, based on your notes at the 1300 hour entry, is it correct to say that the notes reflect the two samples were taken, one labeled D09 and one labeled S10, and the D samples were duplicates?

A. That's correct.

Q. Looking at your report, is it correct to say that as reflected in your report, two duplicate samples of EAF dust, one listed as being taken at 1100 hours and one listed as being taken at 1300 hours, were labeled as S09 and S10?

A. Yes.

Q. Do you have any idea why the number would be different in your report and the time when it was supposed to be taken?

A. Well, the number is different in the report versus the notes because -- I would be assuming. I would be making an assumption on it. I shouldn't make an assumption like this.

Q. Okay. What was --

A. And the time difference is a typographical error in the report.

Q. So in the report the entry in the time column

at S09 should be 1300 rather than 1100?

A. Yes, it should.

Q. What was your next activity after you took these two samples -- excuse me, let me back up a minute.

Were these two samples split with the American Steel Foundry people?

A. I believe that, as I recall, we gave them a sample and kept two samples, labeling one either S or D09 and the other as ten.

Q. So only two samples were taken and kept by you?

A. This was a duplicate sample. We collected three jars of samples, gave one to the facility and kept the other two and had them analyzed separately as S09 and S10.

Q. Would these three different jars be any different in material?

A. No.

Q. How was that --

A. Because they were collected in a pan from the electric arc furnace hopper, mixed and stirred and then ran -- and then the jars were filled by alternating jars, take a scoop from the pan into say jar number one, then a scoop from the

1 pan into jar number two, and then a scoop from
2 the pan into jar number three, and then going
3 back and continuing that series until the jars
4 were full, all from the same pan that had come
5 from the electric arc furnace hopper and all
6 having been mixed in that pan together before
7 the sample jars were actually filled.
8 Q. Was -- how did you determine what part of the
9 hopper to remove this electric arc furnace
10 dust sample from?
11 A. It came right out of the bottom where the
12 truck loading door was at the bottom of the
13 hopper, and that was the only access point
14 that we were aware of for getting a sample out
15 of the hopper.
16 Q. What did you do next?
17 A. We then observed the truck in question being
18 loaded.
19 Q. Can you describe what this truck is?
20 A. As I recall, it was a -- it was a quasi tanker
21 truck. I believe they call them torpedo
22 trucks.
23 Q. Why do you use the term "quasi tank truck"?
24 A. When I think of a tank truck, I typically
25 think of a tanker on the road that carries

1 something like gasoline or milk or some type
2 of liquid, and this did not look like that,
3 that type of a tank truck, but it was a tank
4 truck in that there was a tank on this truck,
5 but it wasn't a typical tank truck that people
6 would think of as a tank truck.
7 Q. Can you describe what the differences were?
8 A. The difference is basically the body of the
9 tank, the shape of the body and the
10 construction of it.
11 Q. Was there any material in this truck prior to
12 when it was placed under the EAF baghouse?
13 A. Yes, there was.
14 Q. What was that material?
15 A. That was the sand/slurry mix.
16 Q. Did you observe the truck being filled with
17 this mix?
18 A. No, I did not.
19 Q. Well, first of all, was this sand/slurry mix
20 or sand/slurry?
21 A. It was a liquid that my understanding was came
22 from the -- the wet scrubber -- sand wash and
23 wet scrubber unit, and it was a liquidy
24 material.
25 Q. You did not observe this being loaded in the

truck?

A. I did not.

Q. Did anyone else from U.S. EPA observe this being loaded into the truck?

A. Yes.

Q. Who was that?

A. Catherine McCord.

Q. You were not present at that time?

A. No.

Q. Was anyone else from -- was anyone from U.S. EPA present with Catherine McCord at that time?

A. Not that I recall.

Q. If you refer to your notes, can you read the bottom entry on the page that contains the 1300 entry?

A. Can I read it?

Q. Please, for the record.

A. "Loaded into truck about three-quarters full of sludge, filled tray with half to one-third bottle volume of dust during the three minute cycle."

Q. Can you describe the activities that those notes reflect?

A. That describes our collection of the sample --

1 no, that -- that describes the collection of
2 our sample of the EAF dust.
3 Q. Was a sample of the EAF dust then collected at
4 the time that the EAF dust was being loaded
5 into the truck?
6 A. Could you restate that question?
7 Q. The first line of your notes indicates "Loaded
8 into truck about three-quarter full of
9 sludge;" correct?
10 A. Yes.
11 Q. Was that truck that was about three-quarters
12 full of sludge at the EAF baghouse at the time
13 that you were taking the EAF dust sample?
14 A. Yes. According to my notes, it was.
15 Q. Did you observe the level of what you call
16 sludge in the truck prior to the time that EAF
17 dust was being added into the truck?
18 A. I don't recall if I observed it.
19 Q. Did someone else from U.S. EPA observe it?
20 A. I don't recall.
21 Q. Where did the "about three-quarters full of
22 sludge" entry come from?
23 A. I don't recall.
24 Q. What was the next activity after you had taken
25 the sample of EAF dust when apparently the --

well, as you testified, the truck with sludge in it was present under the baghouse?

A. We followed the truck to the landfill and observed it dumping its load, and sampled during the dumping process.

Q. Had EAF dust been added to the sludge that was in the truck at this time?

A. Yes, it had.

Q. How was this done?

A. It was dropped into the truck from the hopper.

Q. Did you observe a process by which that dropping took place?

A. According to my notes, they used a three minute cycle, a timing cycle to measure how much dust was put into the truck.

Q. Were you aware of the process by which American Steel Foundries mixed the EAF dust with the clarifier slurry before you went to ASF to conduct this sampling inspection?

A. Not that I recall, I was not aware of it.

Q. Had you discussed the process by which the mixing would take place with anyone prior to the sampling inspection?

A. I don't believe so.

Q. What was the objective of the August 1986

1 sampling inspection?
2 A. The objective was to determine whether
3 hazardous waste was being improperly disposed
4 of by the facility.
5 Q. Did you discuss this objective with anyone
6 else from U.S. EPA prior to the sampling
7 inspection?
8 MS. SUTULA: Objection.
9 Q. You can answer.
10 MS. SUTULA: Wait a minute. Do
11 you have the Complaint in this case with you?
12 MR. SCHILLAWSKI: No.
13 MS. SUTULA: Do you have any
14 pleadings? Give me the notice of deposition.
15 Objection.
16 You can't answer.
17 Prior to the filing of the
18 Complaint, that would be prosecutorial
19 discretion; objection, privileged. Any
20 conversations he had prior to, I'm not going
21 to let him answer it.
22 Q. Did you have any discussions with anyone from
23 U.S. EPA as to how the objective of the
24 sampling inspection was to be carried out
25 prior to the time that you conducted the

1 sampling inspection?
2 MS. SUTULA: Objection as to
3 methods.
4 You may answer.
5 THE WITNESS: Can I answer?
6 MS. SUTULA: If you understand
7 his question -- why don't you put another
8 question.
9 Did you understand the question
10 before my objection?
11 THE WITNESS: I've forgotten the
12 question.
13 Q. In conducting sampling inspections, is it a
14 standard operating procedure to have a defined
15 objective for those inspections --
16 MS. SUTULA: Objection.
17 Q. -- at U.S. EPA?
18 MS. SUTULA: What do you mean by
19 "objective"?
20 MR. SCHILLAWSKI: Can we go off
21 the record for a minute?
22 - - - -
23 (Thereupon, a discussion was had off the
24 record.)
25 - - - -

1 Q. Was a written description of the sampling
2 objective for the August 1986 sampling
3 inspection prepared?
4 A. No.
5 Q. Was a focus of the August 1986 sampling visit
6 to sample EAF dust, that's electric arc
7 furnace dust?
8 A. Yes, that was part of the focus.
9 Q. Was a plan for how to sample EAF dust or the
10 other streams that were a focus of the
11 sampling inspection -- inspection, discussed
12 prior to the sampling inspection?
13 A. To a certain degree, yes.
14 Q. To what degree was it discussed?
15 A. We discussed how to obtain a sample from the
16 truck as it was discharging.
17 Q. What were those discussions?
18 MS. SUTULA: Objection.
19 Q. What did you discuss on how to take the sample
20 from the truck while it was discharging?
21 MS. SUTULA: I'm still going to
22 object, but you may answer.
23 A. We discussed methods of how to obtain such a
24 sample. As I recall, we discussed how to try
25 and obtain such a sample.

Q. Were there problems involved in obtaining such a sample?

MS. SUTULA: Objection.

Q. Go ahead and answer.

THE WITNESS: I can answer?

MS. SUTULA: Yes.

A. I wouldn't say problems, but it's -- it's an unusual situation to try and collect the sample from a truck as it's actually discharging.

Q. How was the discharge from the truck accomplished?

A. The discharge was accomplished by the truck tilting the tank and just letting the material inside the truck flow out of the back of the truck into the -- into the landfill.

Q. Did that method of discharge pose any practical problems in taking a sample of the contents of the truck?

A. I wouldn't call them practical problems, but it called for proper planning on how to collect those samples -- that sample.

Q. Did you have discussions on that planning?

A. Yes.

Q. Are there any documents or written plans which

were prepared, which compiled the results of those discussions?

A. No.

Q. What plan did you develop for sampling from the truck discharge?

A. We decided to collect grab samples during the discharge and then composite them so that we could get a -- a representative sample of what was being discharged by the truck.

Q. Did your plan involve the use of any random number tables or random number generators for determining when you would take the grab samples during the discharge?

A. No.

Q. Who did you discuss the sampling plan with from U.S. EPA?

A. I discussed it with Catherine McCord and I believe I discussed some of the logistical portions with Mike Patton.

Q. Did you discuss the sampling plan with anyone else from U.S. EPA?

A. Not that I can recall.

Q. With any other person?

A. Pardon me?

Q. With any other person not from U.S. EPA?

A. No, not that I can recall.

Q. Was a focus of your sampling visit to sample the mixture of EAF dust and clarifier slurry as it was actually disposed of at the Sebring landfill?

A. Yes.

Q. Were samples of this EAF dust, clarifier mixture taken during the August 7, 1986 visit?

A. Yes.

Q. Would you please describe the steps that you took leading up to the taking of those samples of the dust/slurry mixture?

A. We -- when we were at the landfill, we got our sample bottles ready and we had a sampling pole that we could use to stick into the discharge, and we set up the pole and the sampling bottles and were -- got ready to collect the sample as they were discharging the waste stream into the landfill.

Q. Please describe how you took the first sample of EAF dust and slurry mixture.

A. As the truck started to empty its load, we had a long pole with our sample jar on the end of it, connected to the end of the pole, and we just stuck that into the flow -- the liquid

flowing out of the truck into the landfill, we just stuck it into the stream and pulled it out and the jar was filled.

Q. What method did you use to determine at what time to stick the jar under the stream being discharged from the truck?

A. As I recall, ~~we decided to go with about five~~ separate samples beforehand, and we just decided to divide it up chronologically. When they started to dump, we took a sample, and then we took four more samples after that, during the dumping activity, and used those for compositing the samples that we sent in for analysis.

Q. Did you use a stop watch or timer of any kind to determine when the samples were to be taken?

A. No.

Q. Was there any sample which was taken of the contents of the truck prior to the time that the truck started dumping?

A. Yes, there was.

Q. Can you describe how that sample was taken?

A. The sample in question is sample S14, and before the load was discharged, Ms. McCord

1 went up top of -- at the landfill, she went on
2 top of the truck and we had a plastic core --
3 plastic tube that we could use as a coring
4 device to take a core sample of at least part
5 of the way down of the load that was in the
6 truck.
7 She reached down in there and stuck it
8 all the way down into the material and then
9 brought it up, and the material stayed in the
10 tube and what we were able to determine from
11 that was that there was dust and then there
12 was some moist material in the tube, and that
13 was done, although it was not done initially
14 as a sample.
15 Q. Can you explain what you mean by "it was not
16 done initially as a sample"?
17 A. It was just done as a demonstration for us to
18 visibly see if there had been mixed -- any
19 mixing or how much mixing or if all the dust
20 had mixed with the slurry, with the liquid.
21 Q. Was this tube that you used, did it have a cap
22 on the bottom of the tube that would close
23 when you had inserted it to keep the sample
24 inside?
25 A. No.

1 Q. Did it have any other mechanism by which the
2 sample would be kept inside the tube?
3 A. No; no.
4 Q. Is the tube which was used what is described
5 in various EPA publications as a Coliwasa,
6 C-o-l-i-w-a-s-a?
7 A. No.
8 Q. Do your notes contain a description of the
9 procedure that was used to take that core
10 sample, S14?
11 A. No.
12 Q. Can you look at the entry under 1410?
13 A. Yes.
14 Q. I'm not trying to catch you up here, I just
15 want to make sure we're getting everything
16 together. There is an entry there which I
17 believe reads "at landfill took core of top
18 ten to 12 inches of load, eight to ten inches
19 of core was dry dust, only bottom --"
20 A. "Inch."
21 Q. "-- of core was wet."
22 A. Um-um.
23 Q. Parentheses "damp," close parentheses, "think
24 this --"
25 A. "This."

Q. " -- this core became S14" parentheses, "no split," close parentheses, "not enough sample"?

A. Yes.

Q. Did the core tube extend all the way through the vertical heights of the tank truck when the sample was taken?

A. I don't believe so.

Q. Do you know whether any of the EAF dust clung to the sides of the plastic tube?

A. The inside or the outside?

Q. The inside.

A. Yes, it did.

Q. Did any EAF dust cling to the outside of the plastic tube?

A. I don't remember.

Q. Isn't it possible that since there was nothing in the tube that would prevent material from falling out of the tube, that what you were getting was, what you're referring to as a core sample is not in fact a core of the top ten to 12 inches of the load?

A. I don't believe so. I don't believe it's -- I believe it was representative of the top ten inches.

Q. What do you base that conclusion on?

A. There was a moist plug of the damp material that was holding that arc furnace dust in the tube.

Q. To your knowledge, are there any other notes which exist in U.S. EPA's files which would contain a more detailed description of how sample S14 was taken?

A. Not to my knowledge.

Q. When was it decided to take S14?

A. It was decided to take S14 after we had collected the sample from the discharge of the truck, and as I recall, we had one available sampling -- in our sealing of samples, we had a certain number of samples that we could collect and have analyzed, and at that point it was decided to use the core as a sample.

Q. Was the core taken at the time that you decided to use it as a sample? I'm a bit confused.

A. The core was already taken at the time we had decided to use it as a sample. It had been taken previously.

Q. Where was the core kept during the time between when you took it and when you decided

to use it as a sample?

A. I don't recall.

Q. Was it placed in a sample bottle immediately after it was taken?

A. I don't recall.

Q. What was the level of material in the tank truck at the time that the core was taken?

A. The tank truck was -- nothing had been discharged from the truck at that point, so I don't -- the tank was -- the tank truck was full.

Q. Was the level of material in the tank truck higher than ten to 12 inches?

A. Yes.

Q. Was it higher than three feet?

A. Yes.

Q. Do you recall approximately how much level of material there would have been in the tank truck at the time S14 was taken?

A. Not exactly, no.

Q. Was it more than six feet?

A. I did not look down into the hatch to see what the exact level was, so I could not really say what the total depth of the material in the truck was.

1 Q. Who did look down into the --
2 A. Catherine McCord.
3 Q. Do you recall what the outside dimensions of
4 the tank were in vertical height?
5 A. Approximately eight feet. Eight to ten feet,
6 probably.
7 Q. Based on your notes which indicate that the
8 truck was three-quarters full of sludge before
9 electric arc furnace dust was added, if the
10 tank was eight feet high, would it be a
11 correct statement, then, that the sludge level
12 before the addition of electric arc furnace
13 dust would have been approximately six feet?
14 A. According to my notes.
15 Q. Would the level have decreased when the
16 electric arc furnace dust was added?
17 MS. SUTULA: Objection.
18 You may answer.
19 A. No, it would not decrease.
20 Q. Would you expect the level to increase
21 somewhat?
22 MS. SUTULA: Objection.
23 You may answer.
24 A. Yes.
25 Q. Was sample S14 split with American Steel

1 Foundries?

2 MS. SUTULA: Objection.

3 You may answer.

4 A. No.

5 Q. Do your notes indicate why sample S14 was not

6 split with American Steel Foundries?

7 A. Yes.

8 Q. Why is that?

9 A. Because there was not enough sample to split.

10 Q. How much volume did S14 consist of?

11 A. Approximately a quart.

12 Q. Did American Steel Foundries request that S14

13 be split with them?

14 A. Not that I recall.

15 Q. Did you offer to split S14 with American Steel

16 Foundries?

17 A. Not that I recall.

18 Q. Was there any other reason why S14 was not

19 split with American Steel Foundries?

20 A. No.

21 Q. Do you recall any reason why a quart of

22 material was not enough to split?

23 MS. SUTULA: Objection.

24 You may answer.

25 A. Our lab requires that much sample for the

1 analysis.
2 Q. Was there a full quart of S14?
3 A. I don't recall.
4 Q. What was the next sample which was taken after
5 S14?
6 A. As far as samples go, S14 was the last sample.
7 Q. When I am speaking of taking samples, I'm
8 speaking of the actual physical removal of the
9 material from the contents of the tank, or
10 samples which were taken from the tank. Based
11 on that, what was the next sample taken after
12 S14?
13 A. We collected the group of samples from the
14 discharge as I previously described.
15 Q. Were those samples placed in sample jars at
16 that time?
17 A. Yes.
18 Q. And were those sample jars numbered as samples
19 at that time?
20 A. No. They were -- they were numbered to keep
21 track of which particular segment that they
22 were collected during the dump, but they were
23 not numbered as S11 or S -- I should say S12
24 or S13.
25 Q. When the five separate jars of material were

taken as the truck was being dumped, was there a separate jar for each of those?

A. Yes.

Q. Are those the jars that you are referring to, that were numbered to keep track of the order in which they were taken?

A. Yes.

Q. Were those jars actual sample jars that were used for transporting the samples to the laboratory?

A. They were the same type of jars.

Q. Were they actually used to transport samples to the laboratory?

A. No.

Q. After you had taken the five jars during the -- let's back up a little bit.

How fast was the tank truck of dust/slurry mixture dumped while you were taking the samples in those five jars?

A. I don't have any exact information on how fast or how long it took for them to dump it.

Q. Did you have any conversation with the truck driver regarding the speed at which the truck contents were dumped?

A. As I recall, we asked them to dump -- dump a

1 portion and then slow -- either slow it down
2 or stop until we could get our next jar ready
3 for the next part of the sample.
4 Q. Was this the procedure which the truck drivers
5 normally followed in dumping the contents of
6 the truck?
7 A. I'm not aware of their normal procedure.
8 Q. Where were you during the period that these
9 five jars were being taken during the dump?
10 Where was your physical location with respect
11 to -- with reference to the truck?
12 A. I was switching the jars on the end of a pole.
13 Q. Where was Ms. McCord at this time?
14 A. She was observing the procedure.
15 Q. Where was Mr. Patton at this time?
16 A. He was holding the pole.
17 Q. Who gave the directions to the truck driver as
18 to when to slow down or stop the dumping
19 activity?
20 A. I don't recall.
21 Q. Did you do that?
22 A. I don't recall.
23 Q. Would you please describe the procedure that
24 was used to form the sample that was
25 designated as S13?

1 A. We took the first two aliquots of the sample,
2 of the five aliquots that were collected and
3 composited those together in a separate but
4 larger container, and then we poured into new
5 bottles that material and you gave -- gave one
6 to the facility for a split and kept the other
7 as S13.
8 Q. Do your notes contain a description of this
9 procedure?
10 A. My notes say "S13, composite and split of
11 first two jars for first half -- from first
12 half of dump," so that's what my notes
13 describe.
14 Q. Can you describe the procedure used to make up
15 the sample labeled as S12?
16 A. S12 was a composite and split of the last two
17 jars from the last half of the dump, and it
18 was done the same way as we composited and
19 split S13.
20 Q. Do your notes contain a description of the
21 procedure for S12?
22 A. The first sentence that I read is what my
23 notes say.
24 Q. That is "Composite and split last two jars
25 from last half of dump"?

A. Yes.

Q. Was S12 split with American Steel Foundries?

A. Yes.

Q. What was the next sample that was taken?

A. Sample S11.

Q. Could you please read the entry in your notes after the entry S11?

A. "Grab of dryer material after dump from surface of material just dumped," parentheses, "Dry material had already started to absorb moisture from slurry," close parentheses.

Q. Would you please describe the procedure that was followed in taking sample S11?

A. S11 was basically a grab sample collected of the material lying in the landfill after the dump right from the spot where the material had came from and fell from the truck, that we were sampling previously.

Q. Do you know any other notes that were kept during this sampling investigation that would have a more detailed description of the procedure that was used in S11?

A. Not that I am aware of.

Q. What was S11 composed of?

A. S11 was basically composed of the last bit of

1 material that came out of the truck after we
2 had stopped collecting our five aliquots.
3 Q. How much volume of that last bit of material
4 was there?
5 A. I don't have the volume measurements on it. I
6 couldn't say.
7 Q. Is it a large amount, a small amount?
8 A. I don't recall the amount, how much was left
9 after we stopped collecting our five aliquots.
10 Q. How much volume of dust/slurry mixture did the
11 entire tank contain?
12 MS. SUTULA: Objection.
13 Q. You can answer.
14 THE WITNESS: Can I answer?
15 MS. SUTULA: Answer if you know.
16 A. I don't know.
17 Q. What percentage of the total volume of
18 dust/slurry mixture that the tank contained
19 was represented by the little bit of dust that
20 floated out at the end of the dump?
21 MS. SUTULA: Objection.
22 A. I don't know.
23 Q. When was it decided to take sample S11?
24 A. As we observed that final bit of material
25 coming out and saw that it was -- there was

1 dry material actually coming out of the truck.
2 Q. Was sample S11 decided to be taken because the
3 material that came out in the last little bit
4 was dry?
5 A. As I recall, yes.
6 Q. Had you originally planned at the start of the
7 sampling inspection, to take a sample of the
8 type of S11?
9 A. No.
10 Q. Could you please describe whatever
11 pre-planning was done by you or other U.S. EPA
12 personnel regarding the mechanism of taking
13 the samples of the EAF dust and dust/slurry
14 mixture?
15 MS. SUTULA: Objection. Didn't
16 he go through that already?
17 MR. SCHILLAWSKI: I believe we
18 went through it for the EAF dust and the sand
19 collectors. I'm not sure we went through it
20 for the dust/slurry mixture.
21 MS. SUTULA: The pole with the
22 jars on.
23 MR. SCHILLAWSKI: That's a
24 description of the process that they decided
25 to use.

1 MS. SUTULA: Ask your question
2 again. I'm sorry, maybe I misheard it.
3 Q. Could you please describe whatever
4 pre-planning process was used to determine the
5 mechanisms to be used in the sampling?
6 MS. SUTULA: Objection.
7 Go ahead.
8 A. We knew the objective was to collect the
9 sample of the truck as it was being discharged
10 or being dumped, and just sort of kicked
11 around ideas on how to actually physically and
12 logistically collect such a sample, and I
13 can't give you specifics on what our options
14 were, but that was what we finally came up
15 with as the method for collecting the sample.
16 Q. What procedure was used to label the jars
17 which contained samples S11 through S14?
18 A. We have sample labeling tags that we put on
19 each jar and they are standard EPA labels --
20 sample label tags, and they were filled out
21 and put on the jars as the sample -- or,
22 after -- directly after the sample was
23 collected. These tags were filled out and put
24 on those jars.
25 Q. Was the label for S11 filled out immediately

after the sample which became S11 was placed in the sample jar?

A. As I remember, yes.

Q. Was the label which was placed on sample S12 placed on the jar immediately after the sample of the truck material was taken from the truck?

A. It would have been immediately after the sample was composited, the two aliquots were composited. At that point, we would have -- we filled out the sample label and attached it to the sample jar.

Q. How long would that have been after the aliquots had been taken?

A. It would probably have been around five or ten minutes, maximum.

Q. Does that same hold true for sample S13?

A. Yes.

Q. Was sample -- the sample label for the jar that contained sample S14 placed on the jar immediately after sample S14 was taken from the truck?

A. No.

Q. How long would it have been after the sample S14 was taken from the truck?

1 A. I don't recall how long it was after.
2 Q. Does U.S. EPA have a standard operating
3 procedure regarding the labeling of samples
4 taken at its sampling inspections?
5 A. I don't believe so.
6 Q. What information was contained on the sample
7 labels?
8 A. Sample labels have the sample number, the time
9 of the sample, the date of the sample,
10 location of the sample and also what the
11 analytical parameters are to be analyzed for
12 for that sample, and also the name of the
13 sampler is on there.
14 - - - -
15 (Thereupon, a photograph was marked
16 for the purpose of identification as
17 Defendant's Exhibit 4.)
18 - - - -
19 Q. I'm handing you a photograph that's been
20 marked as Defendant's Exhibit Number 4. Is
21 the jar which is present in that photograph
22 and appears to have a tag on it, a jar that
23 will contain a sample?
24 A. Yes.
25 Q. Is that tag the sample label that you have

been referring to?

A. Yes.

Q. How is it attached to the jar?

A. It's tied on with a string.

Q. Is there any type of a seal on that string, that would prevent the label from being removed?

A. No.

- - - -

(Thereupon, a photograph was marked for the purpose of identification as Defendant's Exhibit 5.)

- - - -

(Thereupon, a photograph was marked for the purpose of identification as Defendant's Exhibit 6.)

check photo

- - - -

Q. I'm handing you a photograph that's been marked as Defendant's Number 5. Can you tell me what is represented in that photograph?

A. This is a picture of the material in the truck as it's being dumped into the landfill.

Q. Is that an accurate reflection of the way the material looked when it was being dumped?

A. I would say so, yes.

1 Q. Going back just to cover myself, is the
2 photograph that was marked as Defense Number 4
3 an accurate reflection of the way that the
4 sampling jars were prepared and that the label
5 was attached to?
6 A. Yes.
7 Q. I'm handing you a photograph that's been
8 marked as Defendant's Number 6. Can you
9 describe what that photograph depicts?
10 A. It also depicts the waste stream coming out of
11 the back of the truck into the landfill.
12 Q. Does it depict anything else?
13 A. Yes, it depicts the sampling pole and the
14 sample container.
15 Q. Is that accurate --
16 A. Sampling container, I should say.
17 Q. Is the photograph marked Number 6 an accurate
18 depiction of the dumping from the truck at the
19 time a sample was being taken?
20 A. I'd say it's -- there's less volume coming out
21 than when I remember us taking most of the
22 samples, the volume -- there was more volume
23 coming out of the truck than there is in this
24 particular picture, in picture six, or Exhibit
25 6.

1 Q. How much volume do you recall coming out of
2 the truck at the time when those samples were
3 taken?
4 A. The volume was more like the picture in
5 Exhibit 5.
6 Q. Was there any time that you recall a sample
7 was taken when the volume coming out of the
8 truck would have been as depicted in Number 6?
9 A. Not that I recall.
10 MR. SCHILLAWSKI: This is a
11 convenient breaking place.
12 - - - -
13 (Thereupon, a luncheon recess was had.)
14 - - - -
15 Q. Mr. Fredle, I'd like to go back to S14 for a
16 minute if I could. You testified that S14 was
17 a core sample that was taken from the truck
18 before the dump.
19 A. Yes.
20 Q. And it was decided to take that core sample as
21 a sample because you had an extra sample jar
22 left; does that accurately reflect what you --
23 A. I wouldn't say an extra sample jar, but we had
24 an extra allocation in the lab for analysis,
25 we had so many sample analyses that we were

able to have done for this particular inspection, and since we had the extra availability of it and there was this sample that Catherine thought would be a good sample to have analyzed, we had it analyzed.

Q. Did Catherine indicate to you why she thought it was a good sample to have analyzed?

A. Not that I remember. I don't remember whether she had indicated to me or not.

Q. Was S14 taken as a sample because it was dry dust?

A. Probably.

Q. In what order were samples S11 through S14 labeled?

A. S11 through S14, they would have been labeled -- they would have been labeled -- it's kind of hard to say what order they were labeled. They would have been labeled, though, after the samples were collected and in most of these cases, so the -- let's see if I have times on these. Let me refer to my notes here.

Sample S -- S -- no. I don't have an indication in my notes as to when we actually labeled the samples.

1 Q. S11 was the last sample that was actually
2 taken of the material?
3 A. Yes.
4 Q. And S14 was the first sample that was taken
5 from the truck load of material?
6 A. Yes.
7 Q. Is it true that the core sample which was
8 eventually labeled as S14, was unlabeled
9 during the time period that S13, S12 and S11
10 were being taken?
11 A. Yes.
12 Q. Was that core sample in your physical custody
13 during that time?
14 A. No.
15 Q. Do you know whose physical custody it was in?
16 A. As I recall, it was not really in anyone's
17 physical custody. It was just sort of sitting
18 there.
19 Q. Did you personally observe the core sample
20 that became S14 during the time period that
21 the other samples were being taken?
22 A. I don't recall.
23 Q. Did you assign anyone else to keep that under
24 observation?
25 A. I don't recall assigning anyone.

1 Q. What activities were you engaged in during the
2 time period from when the core sample was
3 being taken and when the samples were labeled?
4 A. We were collecting samples S11, S12 and S13.
5 Q. What physical activities were you personally
6 engaged in during that sample taking?
7 A. I was changing the jars on the end of the pole
8 when we were collecting the sample from the
9 dumping.
10 Q. What physical activities was Catherine McCord
11 engaged in during this time period?
12 A. She was observing our sampling effort.
13 Q. What was her physical position during this
14 time?
15 A. I don't recall exactly where she was standing.
16 Q. What activities was Mr. Patton physically
17 engaged in during this time period?
18 A. He was the one working the pole.
19 Q. Is it true that after, immediately after S11
20 was taken from the little bit of material that
21 flowed out at the end of the dump, that at
22 that time you had an unlabeled core sample
23 which became S14 and five jars which contained
24 the aliquots of materials that were taken
25 during the time that the truck dumped the

1 material which it contained?
2 A. Yes.
3 Q. Did you personally take sample S11?
4 A. No.
5 Q. Did you observe it being taken?
6 A. Yes.
7 Q. How large was the material that you referred
8 to as the little bit of material in relation
9 to the sample jar that was used to take that
10 sample?
11 MS. SUTULA: Objection.
12 You may answer if you can.
13 A. It's hard to say. I couldn't really -- I'd be
14 speculating if I were to answer.
15 Q. What procedure was used to seal the jar as it
16 contained samples S11 through S14?
17 A. A lid on the jar.
18 Q. Is there a U.S. EPA standard operating
19 procedure regarding the sealing of samples
20 taken during a sampling investigation?
21 A. There's a standard procedure that we use, yes.
22 Q. Could you describe that standard procedure?
23 A. To label the jar, tie the label onto the jar
24 and seal it with a lid, just make sure it's
25 tightened down.

Q. Were the five jars that contained the aliquots that were then used to make samples S13 and S12 sealed with lids?

A. That, I don't remember.

Q. Was an individual custody seal placed on each jar that contained samples S11 through S14?

A. No.

Q. What was done with the individual sample jars after the sampling was completed?

A. They were taken back to our office, we packed them up and sent them to the lab for analysis.

Q. How were they taken back to your office?

A. In a cooler in our vehicle.

Q. Did that cooler also contain the samples that had been taken earlier that day?

MS. SUTULA: Objection.

A. I don't remember -- the ones earlier that day --

Q. Earlier on the 7th?

A. I don't remember how many containers we may have had.

Q. Do you recall whether the cooler that contained sample jars S11 through S14 also contained sample jars D09 and S10?

A. I don't recall.

1 Q. Do you recall whether samples D09 and S10 were
2 present at the landfill when you were taking
3 the samples S11 through S14?
4 A. They would have been, yes.
5 Q. Were they accessible during that time?
6 MS. SUTULA: Objection. What do
7 you mean by "accessible"? To who?
8 Q. Were they accessible to non U.S. EPA personnel
9 during that time?
10 MS. SUTULA: Objection.
11 A. I'm not sure.
12 Q. If you wanted to pick up the sample jar that
13 contained sample S10 during the time period
14 that you were taking samples S11 through S14,
15 could you have done so?
16 MS. SUTULA: Objection.
17 A. Could I have done so? I'm sure I could have.
18 Q. Could anyone else?
19 A. I just don't recall exactly how it was stored.
20 Q. Were the samples S11 through S14 preserved?
21 MS. SUTULA: Objection.
22 A. No --
23 MS. SUTULA: Go ahead.
24 A. No.
25 Q. Does U.S. EPA have a standard operating

1 procedure as to when samples require
2 preservation?
3 A. Yes.
4 Q. Does that standard operating procedure address
5 samples that will be sampled for EP toxicity?
6 A. I'm not sure if it addresses EP tox samples,
7 but there is no preservation for EP toxicity.
8 Q. Was the cooler in which samples S11 through
9 S14 were transported back to your office,
10 sealed?
11 MS. SUTULA: Objection.
12 A. I don't recall.
13 Q. Was a custody seal of any type placed on the
14 cooler?
15 A. Yes.
16 Q. Can you describe that custody seal, please?
17 A. It would have been a yellow tag with a number
18 on it.
19 Q. Was any information contained on the custody
20 seal, other than a number?
21 A. No.
22 Q. What would the number have been on the custody
23 seal?
24 A. EF10-1 or EF10-2.
25 MR. SCHILLAWSKI: Can you mark

1 this as the next exhibit, please?

2 - - - -

3 (Thereupon, a one-page Environmental

4 Protection Agency 'Chain of Custody Record,'

5 dated August 7, 1986, was marked for the

6 purpose of identification as Defendant's

7 Exhibit 7.)

8 - - - -

9 Q. Mr. Fredle, I have handed you what's been

10 marked as Defendant's Exhibit Number 7, do you

11 recognize this?

12 A. Yes.

13 Q. What is it?

14 A. This is a chain of custody record.

15 Q. Is this chain of custody record the chain of

16 custody record for samples taken at the August

17 6th and 7th sampling inspection at American

18 Steel Foundries?

19 A. Yes.

20 Q. Earlier you referred to the sample custody

21 seal on the cooler as having the number EF10

22 or EF10-2 on it.

23 A. Right.

24 Q. Were you referring to your copy of Number 7 at

25 the time?

1 A. Yes, I was.
2 Q. What is the significance of those numbers
3 which you read?
4 A. Those are the custody seal numbers that we put
5 on the samples when we ship them.
6 Q. Was the cooler which contained the samples
7 retained in your custody at all times
8 following the placing of the samples therein?
9 A. It was retained in either my custody or Mike
10 Patton's custody.
11 Q. Was there an official log book kept of the
12 sampling visits on August 6th and 7, 1986, at
13 American Steel Foundries?
14 A. No.
15 Q. Does U.S. EPA have any standard operating
16 procedure regarding the keeping of an official
17 log book during official inspections?
18 A. No.
19 Q. If you can refer back to Exhibit 2 which you
20 have identified as a report of the sampling
21 visit, did you have any part in the
22 preparation or review of this report?
23 A. Yes.
24 Q. What part did you take in that?
25 A. I wrote it.

1 Q. Is it the practice of U.S. EPA to prepare
2 reports following sampling inspections?
3 A. Yes.
4 Q. Is this report one that you would have
5 prepared in the ordinary course of your
6 business as an inspector?
7 A. Yes.
8 Q. Does U.S. EPA have any standard operating
9 procedure relating to the preparation or
10 content of these sampling reports?
11 A. Yes.
12 Q. Is this report, Exhibit 2, an accurate
13 description of your sampling visits at
14 American Steel Foundries on the 6th and 7th of
15 August?
16 A. Yes.
17 Q. Is there anything in the report that's not an
18 accurate description of that sampling visit?
19 MS. SUTULA: Take the time to
20 read it word for word with that question.
21 A. I would say from a cursory review of the
22 report, the only incorrect statement is the
23 timing on table one of sample S09, and that
24 should be 1300 hours instead of 1100 hours, as
25 we previously discussed. Everything else, as

1 far as I know, is accurate.
2 Q. Can you refer again to Exhibit Number 3, which
3 you identified as the first report you did of
4 the sampling which was later amended by
5 Exhibit 2?
6 A. Um-um.
7 Q. Did you prepare Exhibit Number 3?
8 A. Yes.
9 Q. Was that preparation in the ordinary course of
10 your business as a U.S. EPA inspector?
11 A. Yes.
12 Q. What laboratory analyzed the samples?
13 A. U.S. EPA Region V, Central Regional
14 Laboratory.
15 Q. Where is that located?
16 A. Chicago.
17 Q. How are the samples delivered to the
18 laboratory for analysis?
19 A. They were delivered by Airborne Express.
20 Q. If you can refer again to I believe it's
21 Number 7 --
22 A. Yes.
23 Q. -- which you identified as the chain of
24 custody record, did you take any part in
25 preparation of this chain of custody record?

1 A. Yes.
2 Q. Can you describe what your participation was?
3 A. Well, I helped fill out the station location
4 column, I would say that I put in probably
5 most of the times. I signed it. I'm not sure
6 about the rest of it. Some of it was done
7 by -- was not done by me.
8 Q. Do you know who did the parts that you did
9 not?
10 A. Mr. Patton.
11 Q. Did Catherine McCord have any part in filling
12 out this chain of custody record?
13 A. No.
14 Q. What is the significance of your signature on
15 that chain of custody record?
16 A. It's required.
17 Q. Why is it required?
18 MS. SUTULA: Objection.
19 A. It's procedure.
20 Q. What does it mean?
21 A. It means that I was the sampler.
22 Q. Your signature is in a box which is headed
23 "relinquished by." What is the significance
24 of that box as opposed to any of the other
25 boxes on the form?

1 A. That's the person that took the sample
2 containers, or the coolers containing the
3 samples to or prepared them for shipment to
4 Airborne.
5 Q. How many coolers were there?
6 A. Two.
7 Q. What was the distribution of samples within
8 those individual coolers?
9 A. One cooler would have had samples S01 through
10 S07 in it, and another cooler would have had
11 samples S08 through R15 in it.
12 Q. You mentioned that your signature on the chain
13 of custody record is required by procedure.
14 What procedure is that?
15 A. Just our standard operating procedure.
16 Q. Is that written down anywhere?
17 A. Yes.
18 Q. Do you have the document which contains that
19 procedure?
20 A. No.
21 MR. SCHILLAWSKI: I would like to
22 request that we be provided with a copy of
23 that document.
24 MS. SUTULA: Have you asked for
25 it before?

1 MR. SCHILLAWSKI: We asked for
2 all documents relating to sampling procedures,
3 and I think that certainly qualifies.
4 MS. SUTULA: I will discuss it
5 with my colleagues. I don't have a copy of
6 it. I don't believe it's under your request
7 for this deposition, but as I said, I'll
8 discuss it with my colleagues.
9 MR. SCHILLAWSKI: Okay.
10 Q. Were the samples outside of your physical
11 possession or view at any time during the
12 period from when they were labeled at the
13 landfill to when they were delivered to
14 Airborne?
15 A. They were either in my or in -- in my
16 possession or Mr. Patton's possession or
17 locked up in a secured location.
18 Q. Who is your contact at the laboratory
19 pertaining to the samples?
20 A. I don't remember.
21 Q. Are there any other samples from American
22 Steel Foundries, to your knowledge, which
23 tests EP toxicity in materials at the Sebring
24 landfill, other than samples S11 and S14 which
25 were taken on August 7, 1986?

A. That were taken on the 6th or 7th?

Q. That you have knowledge of.

A. That I have knowledge of? Not that I have knowledge.

MS. SUTULA: Would you read that question back to me, what samples he's referring to?

- - - -

(Thereupon, the above-referred to question was read back by the Notary.)

- - - -

Q. Are there any other sample results which, to your knowledge, are considered to demonstrate that hazardous wastes were actually disposed of in hazardous form at the Sebring landfill --

MS. SUTULA: Objection.

Q. -- other than S11 and S14?

A. I have no knowledge of other samples from this facility or from the landfill.

Q. Was the torpedo tank which was used by American Steel Foundries to mix the electric arc furnace dust with clarifier slurry, during your August 7, 1986 sampling inspection, used to contain an accumulation of material?

1 MS. SUTULA: Objection.
2 You may answer if you understand
3 it.
4 A. I'm not sure what you mean by "accumulation of
5 material."
6 Q. Was material accumulated in the torpedo tank
7 which was used by ASF to mix the electric arc
8 furnace dust with clarifier slurry for your
9 sampling inspection?
10 MS. SUTULA: Objection.
11 A. I don't know.
12 Q. In the course of your duties for U.S. EPA have
13 you ever entered American Steel Foundries'
14 property when American Steel Foundry personnel
15 were not present?
16 MS. SUTULA: Objection. Do you
17 want to specify which properties? This
18 gentleman may not know all properties owned by
19 American Steel Foundries.
20 Q. In the course of your duties for U.S. EPA have
21 you ever entered the American Steel property
22 at the landfill located in Sebring Township,
23 Ohio, when ASF personnel were not present?
24 MS. SUTULA: Objection.
25 A. Yes.

1 MS. SUTULA: You may answer.
2 Q. Would you describe the circumstances under
3 which you entered that property?
4 MS. SUTULA: Objection. He
5 already testified to those circumstances.
6 Q. Who made the decision to enter the landfill
7 when you entered the landfill?
8 A. I don't think it was actually a decision. We
9 just went. There was no restricted access to
10 the landfill area and we just went in there
11 and waited for the trucks to come.
12 Q. Did you open a gate or cross a fence to enter
13 the landfill?
14 A. There was no gate.
15 Q. Did any American Steel Foundry representative
16 ever tell you that it was all right for you to
17 enter the Sebring landfill when no ASF
18 personnel were present?
19 MS. SUTULA: Objection.
20 A. No.
21 Q. Did any American Steel Foundry representative
22 ask you not to enter the landfill property
23 when no ASF personnel were present?
24 MS. SUTULA: Objection.
25 You may answer.

1 A. No.
2 Q. Did any American Steel Foundries
3 representative ask you to report your intent
4 to enter American Steel landfill property
5 before entering?
6 MS. SUTULA: Objection.
7 You may answer.
8 A. No.
9 Q. Did any American Steel Foundry representative
10 ever inform you that you were trespassing and
11 entering the landfill without American Steel
12 Foundries' invitation?
13 A. No.
14 MS. SUTULA: Objection.
15 A. No.
16 MS. SUTULA: This is ridiculous.
17 He has the right and authority to enter. I
18 feel like you're trying to lead the witness
19 into feeling that something he did might have
20 been wrong. Can you tell me the purpose of
21 this line of questioning?
22 MR. SCHILLAWSKI: Yes. We have
23 raised the defense of unclean hands regarding
24 trespassing without permission on private
25 property.

1 MS. SUTULA: You're saying the
2 statutes and regulations require -- have made
3 this a trespass? Are you serious?
4 MR. SCHILLAWSKI: Trespass is
5 defined by state law.
6 MS. SUTULA: And that's supreme
7 to the federal law which gives them a right to
8 check on violations, to observe any
9 violations. Are you saying state laws are
10 paramount to the federal law in this area?
11 MR. SCHILLAWSKI: I'm saying I
12 raised the defense and I'm entitled in a
13 deposition to gain evidence concerning that.
14 MS. SUTULA: It's your money, but
15 I find these totally objectionable. I really
16 think they are intended to harass this witness
17 and make him think he's guilty of doing
18 something wrong when in fact he's not.
19 You may proceed, but note my
20 objection, but I'll file a Rule 11 motion. I
21 think these are highly objectionable questions
22 to ask the witness when there is no sound
23 basis in law or fact to do those types of
24 questions. You may proceed, and I'll take it
25 up with the court.

1 Q. Did your training as a U.S. EPA employee cover
2 your powers under the statutes with regard to
3 entering onto private property?
4 A. More or less.
5 Q. Can you describe what that training was?
6 A. Not offhand.
7 Q. Can you describe your understanding of your
8 powers under statutes to enter private
9 property?
10 A. As long as I am not told to leave the
11 property, that I can enter property.
12 Q. Are you familiar with requirements regarding
13 U.S. EPA sampling which are contained in
14 Section 3007 of the Resource Conservation and
15 Recovery Act?
16 MS. SUTULA: Objection. Show him
17 what section you're talking about.
18 Q. Are you familiar about -- with any statutory
19 requirements for U.S. EPA personnel taking
20 samples under RCRA, to split those samples
21 with a facility when requested to do so?
22 A. No.
23 Q. Have you had any formal training as a U.S. EPA
24 employee that covers the requirements to split
25 samples with facilities when requested to do

so?

MS. SUTULA: Wait a minute. Read me that question back.

- - - -

(Thereupon, the last question was read back by the Notary.)

- - - -

A. I don't remember.

Q. Are you familiar with a publication titled 'SW-846 Test Methods for Evaluating Solid Waste'?

A. I have heard of it.

Q. Would you describe what this publication is?

MS. SUTULA: Objection.

A. Test methods for evaluating hazardous waste, just what the title said.

Q. Is SW-846 regarded by U.S. EPA as an authoritative source for evaluating solid wastes?

MS. SUTULA: Objection. It's outside the scope of education of this witness and outside of his expertise. I object.

Don't answer. That calls for an opinion you are not qualified to render.

Q. Have you read SW-846?

1 A. Parts.
2 Q. What parts have you read?
3 A. I don't remember.
4 Q. Were SW-846 protocols used in the sampling
5 that was conducted in the August 1986 sampling
6 inspection at American Steel Foundries?
7 A. I'd say probably in general.
8 Q. Did you refer to SW-846 in developing your
9 sampling protocols for the August 1986
10 sampling inspection?
11 A. No.
12 Q. Were any other published protocols used in the
13 sampling on the August 1986 sampling
14 inspection?
15 A. No.
16 - - - -
17 (Thereupon, a one-page photocopy of
18 pages 406 and 407 from the Code of Federal
19 Regulations, was marked for the purpose of
20 identification as Defendant's Exhibit 8.)
21 - - - -
22 Q. Have you ever seen the document which has been
23 marked as Number 8 before?
24 A. Yes.
25 Q. What is it?

1 A. It is two pages out of the Code of Federal
2 Regulations that deal with the definition of a
3 hazardous waste.
4 Q. Can you please refer to Section 261.24A?
5 Could you read that paragraph?
6 A. "A solid waste exhibits the characteristics of
7 EP toxicity if, using the test methods
8 described in Appendix II or equivalent methods
9 approved by the Administrator under the
10 procedures set forth in 260.20 and 260.21, the
11 extract from a representative sample of the
12 waste contains any of the contaminants listed
13 in Table I at a concentration equal to or
14 greater than the respective value given in
15 that table."
16 Q. That's sufficient. Are you familiar with this
17 regulation?
18 A. Somewhat.
19 Q. Are you familiar with the requirement in this
20 regulation that a sample of a solid waste to
21 be tested for EP toxicity must be a
22 representative sample of the waste?
23 MS. SUTULA: Objection.
24 Read that question back.
25 - - - -

(Thereupon, the last question was read back by the Notary.)

- - - -

MS. SUTULA: You may answer.

A. Yes.

Q. Are you familiar with the regulatory definition of a representative sample?

A. Somewhat.

- - - -

(Thereupon, a one-page photocopy of pages 378 and 379 from the Code of Federal Regulations, was marked for the purpose of identification as Defendant's Exhibit 9.)

- - - -

Q. Have you seen the document marked as Number 9 before?

A. I may have.

Q. Do you know what it is?

A. It is two pages of definitions from 260.10 of the federal regulations.

Q. Could you please read the definition of a representative sample?

A. "Representative sample means a sample of a universe or whole," in parentheses, "waste pile, lagoon, ground water," close

1 parentheses, "which can be expected to exhibit
2 the average properties of the universe or
3 whole."
4 Q. Have you read the sections of SW-846 which
5 relate to the taking of samples of suspected
6 hazardous wastes?
7 A. Yes.
8 Q. Are you familiar with the mechanism of random
9 sampling?
10 A. Somewhat.
11 Q. Can you please describe this mechanism?
12 A. Not offhand.
13 Q. Was any random mechanism used to determine
14 what part of the material in the tank truck
15 that contained the dust/slurry mix was taken
16 as sample S11?
17 MS. SUTULA: I will object.
18 A. I would call it a random sample.
19 Q. Are you familiar with the SW-846 concept of a
20 haphazard sample?
21 MS. SUTULA: Objection.
22 You may answer.
23 A. I have read the term.
24 Q. Can you describe what it means?
25 A. Not offhand.

1 - - - -

2 (Thereupon, a multi-paged document
3 entitled 'Test Methods for Evaluating Solid
4 Waste, Physical/Chemical Methods, SW-846
5 Second Edition,' dated 1982, was marked for
6 the purpose of identification as Defendant's
7 Exhibit 10.)

8 - - - -

9 Q. Can you identify the document which has been
10 marked as Defendant's Number 10?
11 A. 'Test Methods for Evaluating Solid Waste,
12 Physical/Chemical Methods, SW-846 Second
13 Edition,' dated 1982.
14 Q. Have you seen this document before?
15 A. I believe I have.
16 Q. Would you please turn to a page which is
17 marked as eight slash sampling dash
18 development? It's somewhere about the tenth or
19 eleventh page in.
20 Have you read this passage or this
21 material on this page before?
22 A. I don't remember.
23 Q. Could you please read the last sentence of the
24 first partial paragraph on that page?
25 MS. SUTULA: Objection. The

1 document is going to speak for itself. You
2 want him to read this out loud or to himself?
3 Q. To yourself is fine.
4 A. I have read it.
5 Q. Does that passage deal with the concept of a
6 haphazard sample, that sentence?
7 MS. SUTULA: Do you want him to
8 read the last sentence?
9 Q. I'm sorry, the last two sentences. I didn't
10 see the period.
11 A. What was your question?
12 Q. Do these last two sentences deal with the
13 concept of a haphazardly selected sample?
14 A. Yes.
15 Q. Is a haphazardly selected sample a
16 representative sample?
17 MS. SUTULA: Objection. He
18 hasn't read the whole document. He's read two
19 lines of it. The document is going to speak
20 for itself.
21 If what you're saying, Phil, is if
22 this document says it is not, the document is
23 going to speak to that. Don't ask him to say
24 this on reading two lines of it.
25 Q. Was there any conscious bias involved in

selecting what part of the material contained in the tank truck which contained EF dust/slurry mixture was taken as sample S11?

MS. SUTULA: Objection. Are you asking if he had any bias when he determined that?

MR. SCHILLAWSKI: Yes.

Q. Did you have any conscious bias?

A. I'm not sure what you mean by "bias."

Q. Did you apply any conscious delineation of which part of the tank of material would be taken as sample S11 based on the characteristics of the material that you took as S11?

MS. SUTULA: Objection.

Off the record a minute.

- - - -

(Thereupon, a discussion was had off the record.)

- - - -

Q. When you decided to take sample S11, did you consciously attempt to take S11 as a sample which would affect the outcome of that sample?

A. No.

Q. Did you consciously select sample S11 as being

1 material which differed from the majority of
2 the material that was contained in the tank
3 truck of the dust sludge mixture?
4 A. Could you re-read that?
5 - - - -
6 (Thereupon, the last question was
7 read back by the Notary.)
8 - - - -
9 A. Not that I can remember, no.
10 Q. Did the material which you took as sample S11
11 exhibit different appearance or physical
12 properties that you could observe, that were
13 different from the majority of the material
14 that was contained in the tank load of
15 material that was disposed of at the landfill?
16 A. Yes.
17 Q. I believe you testified earlier that you took
18 sample S11 because it was dry?
19 A. Right.
20 Q. Did the majority of the material that was
21 contained in the tank truck that was disposed
22 of at the landfill consist of dry material?
23 MS. SUTULA: Objection. At which
24 point in time?
25 Q. When the sample -- when the tank truck was

dumped at the Sebring landfill, did the majority of the material that was dumped at the landfill from the tank truck consist of dry material?

A. No.

Q. Was there any difference, based on the fact that you took S11 because it was dry, that the majority of the material was -- based on your testimony that you took S11 because it was dry, and your testimony that the majority of the material at the time it was dumped from the truck at the Sebring landfill was not dry, was there a conscious decision on your part to take material as sample S11 which differed from the majority of the material that was disposed of at the Sebring landfill?

A. Yes.

Q. Based on your experience, would U.S. EPA accept a sample that was deliberately taken as being -- a different character of the majority of the material of which a waste was composed, as being a representative sample of that waste?

A. I don't know.

Q. Does the dip tube that was used to take the

hard

core sample that was specified -- labeled as S14 operate in the same manner as a Coliwasa?

A. No.

Q. What is the difference between the two?

A. There is no valve or any kind of a controlling mechanism in the dip tube, as you call it, as there is -- as there is in a Coliwasa.

Q. Would the instructions which are contained in SW-846 which refer to the use of a Coliwasa in terms of the use of that device to obtain a representative sample apply as well to the dip tube that you used for a core sample?

A. I don't know.

MS. SUTULA: Objection.

Q. Are you familiar with the SW-846 procedures for sampling containers and tanks?

A. Somewhat.

Q. Could you please refer to Exhibit 10, SW-846 at -- I apologize here -- a page marked -- this is I believe the third page from the back, "two" slash "sampling" dash "methodology."

A. Yes.

Q. Could you -- have you seen this section before?

A. I could have. I don't remember.

Q. Could you re-read the last paragraph above the line that says "1.4.2 tanks"?

MS. SUTULA: I object to the use of the term "re-read," when he didn't testify that he had read it before.

A. I have read it.

Q. Was the tank truck containing the dust/slurry mixture from which the dip tube sample which became S14 was taken constructed so that access to the contents was restricted?

A. As I read the definition here in this -- or the statement here in this paragraph, I would have to say yes.

Q. Was the restriction such that sampling with the dip tube was essentially restricted to a single vertical plane of the tank?

A. Yes.

Q. Was the material contained in the tank homogeneous?

A. No.

Q. Based on your reading of the paragraph which you have read from SW-846, is the dip tube sample that was taken from the tank truck containing the dust/slurry mixture a

representative sample of that mixture?

MS. SUTULA: Objection. It's outside of this witness's area, he's not an expert on sampling, and we have not listed him as such. It calls for an opinion, and I'm going to tell him to refuse to answer, and also, you're giving him one paragraph out of I don't know how many pages, but a quite lengthy document, and then asking him to draw a conclusion which he's not qualified to do.

You don't have to answer that question.

Q. Was any grid work drawn of the volume of the tank that was containing the electric arc furnace dust/slurry mixture prior to samples being taken?

A. No.

Q. Were any random numbers used to pick what portions of the volume of the tank would be taken as samples?

A. No.

Q. Are you familiar enough with the SW-846 procedure for sampling tanks and containers to recognize that they specify a grid work be drawn for sampling of tanks and containers to

assure a representative sample?

A. No.

MS. SUTULA: Objection.

Q. Was there any random -- was there any use of random numbers in determining what part of the tank volume would be taken as samples S11 through S14?

MS. SUTULA: Objection.

You may answer.

A. No.

Q. Are you familiar with the procedures contained in SW-846 regarding chain of custody?

A. I'm not sure.

Q. Have you read those procedures?

A. I may have at one point in time.

Q. Were separate sample seals used for each jar which contained a sample collected in the American Steel Foundries sampling inspection for chain of custody purposes?

A. Did you say separate on each sample and container?

Q. Yes.

A. No.

Q. Are you familiar with the SW-846 procedure regarding the keeping of a field log book

1 during any sampling investigation?
2 A. No.
3 Q. To your knowledge, has anyone at U.S. EPA, who
4 is an expert on sampling, reviewed the
5 sampling inspection which was conducted in
6 August 1986 at American Steel Foundries?
7 MS. SUTULA: Objection.
8 Read that question back.
9 - - - -
10 (Thereupon, the last question was
11 read back by the Notary.)
12 - - - -
13 MS. SUTULA: I'm going to
14 withdraw my objection. The witness may answer
15 yes or no.
16 A. I don't know.
17 MS. SUTULA: I didn't know if
18 there would be anything privileged.
19 - - - -
20 (Thereupon, a one-page memorandum
21 from Andrea Jirka to 'Files,' dated November
22 5, 1986, was marked for the purpose of
23 identification as Defendant's Exhibit 11.)
24 - - - -
25 Q. Mr. Fredle, this is a document which has been

1 marked as Defendant's 11. Have you seen it
2 before?
3 A. Yes.
4 Q. Could you please identify it?
5 A. It's a memorandum dated November 5, 1986,
6 subject EDO 3424 dash EP tox results.
7 Q. What does this memorandum signify?
8 A. It signifies a memorandum from the laboratory
9 to the files about the sampling done at -- or
10 the analytical work done on the samples from
11 this inspection.
12 Q. Did you have any part in the preparation of
13 this memorandum?
14 A. No.
15 Q. Did you receive it, or a copy of it, in the
16 course of your duties at the U.S. EPA?
17 A. I have seen a copy of it, yes.
18 Q. If you will refer to the second paragraph,
19 this paragraph refers to a possible sample
20 mix-up in the laboratory; is that correct?
21 A. Yes.
22 MS. SUTULA: The document speaks
23 for itself, he didn't write it, didn't have
24 any part in the preparation.
25 Q. Does the samples which are the subject of this

1 memorandum -- are the samples which are the
2 subject of this memorandum, the samples that
3 were taken at American Steel Foundries'
4 sampling inspection in August 1986?
5 MS. SUTULA: Objection. The
6 document speaks for itself. It states that in
7 the first line.
8 You may answer.
9 A. Yes.
10 Q. Have you had any contact with the laboratory,
11 other than this document, regarding the
12 potential sample mix-up at the laboratory?
13 A. Only as stated in the document, that I can
14 remember.
15 Q. Do you have any personal knowledge of what the
16 mix-up at the laboratory -- possible mix-up at
17 the laboratory could involve?
18 A. No.
19 Q. Do you know who would?
20 A. No.
21 MS. SUTULA: Can we take a
22 break?
23 - - - -
24 (Thereupon, a recess was had.)
25 - - - -

1 Q. Does sample S14 represent the average
2 properties of the volume of dust/sludge
3 mixture which was disposed of at the Sebring
4 landfill on August 7, 1986?
5 MS. SUTULA: Objection. Again,
6 that is outside this witness's area of
7 expertise. He's not been qualified and has
8 not testified to having the education or
9 experience of a chemist, and I think that's
10 beyond his expertise.
11 You're not to answer that.
12 Q. Did you, or to your knowledge, did anyone else
13 from U.S. EPA, in the preparation for the
14 sampling inspection on August 7, 1986 at
15 American Steel Foundries, take steps to assure
16 that the samples that were taken during that
17 day represented the average properties of the
18 volume of material from which they were taken?
19 MS. SUTULA: Objection.
20 You may answer.
21 A. I don't know.
22 Q. Did you yourself?
23 A. No.
24 - - - -
25 (Thereupon, various field

1 investigation worksheets were marked for the
2 purpose of identification as Defendant's
3 Exhibit 12.)
4 - - - -
5 MR. SCHILLAWSKI: I want to state
6 for the record that this document, which has
7 been marked as Defendant's 12, consists of
8 five pages, each of which was produced during
9 Mr. Patton's deposition and each of which is
10 individually marked as an exhibit from that
11 deposition.
12 MS. SUTULA: May I inquire as to
13 whether or not these were produced as a
14 packet?
15 MR. SCHILLAWSKI: They were not,
16 to my knowledge, produced as a packet, a
17 stapled together packet; however, from their
18 numbering, they appear to have been produced
19 as a sequence, although the sequence is not
20 as -- as they are put together here. I'm
21 going to ask some questions to try to clear
22 that up here.
23 Q. Mr. Fredle, have you seen the five pages that
24 make up this exhibit before?
25 A. Yes.

1 Q. Are these five pages all part of the same
2 document?
3 A. Basically, yes.
4 Q. What is that document?
5 A. It's actually a package of documents that are
6 typically used whenever we do a sampling
7 inspection.
8 Q. Were these -- was this package of documents
9 filled out prior to the August 1986 sampling
10 inspection at American Steel Foundries?
11 A. Yes.
12 Q. And does Exhibit 12 refer to the August 1986
13 sampling inspection at American Steel
14 Foundries?
15 A. Yes.
16 Q. Is it a standard procedure for U.S. EPA to
17 prepare this package of documents for sampling
18 inspections?
19 A. Yes, it was at the time.
20 Q. Would the package of materials which is bound
21 together as Exhibit 12 have been prepared in
22 the ordinary course of your business as a U.S.
23 EPA inspector?
24 A. Yes.
25 Q. Did you prepare this package marked as Exhibit

12?

A. Yes, most of it.

Q. What parts did you not prepare?

A. Page three, -- page three.

Q. Who prepared page three?

A. Mr. Burge.

Q. Do you know Mr. Burge's full name?

A. Bud Burge.

Q. What is his position?

A. Chemist.

Q. Is he a U.S. EPA employee?

A. Yes -- no, he's not presently.

Q. Was he at the time this document was prepared?

A. Yes.

Q. Do you know where Mr. Burge is presently employed?

A. No.

Q. If I can direct your attention to page one, the section that says "special requests," that -- can you tell me what that section is normally used for?

A. Normally it's used for taking down notes on any special requests that might be asked for by the requesting program.

Q. The line in that section that says "parameters

will be EP tox fluoride, cyanides, phenol," what does that mean?

A. That means that that -- those are the parameters that we were requested to have sampled for and analyzed for.

Q. Are cyanides, fluorides and phenols part of the federal hazardous waste program?

A. I'm not sure offhand.

Q. Did you decide to analyze the samples for those parameters?

MS. SUTULA: Objection.

You can answer.

A. No.

Q. Do you know who did?

A. This was the request from the -- from the program that requested the inspection and the -- the sampling inspection.

Q. What program requested the sampling inspection?

A. The RCRA program.

Q. Who was your contact with that program?

A. Catherine McCord.

Q. Do you know whether Catherine McCord requested those analyses?

A. Yes.

1 Q. Did she?
2 A. Yes.
3 Q. If I can direct your attention now to page
4 five of five, the section toward the bottom is
5 marked "field modifications to survey plan."
6 What is that section normally used for?
7 A. It normally would be used for field
8 modifications if -- if you wanted to make note
9 of them or use it as such.
10 Q. Was the standard operating procedure, which
11 required the use of this packet of materials,
12 to fill in this section if there were any
13 modifications in the field to the survey plan?
14 A. Well, that's what it was there for.
15 Q. Was there a survey plan for the American Steel
16 Foundries inspection?
17 A. No.
18 Q. At the top of page five of five, there is a
19 line labeled "actual investigation date" with
20 the date 8-4-86 in the blank.
21 A. Um-um.
22 Q. Is that the correct date of the actual
23 investigation?
24 A. No, it's not.
25 Q. There is a line at the bottom of page five of

1 five for a signature.
2 A. Yes.
3 Q. Whose signature normally would appear in that
4 line?
5 A. I don't remember how those would have been
6 filled out.
7 Q. Is it part of the standard operating procedure
8 for areas on this packet of forms which were
9 left blank for signature to have a signature
10 affixed to them?
11 MS. SUTULA: Objection.
12 A. Not necessarily.
13 Q. I believe that is the last of the questions
14 that I have for you, Mr. Fredle. I would like
15 to thank you for being here.
16 A. Okay.
17 Q. I appreciate your taking the time, although it
18 was --
19 A. Did I have a choice? If I did, I wouldn't be
20 here, but what can I say, it's part of the
21 job.
22 MS. SUTULA: Note for the record
23 that signature isn't waived.
24
25

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
vs.	)	Case No. C87-1284A
	)	
AMSTED INDUSTRIES, INC.,	)	
	)	
Defendant.	)	

- - - - -

DEPOSITION OF CHARLES A. RUUD
Wednesday, August 30, 1989

- - - - -

Deposition of CHARLES A. RUUD, called by the Plaintiff for examination under the Federal Rules of Civil Procedure, taken before me, Caryn L. Lott, a Notary Public in and for the State of Ohio, at the offices of the United States District Attorney, 1404 East Ninth Street, Cleveland, Ohio, 44114, commencing at 9:25 a.m. the day and date above set forth.

- - - - -

COMPUTER-AIDED TRANSCRIPTION BY
CERTIFIED COURT REPORTERS
950 CITIZENS BUILDING
CLEVELAND, OHIO 44114
(216) 241-5747

APPEARANCES:

On Behalf of the Plaintiff:

Kurt Weissmuller, Esquire
Environmental Enforcement Section
Land and Resources Division
U. S. Department of Justice
Washington, D. C. 20530

Richard J. Clarizio, J. D., Esquire
Assistant Regional Counsel
U. S. Environmental Protection Agency
Region V
Wast Management Division
230 South Dearborn Street
Chicago, Illinois 60604

On Behalf of the Defendant:

Philip C. Schillaswki, Esquire
Squire, Sanders & Dempsey
Bancohio National Plaza
155 East Broad Street
Columbus, Ohio 43215

Geoffrey Barnes, Esquire
Squire, Sanders & Dempsey
1800 Huntington Building
Cleveland, Ohio 44115

Edward J. Brosius, Esquire
Senior Attorney
Patents & Environmental
44th Floor - Boulevard Towers South
205 North Michigan Avenue
Chicago, Illinois 60601

ALSO PRESENT:

Catherine A. McCord
Eugene F. Meyer

- - - - -

1 CHARLES A. RUUD

2 called by the Plaintiff for examination under the Federal
3 Rules of Civil Procedure, after having been first duly sworn,
4 as hereinafter certified, was examined and testified as
5 follows:

6 EXAMINATION

7 BY MR. WEISMULLER:

8 Q Mr. Ruud, would you please state your name and address
9 for the court reporter.

10 MR. SCHILLAWSKI: I am going to object
11 as to his address.

12 MR. WEISMULLER: His business address is
13 fine.

14 A Charles A. Ruud, R-u-u-d, One Prudential Plaza, 36th
15 Floor, 130 East Randolph, Chicago, Illinois, 60604.

16 Q Mr. Ruud, my name is Kurt Weissmuller. I am an
17 attorney with the Department of Justice. I represent the
18 United States in this case.

19 Throughout this deposition I will be asking you some
20 questions. In the event you don't understand any question, I
21 can rephrase it for you. If there is a time when you want to
22 confer with your lawyers, please say so and we can take a
23 break off the record.

24 I would like to remind you that the rules require that
25 you do answer questions even if your lawyers object. Only if

1 they instruct you not to answer are you entitled not to
2 answer.
3 Have you ever been deposed before, Mr. Ruud?
4 A No.
5 MR. WEISMULLER: Do we need to discuss
6 any opening stipulations? I want to propose we
7 stipulate that the usual objections are reserved
8 until time of trial with the exception of form
9 objections; is that okay?
10 MR. SCHILLAWSKI: Can you define form
11 objection?
12 MR. WEISMULLER: The way I phrase a
13 question, whether it's compounded, whether it's
14 without foundation, that sort of thing.
15 MR. SCHILLAWSKI: We'll stipulate that.
16 Q Mr. Ruud, have you prepared for this deposition through
17 the review of any documents?
18 A Yes.
19 Q Have you also had any discussions with anybody in
20 preparation for this deposition?
21 MR. SCHILLAWSKI: I am going to object
22 to the extent that any discussions are privileged
23 or work product.
24 MR. WEISMULLER: He hasn't even
25 answered the question yet. I'll simply say that

1 we are entitled to know who he spoke to and
2 when. The substance of those conversations may
3 or may not be protected by privilege, but we're
4 entitled to know at least who it was that he had
5 discussions with.
6 You can answer.
7 A Would you restate the question?
8 Q Did you have any discussions with anybody in
9 preparation for this deposition today?
10 A Yes.
11 Q And who were those people?
12 A Phil Schillawski, Geoff Barnes, Ed Brosius.
13 Q Did you have any discussions with people at the ASF
14 facility in Alliance?
15 A No, I did not.
16 Q What documents did you review in preparation for this
17 deposition?
18 A Certain information that I have submitted in the past.
19 Q Have those documents been provided to the United States
20 either through discovery or through other means?
21 A I don't know.
22 Q We would like to make a request for those documents.
23 A Those are the ones right there.
24 Q Then perhaps at a break we can take a look at them.
25 Mr. Ruud, I would like to talk a little bit about

1 about your background.
2 First of all, can we start with your employment history
3 going back to the time of high school or after high school?
4 What positions did you hold with what companies?
5 Also, please let us know if you had any military
6 service or anything of that nature.
7 A Beginning when I graduated from high school?
8 Q Yes.
9 A I graduated from high school in 1970 and attended the
10 University of Wisconsin. During the summer periods and the
11 like I worked for the Playboy Club in La Crosse, Wisconsin
12 and other miscellaneous odd jobs through college.
13 Q What sort of odd jobs, professional-type appointments?
14 A Waiter, bartender, things of that nature, through
15 college.
16 Q What did you study in college?
17 A My degree is in Industrial Technology, emphasis in
18 Occupational Safety.
19 Q When did you get that degree?
20 A May of 1976.
21 Q I am going to go out on a limb and ask you what you did
22 at the Playboy Club.
23 A Anything from busboy to room service waiter and
24 bellman, room captain, convention setup, kitchen steward.
25 Q Thanks.

1 What other employment did you take after these odd jobs
2 in college? I trust that after college you had some
3 different jobs that you didn't consider odd jobs?
4 A In 1975 I was employed with the Chicago Foundry as an
5 intern as part of my major and I stayed with them through
6 graduation, May of '76.
7 Q And after that?
8 A I went to work for Ford Motor Company, Cleveland
9 Casting Plant, as a safety engineer.
10 Q And how long did you stay in that position?
11 A Until November of 1977.
12 Q And then where did you go after that?
13 A I moved to Salt Lake City, Utah to take a position as
14 safety maintenance in the weight department with Union
15 Pacific Railroad.
16 Q And how long were you in that position?
17 A May of 1980.
18 Q And then after the Union Pacific employment, what did
19 you do?
20 A Moved to Chicago, Illinois to assume the position of
21 manager, safety and environment, American Steel Foundries.
22 Q That was in 1980?
23 A That's correct.
24 Q Do you hold that same position today or have you
25 changed jobs while at Amsted?

1 A I have a new title.
2 Q What is your new title?
3 A Manager of quality and environmental affairs.
4 Q Has your job description changed over the course of
5 your employment at Amsted?
6 A Yes, it has.
7 Q What type of work was required of you when you began in
8 1980, and how has that changed up to the present?
9 A Primarily I was brought in to develop a corporate
10 safety program where most of my time was spent on that
11 subject for the first several years.
12 Q Is that still what you do today?
13 A Yes. I am still responsible for the employee safety
14 program among other things.
15 Q Are you responsible for all of Amsted's facilities?
16 A I am responsible for those facilities that are part of
17 American Steel Foundries.
18 Q And how many facilities are there?
19 MR. SCHILLAWSKI: I am going to object
20 to introduction of any evidence about other
21 Amsted or American Steel Foundtries facilities
22 because they're not relevant to this case.
23 They're also not allocated to lead to discovery
24 of admissible evidence.
25 MR. WEISMULLER: You can answer the

1 question.
2 Could you read it back for him?
3 (Record read.)
4 Q Let me rephrase it.
5 How many American Steel Foundries facilities are there
6 that you are responsible for?
7 A Four.
8 Q We know there is one in Alliance, Ohio; is that
9 correct?
10 A Yes.
11 Q That's the subject of this lawsuit?
12 A Yes.
13 Q Where are the other facilities?
14 A Granite City, Illinois; East Chicago, Indiana; Hammond,
15 Indiana.
16 Q Are these other facilities foundries?
17 A Two of them are.
18 Q Is Granite City a foundry?
19 A Yes.
20 Q East Chicago?
21 A Yes.
22 Q And what is the Hammond facility?
23 A The Hammond plant produces hot weld and coil springs
24 and a small amount of weldments.
25 Q Could you spell that, please?

1 A W-e-l-d-m-e-n-t.
2 Q During your time in college, did you take any
3 courses that related to environmental engineering or
4 environmental chemistry or any other environmentally-related
5 matters?
6 A While in school, I took industrial hygiene classes and
7 courses relating to the design of ventilation equipment.
8 Q Is that the extent of your education in environmental
9 matters, your formal education in environmental matters?
10 A Yes.
11 Q Did you have any post-graduate schooling of any kind?
12 A Would you clarify post-graduate?
13 Q Yes. Since you graduated from college with your
14 degree, have you had any other courses or training in
15 environmental matters?
16 A I have not attended any college or courses, per se,
17 directly as a college credit-type course, no, I have not.
18 Q Have you had any courses that have been outside of the
19 college setting?
20 A Courses?
21 Q Courses, training, seminars, anything like that?
22 A No.
23 Q When you were employed with the Chigago Foundry, did
24 you have any responsibility for any environmental matters?
25 A No, sir.

1 Q When you were employed with Ford, did you have any
2 responsibility for any environmental matters?
3 A Within the facilities as far as employee exposure to
4 hazardous contaminants, yes.
5 Q OSHA-type laws were your primarily focus at that
6 place?
7 A That is correct.
8 Q At Union Pacific, did you have any responsibility for
9 environmental matters? Let me clarify what I mean by
10 environmental matters. Were you responsible for insuring
11 that the company, your employer, was complying with
12 environmental laws or regulations, either state or federal?
13 A No.
14 Q When you took your position with Amsted, your job title
15 includes environment as well as safety. Did you assume any
16 responsibilities for environmental compliance at Amsted?
17 A Not right away.
18 Q Perhaps you can describe for us when you did become
19 involved in environmental matters at Amsted.
20 A Well, as I mentioned earlier, my primary emphasis first
21 order of the day was to get on paper a corporate-wide safety
22 program. I was, I guess, in a learning mode when I was
23 retained. I had the legal experience and knew that I would
24 have to gain that experience, so I really didn't have any
25 direction, if you will. I can't honestly say exactly when,

1 some date in time that I kind of became the person.
2 Certainly, a period of years, after I began.
3 A Are you the chief environmental compliance official at
4 Amsted?
5 A No.
6 Q Who is?
7 A At Amsted, no one carries that title.
8 Q Is there a person there who is primarily responsible
9 for insuring that Amsted and its facilities comply with
10 environmental laws?
11 MR. SCHILLAWSKI: I am going to object
12 to that and have a continuing objection to the
13 use of Amsted and/or American Steel Foundries
14 facilities outside of the one at issue in this
15 case.
16 MR. WEISMULLER: Answer the question.
17 A Would you please restate it?
18 MR. WEISMULLER: Would you read it back?
19 (Record read.)
20 A At each facility the manager is responsible for all
21 matters. The person responsible is with the general
22 management.
23 Q In the event that Amsted or American Steel Foundries in
24 Alliance is required to spend money to either close the
25 Sebring landfill or to pay a civil penalty in this case, do

1 you feel that that would in any way jeopardize your position
2 with the company?
3 MR. SCHILLAWSKI: I am going to object
4 to speculation and to feelings on the witness's
5 part in terms of his employments.
6 MR. WEISMULLER: I'll just respond
7 quickly. This all goes to bias. It's valid.
8 You can answer the question.
9 A No.
10 Q Is it your feeling that any promotions or demotions
11 would be tied to the outcome of this case?
12 A No, sir.
13 Q Let's focus now on the American Steel Foundries' land
14 in Alliance. During your tenure, have you been responsible
15 for the compliance or non-compliance with environmental
16 regulations at that plant?
17 MR. SCHILLAWSKI: I am going to object,
18 and I suspect I will have to make a continuing
19 objection to any testimony relating to facts
20 prior to and until May of 1982 when the relevant
21 statute of limitations operates, and also facts
22 prior to the effective date of record
23 regulations, both of those on relevant grounds.
24 MR. WEISMULLER: Just for the record, the
25 Court, as a matter of fact, did order that we can

1 inquire into matters pre-1980, and we intend to
2 do that when necessary. If you want to limit the
3 answer to this question to 1980 and forward,
4 that's fine. I don't think Mr. Ruud would have
5 had any responsibilities for compliance of that
6 plant before 1980 because he wasn't associated
7 with the company.
8 MR. SCHILLAWSKI: First of all, our
9 interpretation of the Court's order is inquiry is
10 allowed for the purpose of seeking the
11 possibility of relevant information, discoverable
12 information. However, we're maintaining our
13 objection.
14 A The way I envisioned this, not directly, as if my job
15 depended on a specific issue, Alliance, Ohio is under the
16 general direction of the works manager. My position, as I
17 saw it -- see it, is to advise and coordinate compliance with
18 regulations.
19 Q Do you advise and coordinate with the plant manager at
20 Alliance?
21 A Yes.
22 Q And who is the plant manager at Alliance right now,
23 and can you tell me whether it's been the same person since
24 1980?
25 A Mr. C. R. Dixon.

1 Q Is Mr. Dixon primarily responsible for environmental
2 compliance matters at the American Steel Foundries plant?
3 A Would you clarify primarily?
4 Q If there was a question as to whether the facility was
5 in compliance with a particular environmental regulation,
6 would it be Mr. Dixon's decision to make as to whether it
7 was or was not a compliance?
8 A I don't think that is placed on any one person. I
9 don't really understand when you say are you or are you not
10 in compliance.
11 Q Well, let's take, for example, inquiry by federal
12 or state agencies. If the Ohio EPA or U. S. EPA makes that
13 information request to the Alliance facility or if they
14 wanted to visit the facility and conduct an inspection, was
15 it Mr. Dixon's job to provide information to those agencies
16 and to coordinate with them for the inspections?
17 A Well, no one person has all the information. The
18 initial contact with the plant, our procedure is that Mr.
19 Dixon is the initial contact for visits, things of that
20 nature.
21 Q What other people would be involved in those types of
22 visits and in responding to environmental agencies?
23 A For what time period?
24 Q For 1980 to the present.
25 A The works engineers have always been involved in

1 various environmental matters. At certain periods, other
2 department heads have been involved.
3 Q What other department heads?
4 A Assistant works manager.
5 Q Is that all?
6 A Plant superintendent is the title.
7 Q Do you know who the plant superintendent was in 1980
8 when you began with Amsted?
9 A There were two or three superintendents. I know people
10 who held those positions, but not which one had
11 responsibilities for which things.
12 Q Who held those positions?
13 A Either plant superintendent, works engineer or
14 assistant works engineer. Works engineer in 1980, if I gave
15 the answer, I can't be sure.
16 Q That's fine.
17 A I believe it was Wilbur Bordon.
18 Q When did Mr. Bordon leave the company?
19 A I don't know.
20 Q Is there a works engineer there now?
21 A Yes.
22 Q And what is that person's name?
23 A Paul Limbach.
24 Q Limbach?
25 A Yes.

1 Q And how long has he been with ASF? Do you know?
2 A 10 or 11 years.
3 Q Are there any other individuals either in the category
4 of assistant works engineer or plant superintendent that you
5 can name for us that held that position from 1980 to the
6 present?
7 A Works engineer?
8 Q Yes.
9 A Ray DeGriolamo.
10 Q Would you spell the last name if you know it?
11 A I don't know it.
12 Q Has it been your responsibility over the past nine
13 years to review ASF potential compliance with RCRA's
14 regulations?
15 A Would you rephrase that last part?
16 Q In so far as compliance with RCRA regulations -- I
17 should explain what RCRA is. It stands for Recourse
18 Conservation and Recovery Act. It's the federal statute
19 under which this lawsuit has been brought. Certain
20 regulations are passed pursuant to that statute. The United
21 States has alleged that ASF is not in compliance with RCRA.
22 My question to you is whether A, you're familiar with
23 those regulations or with the statute, and B, whether it's
24 your job to review the company's compliance with those
25 regulations.

1 A Yes, I am familiar, and yes.
2 Q What time periods, from 1980 to present, or is there
3 another different window in there that we need to discuss?
4 A My hands-on involvement probably came two or three
5 years later directly where I was deeply involved in that
6 aspect.
7 Q So somewhere between 1982 and '83?
8 A I would assume that's reasonable.
9 I would also like to point out that like I said
10 earlier, there is no one person that is completely
11 knowledgeable, and that members of management work on these
12 issues together.
13 Q Who else at the American Steel Foundries facility would
14 work on this issue that I have just asked you about in
15 compliance with RCRA?
16 A I worked for Don Meves.
17 Q And?
18 A Amsted Legal.
19 Q He is with Amsted Legal?
20 A No. He was my supervisor.
21 Q And then with the legal department of Amsted?
22 A Yes.
23 Q Was there anybody else other than Mr. Meves who you
24 worked with on this question of compliance with RCRA?
25 A Not that I can think of.

1 MR. SCHILLAWSKI: Can we have a short
2 break here for Mr. Ruud?
3 MR. WEISMULLER: Sure.
4 (Recess taken.)
5 BY MR. WEISMULLER:
6 Q Let me just clarify a few questions about the
7 management picture at Amsted.
8 As far as the management structure at ASF and Amsted, I
9 am still a little bit unclear as to who is ultimately
10 responsible for the compliance with environmental laws. Who
11 makes the call?
12 A Within American Steel Foundries, I presume it would be
13 the president of the company.
14 Q Who would be the president of American Steel Foundries?
15 A At present?
16 Q At present.
17 A Norm Berg.
18 Q And how long has he been with the company?
19 A Longer than me. I don't know.
20 Q So has he been president of ASF at least from 1980
21 until present?
22 A No.
23 Q When did he assume the presidency?
24 A '83, '84, '85, somewhere around there.
25 Q Do you know who the president was before Mr. Burg?

1 A Lou Davis.
2 Q Is Mr. Davis still with the company?
3 A No.
4 Q Is he with Amsted?
5 A No.
6 Q Who reports to the president concerning environmental
7 questions? Would that be the works manager? Would that be
8 you? Would that be Amsted Legal? Who gives the president
9 information he needs to make his decision?
10 A Amsted Legal, vice president of manufacturing and
11 myself in that I work for the vice president.
12 Q Who is the vice president of manufacturing?
13 A At present?
14 Q Yes.
15 A Mario Martini.
16 Q And how long has Mr. Martini been in that position?
17 A Approximately one year.
18 Q And who was vice president of manufacturing for them?
19 A Lee Engel.
20 Q And what are the years of Mr. Engel's tenure position?
21 A I believe he became vice president in 1981.
22 Q Was there somebody in that position before Mr. Engel?
23 A Yes.
24 Q Who was that?
25 A Wayne McCullough.

1 Q So is it correct to summarize that you, Amsted Legal,
2 report to the vice president of manufacturing and that person
3 reports to the president of the company of ASF on these
4 issues on environmental compliance?
5 A Advise, report to them, yeah.
6 Q Does input from the works manager and the assistant
7 works manager go to you or does it go to a vice president of
8 manufacturing directly on environmental questions?
9 A It would -- the works managers and I converse about
10 these issues as well as the works managers report directly to
11 the vice president of manufacturing.
12 Q And what title does Mr. Meves hold?
13 A He is retired.
14 Q And before he retired, he held what title?
15 A Assistant vice president of manufacturing.
16 Q And who has that position now?
17 A The position was eliminated.
18 Q When was it eliminated?
19 A May 16th, 1986.
20 Q Is there any position that was created to take over the
21 responsibilities of assistant vice president of manufacturing?
22 A No.
23 Q Are these responsibilities assumed by the vice
24 president?
25 A I assume, yes.

1 Q Is Mr. Statler still with the company, with either ASF
2 or Amsted?
3 A No.
4 Q Do you know where Mr. Statler went? Is he retired or
5 is he with a different company?
6 A He took another position.
7 Q Do you know with who?
8 A Yes.
9 Q Could you tell us?
10 A Rochester Metal Products.
11 Q Do you know where that company is located?
12 A Yes.
13 Q Can you tell us?
14 A Rochester, Indiana.
15 Q Is American Steel Foundries a steel casting foundry?
16 A We manufacture steel castings, yes.
17 Q Explain briefly, if you would, the nature of the
18 business at American Steel Foundries in Alliance. What do
19 you do? How are its products made?
20 A Raw materials are purchased, major raw materials, sand
21 and scrap.
22 Q Scrap metal?
23 A Scrap metal. The sand is processed to manufacture
24 cores and molds. Cores are placed into the molds. The scrap
25 is melted in an electric arc furnace. The molded steel is

1 then poured into the molds. After a period of time, castings
2 are allowed to cool. They're removed from the sand,
3 subsequently cleaned and finished, prepared for shipment.
4 Q From 1980 to the present, what is the final product
5 that ASF produces, and if that has changed at all, explain
6 when and how?
7 A The products produced primarily are side frames,
8 molsters, couplers, knuckles and other small railroad cast
9 components.
10 New products have been developed since 1980, therefore,
11 they have been added to the facility as they are produced
12 there. One that I know of that was started since then was an
13 articulated connector.
14 Q Could you explain what that is?
15 A A steel casting utilized to connect two railcars that
16 is supported by one traditional three-piece truck.
17 Q Is that different from a coupler?
18 A Not in its purpose, but what it looks like, yes.
19 Q Just briefly explain what is the purpose of the
20 articulated device.
21 A The articulated connector allows two cars to be
22 connected and supported by one truck.
23 Q The truck, being the wheels which the cars ride on?
24 A Correct.
25 Q Is the steel used for the production of materials at

1 ASF always produced from scrap?
2 A To my knowledge, yes.
3 Q To your knowledge, has American Steel Foundries ever
4 engaged in the primary production of steel?
5 A No.
6 Q Are there any blast furnaces at the American Steel
7 Foundries facility?
8 A No.
9 Q Have you or has American Steel Foundries ever placed
10 raw materials into the arced furnaces?
11 A Would you clarify raw materials?
12 Q Iron, coke, limestone.
13 A Limestone.
14 Q Limestone is used in the arc furnace?
15 A Yes.
16 Q Do you know whether American Steel Foundries ever
17 engaged in primary steel production prior to 1980?
18 A No, I don't.
19 Q You don't know or you don't know if --
20 A I don't know.
21 Q Do you know who might know that information?
22 A No.
23 Q How many foundries or furnaces are there at ASF?
24 A We have one electric arc furnace at Alliance.
25 Q Are there any other furnaces there other than the

electric arc furnace?

A We use heating furnaces to heat treat the castings.

Q So in other words, after the castings are produced, the molten steel is poured from the electric arc furnace into the molds and then it's cooled and then you retreat these in these heating furnaces; is that correct?

A The casting, to achieve the desired mechanical properties, is subjected to heat treatment. That heat treatment occurs in a furnace.

Q Is there any waste from the heat treatment process?

A No

Q No dust is produced?

A No.

Q Just heat?

A Heat.

Q What types of scrap steel does ASF use to feed into the arc furnace?

A I am not really familiar. I have heard terms like used wheels.

Q Used railroad wheels?

A Yes.

Structural steel.

Q Structural steel coming from what sorts of structures, buildings?

A I don't know. I just assume -- they call it structural

1 steel. Shreader steel.
2 Q Do you know the origin of that?
3 A Scrap dealers.
4 Q So ASF would purchase scrap from other dealers that are
5 in the business of collecting the metal and reselling it to
6 ASF?
7 A That's the way I understand it to work, yes.
8 Q What is the term shredder scrap include?
9 A I really don't know. All I know is it has been
10 processed through a shredder to cut it to small pieces. And
11 I believe shredder more refers to how it was processed than
12 what it was.
13 Q Are there any other types of raw materials or materials
14 that go into the furnace?
15 A The electric arc furnace?
16 Q Yes.
17 A Alloy elements.
18 Q Alloy elements?
19 A Yes.
20 Q Do you know what those are?
21 A Ferrosilicons. Maganese is contained in some
22 material. I do not know the name of it.
23 Q Do you put chromium into the electric arc furnace?
24 A I don't know for sure.
25 Q Who would know?

1 A Chief metallurgist.
2 Q Who is the chief metallurgist at ASF?
3 A Tom Benton is the chief metallurgist at Alliance.
4 Q How long has he been in that position?
5 A Early '87.
6 Q And do you know who held that position before Tom
7 Benton?
8 A Yes.
9 Q Who was that?
10 A John Jenkins.
11 Q And when did Mr. Jenkins assume that position?
12 A Sometime prior to my beginning employment with American
13 Steel.
14 Q What does the chief metallurgist do? What is his job?
15 A To direct the melted metals department, to assure the
16 proper chemistry and temperature of the steel, to determine
17 heat treating practices, to administer the testing, to
18 determine the quality of the steel. Those are his major
19 responsibilities.
20 Q So he would know exactly what goes into the furnace
21 and what comes out; is that correct?
22 A I would assume he does.
23 Q Does the chief metallurgist ever examine the electric
24 arc furnace dust that's produced in the furnace?
25 A No.

1 Q Do you know who ASF buys its used wheels from?
2 A No.
3 Q Do you know who would know that?
4 A Yes.
5 Q Who is that person?
6 A John Wories, Junior.
7 Q Wories?
8 A Yes.
9 Q Do you know what types of metals are in the steel which
10 is used, what the wheels are made of?
11 A It's my understanding that railroad wheels are high
12 carbon steel.
13 Q Do you know anything else about these used wheels?
14 A No.
15 Q In terms of their purchase, their origin?
16 A We get them from scrap dealers.
17 Q Your structural steel, do you know anything about what
18 its properties are?
19 A No, sir.
20 Q Do you know who would?
21 A John Wories.
22 Q What position does Mr. Wories hold?
23 A Director of purchasing.
24 Q Do you know how long he has held that position?
25 A Since 1984, approximately.

1 Q Do you know who held that position before him, and if
2 so, who was that person?
3 A Lou Dethloff.
4 Q During the process of casting steel at Alliance, is a
5 clarifier slurry ever generated or a substance that we have
6 referred to as clarifier slurry?
7 A There is a device called a clarifier that generates
8 that substance that we refer to as a clarifier slurry.
9 Q How does that device generate the clarifier slurry?
10 A Without having physically looked at all the pipes, it's
11 been explained to me by looking through schematics and the
12 like that waste water is channeled to the clarifier, various
13 chemicals are added, flocculants, I believe they are called,
14 to aid in the settling of solid particulates in the waste
15 water. These solids then settle out and are subsequently
16 scraped off the bottom of the clarifier by rotating wipers.
17 That material is then channeled through an exit hole in the
18 bottom of the clarifier and subsequently pumped into a, for a
19 lack of a better term, tank.
20 Q The material that's pumped to the tank, is it clarifier
21 slurry?
22 A Yes.
23 Q What happens to the water? Is it reused?
24 A Great portion of the water that is treated in the
25 clarifier is returned to the process.

1 Q Let's start at the beginning. Where does the waste
2 water come from that goes into the clarifier?
3 A The primary source of waste water is from the piece of
4 equipment we call or the process we call the sand washer.
5 There are three or four devices, pollution control devices,
6 we call wet collectors.
7 Q The wet collectors and the sand washer is where most
8 of your waste water comes from?
9 A There is some contact cooling water that goes to the
10 clarifier.
11 Q Any other source for waste water?
12 A That's all I can recall.
13 Q What is the function of the sand washer?
14 A To remove clay and fine particles of sand from the sand
15 that was put in.
16 Q Sand that was put into the --
17 A Sand washer.
18 Q What is the purpose of washing this sand?
19 A To minimize waste.
20 Q The sand that goes into the sand washer, is that used
21 to make the molds to which the steel is poured?
22 A The reclaimed sand is returned to the sand system and
23 is then used to make that.
24 Q What type of sand is it that ASF uses to make the
25 molds?

1 A Primarily silica sand and some chromite sand.
2 Q Chromite sand?
3 A That's correct.
4 Q That sand is used to make your molds. After that, the
5 liquid metal is then poured into those molds; is that
6 correct?
7 A Yes.
8 Q And it's then cooled?
9 A Yes.
10 Q How does the sand come off of the metal? I suspect
11 that the sand and the metal touch each other at some point;
12 is that correct?
13 A The sand and metal are in direct contact. The casting,
14 solidified now, is still contained within the sand in a
15 device called a flask. The flask, sand and casting are
16 placed on a device called a shake out table, which, in
17 essence, vibrates rather vigorously and the sand falls away
18 from the casting and leaves the casting and flask on the
19 vibrating table. The sand then reenters the sand system,
20 which returns to hoppers for storage for reclaiming.
21 Q The flask, is that a device that encapsulates both the
22 sand and the casting?
23 A Yes.
24 Q This sand, as it's shaken out on the shake off table,
25 how is it transported to the sand washer?

1 A Conveyor belts.
2 Q And it gets to the sand washer, and what happens there?
3 How does the sand washer work?
4 A My understanding of the sand washer is very primitive.
5 Other than I do know that the water is added to the sand and
6 allowed to spend time, and is, to my understanding, is also
7 agitated to some extent. And the clay and fine particles,
8 through differences in density, floats off. The sand is
9 subsequently dewatered and dried.
10 Q Where does the clay come from?
11 A It is added as part of the sand preparation to make
12 cores and molds.
13 Q Is the clay used to bind the sand particles together so
14 that it doesn't -- so it isn't as powdery as it might
15 otherwise be?
16 A Not being a sand expert, my understanding of
17 putting clay into the sand is to allow it to absorb and
18 retain moisture.
19 Q Do you know anything more about the sand washer then
20 what you just explained other than what it does to upgrade
21 and things like that?
22 A Not really.
23 Q Who would know more about the sand washer?
24 A Our works engineer.
25 Q Is there a person that operates the sand washer system,

1 and do you know who that is?
2 A The sand washer is under the direction of the
3 superintendent, molding department.
4 Q Superintendent of molding?
5 A Yes.
6 Q On who would that person be?
7 A Ron Ramsey.
8 Q And how long has Mr. Ramsey been in that position?
9 A Oh, five, six, seven years. I don't recall.
10 Q Would you know who Mr. Ramsey's predecessor was?
11 A Robert Locke.
12 Q So water which goes into the clarifier comes from this
13 sand washer. You also mentioned that you had some wet
14 collectors. Do you know anything about the operation of your
15 wet collectors, the basic function, how they operate?
16 A Yes.
17 Q First of all, how many do you have there at ASF?
18 A I can perhaps look at this. I believe there is three.
19 This doesn't have it on it, but I believe there is three.
20 Q Tell you what, why don't we mark an exhibit.
21 - - - - -
22 (Plaintiff's Exhibit A
23 was marked for identification.)
24 - - -- -
25 Q Mr. Ruud, I am handing you what has been marked as

1 Exhibit A. This is a map which was received by the United
2 States sometime in 1985 from ASF. I'd like you to take some
3 time to look over this and see whether this is a reasonably
4 accurate depiction of the Alliance foundry. I am going to
5 ask you to point at this and maybe mark on it a little bit as
6 you explain the processes over at the foundry. You can take
7 your time, and if there is any discrepancies of how the
8 Alliance facility operates, please let us know.
9 A Yeah, it looks like Alliance.
10 Q Mr. Ruud, can you mark on Exhibit A with the pen there
11 where the sand washer system is?
12 A Being somewhat not to scale.
13 Q I understand.
14 A And assuming that, it is generally located in this
15 area.
16 Q You can put an A in that circle.
17 A (Witness complies.)
18 Q Now, you mentioned that there were some sands washed
19 there, one of which is a chromite sand. Do you know what
20 type of sand that is and how it differs from your other sands
21 that you use?
22 A It differs in that it is more dense. It is used for
23 a specific purpose.
24 Q What is that purpose?
25 A It has a higher -- I believe I am using the correct

1 term -- refractory index, meaning that it will stand and
2 tolerate more heat.
3 Q Is it used for particular heats at the foundry or is
4 it used at all times?
5 A Chromite sand is put at specific locations within a
6 core or mold where defects due to heat have been caused by
7 not using chromite sand. It causes that area to solidify
8 first and withstands a higher heat temperature that
9 prevents defects.
10 Q Do you know whether the chromite sand contains
11 chromium?
12 A No.
13 Q You don't know?
14 A I do not know if it has chromium in its pure form.
15 Q Do you know who ASF purchases chromite sand from and
16 do you know the brand name of the sand?
17 A I know of a supplier of chromite sand. If we do
18 business with him, I do not know for sure.
19 Q Who is that supplier?
20 A American Colloid.
21 Q Do you know where they are located?
22 A Their headquarters are in suburban Chicago, Arlington
23 Heights, I believe.
24 Q Do you know who at ASF would know either exactly where
25 this sand is purchased from or what its chemical properties

1 are?
2 A John Worris, director of purchasing, would obviously
3 know who we buy it from.
4 Q Do you know who at the plant would know the chemical
5 properties?
6 A I can't really speak for others' knowledge as far as
7 the chemistry of the sand.
8 Q Do you have a lab at the ASF facility?
9 A Yes.
10 Q And does that lab ever analyze sand used in the process?
11 A Yes.
12 Q Is there somebody who has overall supervisory
13 responsibility for the lab?
14 A I really ought to request the clarification of the
15 lab. There are things we call labs and that may not be the
16 same thing you call lab.
17 Q A laboratory is where chemical analyses are performed
18 on either your sand, your raw materials, your waste or the
19 finished product.
20 A We perform chemical analyses in our chem lab which is
21 part of the melted metals department under the direction of
22 the chief metallurgist.
23 Q Do you have other labs there?
24 A We have what is called the sand lab, which would test
25 various sand properties.

1 Q And under whose direction is that lab?
2 A The superintendent of the molding department.
3 Q Who is the superintendent of the molding department?
4 A Ron Ramsey.
5 Q Let's go back to the wet collectors. What are those
6 systems used for?
7 A I do not know the exact points that the wet
8 collectors remove the emissions from.
9 Q What do they remove emissions from, from your
10 furnaces?
11 A No, sir. Sand handling equipment, mechanical devices.
12 Q Do they operate after the sand? Do they come into play
13 after the sand has been used in a mold or before?
14 A I don't know.
15 Q Where are these wet collectors again? If you could,
16 mark it with a letter B on Exhibit A.
17 A I don't know. They are not marked on the drawing.
18 Q What do they collect?
19 A The emissions that would occur at some transfer point
20 in the sand system. That emission would be silica dust.
21 Q What is the transfer system, the sand transfer system?
22 Where is the sand transferred from and to where? For
23 example, from one conveyer belt to another conveyer belt to
24 make a bend.
25 A You can't make a bend, so you have one conveyer belt

1 that dumps onto this conveyer belt, that kind of transfer
2 point into bucket elevators and out of bucket elevators.
3 Q And these wet collectors, what do they look like? How
4 big are they?
5 A It's sheet metal. The one I recall seeing most
6 recently was called a national, the large one. There is
7 really nothing from outward appearances that would identify
8 what it was.
9 Q Do these collectors collect both clean sand and sand
10 that has been used?
11 A I don't know.
12 Q But at any rate, the water which is used in these wet
13 collectors is also transferred into the clarifier; is that
14 correct?
15 A Yes, that's correct.
16 Q You also mentioned that contact cooling water goes into
17 the clarifier. Can you explain what that process involves?
18 What is cooling water used for? Why is it called contact
19 cooling water?
20 A The castings, as part of their heat treatment,
21 certain castings, depending on the grade of steel required by
22 the customer, is heated into a furnace to a specified
23 temperature for a period of time. The casting is removed
24 from the heat treat furnace and subjected to quench. We
25 quench in water to bring the temperature of the casting down

1 to a desired temperature at a specified rate.
2 Q These furnaces used are the heating furnaces?
3 A Yes.
4 Q Heat treatment furnaces?
5 A Yes.
6 Q What type of water do you quench with, tap water or do
7 you use other types of water?
8 A City water.
9 Q Do you add any chemicals to it before the quenching?
10 A No.
11 Q This quenching water then is also transferred to the
12 clarifier?
13 A That's correct.
14 Q Can you point out on this diagram, which has been
15 marked Exhibit A, where the clarifier is?
16 A Yes.
17 Q You can use a letter B.
18 A (Witness complies.)
19 Q How many clarifiers are there at ASF? Is there one or
20 more?
21 A At Alliance there is one.
22 Q You stated earlier, I believe, that solids settle out
23 of this clarifier. The solids at the bottom, is that the
24 clarifier slurry?
25 A Yes.

1 Q The water is then reused at the plant?
2 A The water that has been treated in a clarifier is
3 pumped back into the various points in the plant.
4 Q Would that water ever be used for quenching?
5 A I don't know. I do not believe so, no.
6 Q Where else is it used in the plant? What else do you
7 use the water for?
8 A I have been told primary use is to return it to the
9 wet collectors and to the sand washer.
10 Q I see.
11 You mentioned that the solids which settle out, which
12 you and I referred to as the clarifier slurry, that is
13 pumped to a tank?
14 A Yes.
15 Q Is that tank very close to the clarifier or is it a
16 considerable distance? You can mark with a letter C on that
17 Exhibit A what it is.
18 A What letter?
19 Q C.
20 A That general vicinity.
21 Q It's right where there is an arrow and a sludge tank
22 marking on this?
23 A Yes.
24 Q Can you describe the size of this tank and where -- how
25 it's situated? Is it elevated off the ground? Is it

1 buried? Can you describe that for us?
2 A I have only seen the location of the tank from the
3 outside, and it is elevated above the ground, the discharge
4 point is.
5 Q Is the tank inside of a building or is it outside?
6 A Inside.
7 - - - - -
8 (Plaintiff's Exhibit B
9 was marked for identification.)
10 - - - - -
11 Q I am marking Exhibit B for Mr. Ruud. Can you draw on
12 that sheet of paper what this tank looks like and where the
13 input into the tank is and where the discharge point is?
14 A Perhaps you can clarify the difference. The term on
15 the print says sludge point.
16 Q Ignore that. I am interested in the tank into which
17 the clarifier slurry is pumped.
18 A At the end of the water treatment process?
19 Q Right. The solids that settle out that we discussed
20 earlier.
21 A As part of the clarifier system, the materials
22 discharged back into, I guess, I call it a tank, if that is
23 the correct term, that the material flows into, prior to
24 discharge, into what we term the tank cars. So leaving the
25 water treatment process, the waste slurry is discharged into

1 the tank car, or we have referred to it in the past as
2 torpedo cars.
3 Is that what you were referring to?
4 Q Well, now I don't know. Earlier I thought that you
5 said that it's the clarifier slurry that is pumped to a
6 tank. Is that a mobile tank?
7 A They're ultimately placed in a mobile tank. To my
8 understanding of how the process works, there is what one
9 might call a tank inside the building that allows you to stop
10 the flow while I am moving torpedo cars. I don't know if you
11 call that a tank or it's a device that allows you to shut it
12 off when you begin discharge from one torpedo car to
13 another.
14 Q Let's follow the clarifier slurry from its home in the
15 clarifier all the way to its ultimate discharge. It has been
16 scraped from the bottom of the clarifier; is that correct?
17 A Yes.
18 Q It then goes into a pumping system; is that correct?
19 A I assume there is a pump to make it move, yes.
20 Q It moves to a holding tank; is that correct?
21 A I don't know if I would call it that, but it's some
22 kind of device that permits us to shut off the flow. A
23 certain amount of sludge or slurry can accumulate there.
24 Q And is this the same clarifier slurry that ASF had from
25 1980 until 1987, I believe, mixed with their arc furnace

1 dust?
2 A This is the slurry.
3 Q Perhaps you can diagram the holding device which
4 enables you to shut off the flow as the tank trucks move
5 to and away in the clarifier tank?
6 A I would draw you a building with a pipe coming out. I
7 don't know what it looks like inside. I couldn't say that.
8 Q Do you know how big it is?
9 A No, sir.
10 Q How big is the clarifier? Do you know what its
11 capacity is?
12 A No. Diameter, I don't know. It's a ways. I don't
13 know how to describe it. It's bigger than my swimming pool.
14 Q This slurry travels then through piping into a device
15 which you say enables it to be held temporarily; is that
16 correct?
17 A I believe the only time it is used to hold it is while
18 you shut off and move the discharge so you don't spill it all
19 over the ground.
20 Q Tank trucks are then used to ultimately carry the
21 sludge away from this part of the facility?
22 A That's correct.
23 Q How big are the tank trucks that are used?
24 A At least 7,000 or 8,000 gallon capacity.
25 Q Those are the same things as torpedo cars?

1 A That's correct.
2 Q Has this process been the same since 1980 when you
3 began your job at Amsted?
4 A What process?
5 Q The process of the generation of the clarifier slurry.
6 A I believe that is correct. It has not changed.
7 Q Do you know whether ASF used a different clarifier
8 system before 1980?
9 A I am not aware.
10 Q Does it use the same system today?
11 A Yes.
12 Q Have you ever seen or touched the clarifier slurry?
13 A Yes.
14 Q Can you describe its consistency? For example, is it
15 thicker or thinner than 30 weight motor oil?
16 A I would judge it to be 30 weight motor oil.
17 Q Is it thinner than milk?
18 A I can't say that.
19 Q But it's thinner than motor oil. Is it thicker than
20 water?
21 A I think thicker is a subjective term. There is water
22 and solid particulate in the mixture. I would hesitate to
23 say it's like milk or like water.
24 Q But you believe it's thinner than motor oil?
25 A I would think so, yes.

1 MR. SCHILLAWSKI: We have come to a
2 convenient stopping point. I think we're needing
3 a little break here.
4 MR. WEISMULLER: Give me just a couple
5 more questions.
6 MR. SCHILLAWSKI: Okay.
7 Q Does ASF ever dewater this clarifier slurry? In other
8 words, does ASF have a dewatering process for this slurry?
9 A No, we do not.
10 MR. WEISMULLER: For the record, we're
11 going to strike Exhibit B and take it back and
12 remark a new Exhibit B later. The witness did
13 not draw anything on Exhibit B.
14 Let's take a recess here.
15 (Recess taken.)
16 Q Did you have an answer you want to clarify, Mr. Ruud?
17 A Yes. In response to your question on the training
18 classes, we did have a one-day seminar at our offices
19 conducted by a consultant on the various aspects of the new
20 regulations, and I had forgotten all about that.
21 Q Do you remember when that was?
22 A Exact date, no. It would have been around the end of
23 '80 or '81. In that time period somewhere around there.
24 Q Is the chromite sand used at ASF handled in the same

1 Q The water is then reused at the plant?
2 A The water that has been treated in a clarifier is
3 pumped back into the various points in the plant.
4 Q Would that water ever be used for quenching?
5 A I don't know. I do not believe so, no.
6 Q Where else is it used in the plant? What else do you
7 use the water for?
8 A I have been told primary use is to return it to the
9 wet collectors and to the sand washer.
10 Q I see.
11 You mentioned that the solids which settle out, which
12 you and I referred to as the clarifier slurry, that is
13 pumped to a tank?
14 A Yes.
15 Q Is that tank very close to the clarifier or is it a
16 considerable distance? You can mark with a letter C on that
17 Exhibit A what it is.
18 A What letter?
19 Q C.
20 A That general vicinity.
21 Q It's right where there is an arrow and a sludge tank
22 marking on this?
23 A Yes.
24 Q Can you describe the size of this tank and where -- how
25 it's situated? Is it elevated off the ground? Is it

1 the tank car, or we have referred to it in the past as
2 torpedo cars.
3 Is that what you were referring to?
4 Q Well, now I don't know. Earlier I thought that you
5 said that it's the clarifier slurry that is pumped to a
6 tank. Is that a mobile tank?
7 A They're ultimately placed in a mobile tank. To my
8 understanding of how the process works, there is what one
9 might call a tank inside the building that allows you to stop
10 the flow while I am moving torpedo cars. I don't know if you
11 call that a tank or it's a device that allows you to shut it
12 off when you begin discharge from one torpedo car to
13 another.
14 Q Let's follow the clarifier slurry from its home in the
15 clarifier all the way to its ultimate discharge. It has been
16 scraped from the bottom of the clarifier; is that correct?
17 A Yes.
18 Q It then goes into a pumping system; is that correct?
19 A I assume there is a pump to make it move, yes.
20 Q It moves to a holding tank; is that correct?
21 A I don't know if I would call it that, but it's some
22 kind of device that permits us to shut off the flow. A
23 certain amount of sludge or slurry can accumulate there.
24 Q And is this the same clarifier slurry that ASF had from
25 1980 until 1987, I believe, mixed with their arc furnace

1 dust?
2 A This is the slurry.
3 Q Perhaps you can diagram the holding device which
4 enables you to shut off the flow as the tank trucks move
5 to and away in the clarifier tank?
6 A I would draw you a building with a pipe coming out. I
7 don't know what it looks like inside. I couldn't say that.
8 Q Do you know how big it is?
9 A No, sir.
10 Q How big is the clarifier? Do you know what its
11 capacity is?
12 A No. Diameter, I don't know. It's a ways. I don't
13 know how to describe it. It's bigger than my swimming pool.
14 Q This slurry travels then through piping into a device
15 which you say enables it to be held temporarily; is that
16 correct?
17 A I believe the only time it is used to hold it is while
18 you shut off and move the discharge so you don't spill it all
19 over the ground.
20 Q Tank trucks are then used to ultimately carry the
21 sludge away from this part of the facility?
22 A That's correct.
23 Q How big are the tank trucks that are used?
24 A At least 7,000 or 8,000 gallon capacity.
25 Q Those are the same things as torpedo cars?

1 A That's correct.
2 Q Has this process been the same since 1980 when you
3 began your job at Amsted?
4 A What process?
5 Q The process of the generation of the clarifier slurry.
6 A I believe that is correct. It has not changed.
7 Q Do you know whether ASF used a different clarifier
8 system before 1980?
9 A I am not aware.
10 Q Does it use the same system today?
11 A Yes.
12 Q Have you ever seen or touched the clarifier slurry?
13 A Yes.
14 Q Can you describe its consistency? For example, is it
15 thicker or thinner than 30 weight motor oil?
16 A I would judge it to be 30 weight motor oil.
17 Q Is it thinner than milk?
18 A I can't say that.
19 Q But it's thinner than motor oil. Is it thicker than
20 water?
21 A I think thicker is a subjective term. There is water
22 and solid particulate in the mixture. I would hesitate to
23 say it's like milk or like water.
24 Q But you believe it's thinner than motor oil?
25 A I would think so, yes.

1 buried? Can you describe that for us?
2 A I have only seen the location of the tank from the
3 outside, and it is elevated above the ground, the discharge
4 point is.
5 Q Is the tank inside of a building or is it outside?
6 A Inside.
7 - - - - -
8 (Plaintiff's Exhibit B
9 was marked for identification.)
10 - - - - -
11 Q I am marking Exhibit B for Mr. Ruud. Can you draw on
12 that sheet of paper what this tank looks like and where the
13 input into the tank is and where the discharge point is?
14 A Perhaps you can clarify the difference. The term on
15 the print says sludge point.
16 Q Ignore that. I am interested in the tank into which
17 the clarifier slurry is pumped.
18 A At the end of the water treatment process?
19 Q Right. The solids that settle out that we discussed
20 earlier.
21 A As part of the clarifier system, the materials
22 discharged back into, I guess, I call it a tank, if that is
23 the correct term, that the material flows into, prior to
24 discharge, into what we term the tank cars. So leaving the
25 water treatment process, the waste slurry is discharged into

1 MR. SCHILLAWSKI: We have come to a
2 convenient stopping point. I think we're needing
3 a little break here.
4 MR. WEISMULLER: Give me just a couple
5 more questions.
6 MR. SCHILLAWSKI: Okay.
7 Q Does ASF ever dewater this clarifier slurry? In other
8 words, does ASF have a dewatering process for this slurry?
9 A No, we do not.
10 MR. WEISMULLER: For the record, we're
11 going to strike Exhibit B and take it back and
12 remark a new Exhibit B later. The witness did
13 not draw anything on Exhibit B.
14 Let's take a recess here.
15 (Recess taken.)
16 Q Did you have an answer you want to clarify, Mr. Ruud?
17 A Yes. In response to your question on the training
18 classes, we did have a one-day seminar at our offices
19 conducted by a consultant on the various aspects of the new
20 regulations, and I had forgotten all about that.
21 Q Do you remember when that was?
22 A Exact date, no. It would have been around the end of
23 '80 or '81. In that time period somewhere around there.
24 Q Is the chromite sand used at ASF handled in the same
25 way as the silica sand that you use?

1 A The chromite sand is purchased as a separate item. It
2 is utilized, like I said before, in certain portions of the
3 core or mold. In the shake out process, the chromite sand
4 becomes mixed with the silica sand and is not separated back
5 out.
6 Q So the silica sand and chromite sand are beat, put into
7 the clarifier; is that correct?
8 A The sand washer is a mixture of silica and chromite
9 sand.
10 Q Excuse me. I meant to say that.
11 Do you know whether a hang filtered test has ever been
12 run on this slurry that comes out of the clarifier?
13 A No.
14 Q You don't know whether one has been performed?
15 A No, I don't.
16 Q Do you know what type of pump is used to move the
17 clarifier slurry in the clarifier into this holding device
18 that you described earlier, the device which allows you to
19 stop the flow of the slurry out of the discharge pipe?
20 A No, I don't.
21 Q Was there an engineer or somebody else at the facility
22 that would know the type of pump and the specifications of
23 the other machinery used in the clarifier system?
24 A Yes, I presume.
25 Q Who would that be?

1 A The works engineer, Paul Limbach.
2 Q After the slurry travels through the pipes to this
3 holding device, and we called it that which you marked as
4 area C on Exhibit A, how far does the slurry travel from that
5 device to the discharge point?
6 A A few feet.
7 Q And can you describe for us what the discharge point
8 looks like?
9 A What I recall is a pipe.
10 Q And what about its diameter?
11 A Five, six inches.
12 Q And that comes out of that area C outside the building?
13 A That's correct.
14 Q And does the pipe travel horizontally out of the
15 building?
16 A Generally horizontally, yes.
17 Q Is there an elbow joint at the end of it with an
18 opening?
19 A Yes, I believe so.
20 Q These torpedo cars that you mentioned earlier, can you
21 describe what a torpedo car looks like? Is it on a rail? Is
22 it on a truck bed? What exactly is that?
23 A The torpedo cars would give -- the most accurate
24 description would be to take a round cylinder and flatten it
25 somewhat, round sides, opening at the top, discharge point in

1 the rear. That would resemble a sheet, the discharge point
2 is above the top of the tank.
3 Q Excuse me. Before you go on, the discharge point is
4 above the top of the tank?
5 A You have your --
6 Q Let's revitalize Exhibit B, which, to this point is a
7 blank sheet of paper. Can you draw the torpedo car for us to
8 the best of your ability?
9 A This would be a side view.
10 Q Can you draw an arrow any where on there as to what the
11 top of the unit is?
12 A (Witness complies.)
13 Q The arrow on there points to the top of the torpedo car?
14 A This way. (Indicating.)
15 Q To the right of the drawing, can you explain what that
16 is?
17 A This would be the discharge point.
18 Q Can you just draw an arrow to that?
19 A (Witness complies.)
20 Q And label that as A.
21 A (Witness complies.)
22 Q A, being the discharge point and that is in the rear of
23 the torpedo car?
24 A That's correct.
25 Q Where is the inflow to the torpedo car?

1 A Approximately here. (Indicating.)
2 Q If you can draw an arrow to that area with a letter B.
3 A (Witness complies.)
4 Q So that is where the clarifier slurry is put into this
5 tank; is that correct?
6 A Yes.
7 Q How is the tank moved underneath the pipe in which the
8 slurry flows?
9 A The tank is a roll off type container.
10 Q In various documents that the government has received
11 from Amsted, and in various pleadings in the case, we refer
12 to a roll off container. Would that be the same as this
13 torpedo car?
14 A I can't answer that. I do not recollect the context of
15 which we use the term roll off, so I can't answer that.
16 Q Is this torpedo car filled with slurry and transported
17 to the foundry area where the arc furnace dust is added?
18 A What time period are you referring to?
19 Q From 1980 until 1987.
20 MR. SCHILLAWSKI: I want to express
21 that we still have a continuing objection to pre-
22 '82 time periods.
23 MR. WEISMULLER: I thought it was
24 pre-'80 time periods?
25 MR. SCHILLAWSKI: Pre-'82 by the

1 statute of limitations.
2 MR. WEISMULLER: You can answer the
3 question.
4 A Could you repeat it quickly?
5 Q Between the period of 1980 and '87, was this torpedo
6 car used in producing your electric arc furnace dust
7 clarifier slurry mixture?
8 A Yes, I believe so.
9 Q What does it roll off of?
10 A There is an old flatcar that's modified to have the
11 rollers and the like on it so it would slide onto it under
12 the pipe where it would reach. Then there is two of these
13 containers.
14 Q Two of these torpedo cars on each flatbed?
15 A There is one flatbed, two cars, two torpedo cars, two
16 torpedo tanks.
17 Q And the flatbed is on rails or is it --
18 A I think it's placed on the ground. It happens to be a
19 platform that was used.
20 Q I understand.
21 And these torpedo cars are then rolled onto this
22 platform underneath the discharge pipe?
23 A Correct.
24 Q Is the discharge pipe connected to the torpedo car when
25 the slurry is transferred into the torpedo car?

1 A How do you mean connected?
2 Q Is it physically attached either by screws, clamps,
3 bolts, anything like that?
4 A No.
5 Q Is there a distance between the discharge pipe on the
6 top of the torpedo car when this transfer of the slurry takes
7 place?
8 A I do not believe so.
9 Q Does the discharge pipe lower itself into the torpedo
10 car?
11 A I don't know.
12 Q Well, does the tank slide directly underneath the
13 discharge pipe?
14 A Yes.
15 Q Is the discharge pipe ever raised or lowered or is it
16 stationary?
17 A I don't know. Let me clarify that. The pipe swings.
18 Whether it moves vertically, I don't know. I know it is
19 capable of swinging from this tank to the other tank and
20 back.
21 Q I see.
22 Have you ever observed the loading of one of these
23 torpedo cars?
24 A I believe I have.
25 Q Have you ever noticed any of the slurry spilling

1 outside of the torpedo car or dripping on the torpedo car as
2 the pipe is moved?
3 A No.
4 Q Is there a person at the plant who operates the loading
5 of the slur into the torpedo car?
6 A Yes.
7 Q Who is that person? Who was the person in charge of
8 this operation from 1980 until '87?
9 A Our department reports to the plant superintendent
10 currently. Prior to that, they reported to the assistant
11 works manager. I believe that was the organizational
12 structure at the time.
13 Q So was the assistant works manager himself responsible
14 for this operation?
15 A It was his department.
16 Q You don't know the name of the worker or the employee
17 who operated this system?
18 A No.
19 Q Was the torpedo car empty before it was rolled onto
20 the platform underneath the pipe or did it have other
21 material in it?
22 A I presume it's empty.
23 Q You don't know for sure, though?
24 A No.
25 Q Do you know whether this torpedo car was ever rinsed

1 out with water or any other solution for purposes of cleaning
2 it or anything else?
3 A No.
4 Q Is there a maintenance department at ASF who has got
5 responsibility for the cleaning of these units if they were
6 cleaned?
7 A I do not know if they were cleaned.
8 Q If they were cleaned, who at ASF would be responsible
9 for the cleaning?
10 A I don't know, other than the department that operates
11 the equipment. That would be the yard department.
12 Q The yard department?
13 A That's correct.
14 When I was thinking of that, you had asked if we ever
15 cleaned them out. At the request of Kevin Bonzo, we had
16 inserted water and had that water as part of a rinse aid
17 analysis at the request of Kevin. He wanted the test results
18 for EP toxicity. We did do that a couple years ago. He
19 wanted the test results.
20 Q For the record, Mr. Bonzo was, at that time, an
21 employee of the EPA?
22 A That's correct.
23 Q Did you perform tests or did ASF perform tests on that?
24 A Yes.
25 Q Do you know what the results of those tests showed?

1 A That the material was -- the components of air
2 emissions were at or below various limits.
3 Q Were the samples from that rinse submitted with the
4 Ohio EPA?
5 A No. He asked us to have it done and send them the
6 results, which we did.
7 Q Have you ever had another analysis performed on the
8 slurry itself?
9 A Another analysis?
10 Q Chemical analysis for EP toxicity.
11 A We have performed EP toxicity tests and distilled water
12 acid leach tests on the slur.
13 Q Have any of those tests resulted in finding that slurry
14 was EP toxic?
15 A No.
16 Q Since November of 1980, has ASF disposed of the
17 clarifier slurry?
18 A Yes.
19 Q Prior to disposal, is the clarifier slurry removed
20 from this torpedo car that you drew on Exhibit B?
21 A Prior to disposal is it removed?
22 Q Yes.
23 A No.
24 Q It is disposed from the torpedo car; is that correct?
25 A Yes.

1 Q Can you tell us since 1980 how ASF has disposed of the
2 clarifier slurry, and if those disposal operations have
3 changed during that time period from 1980 until the present,
4 perhaps you could explain how its changed?
5 A What I know is that the sludge was put into the tank
6 and --
7 Q The tank being the torpedo car?
8 A Yes. And then disposed of at the landfill for a
9 period.
10 For a period, we also placed in the tank after the tank
11 was fairly well loaded with sludge, slurry, small portions of
12 electric arc furnace dust in with the slurry that was
13 contained in the torpedo car.
14 Q Did you bring electric arc furnace dust to the torpedo
15 car or did you move the torpedo car to where your bag house
16 system is located?
17 A The torpedo car was picked up by the truck, taken to an
18 area beneath the electric arc furnace dust collector, where
19 the electric arc furnace dust was then added.
20 Q You mentioned that for a period you added electric arc
21 furnace dust. What was that period?
22 A We stopped putting the dust in with the slurry in late
23 May of 1987.
24 Q Let's go back for a moment to the torpedo car and how
25 you fill it with slurry. Do you know whether these cars can

1 be or are they capable of being attached to the discharge
2 pipe?
3 A Of what?
4 Q Of the slurry, the clarifier slurry.
5 A I can't say if they can be or capable of being.
6 They're connected physically.
7 Q But is it your testimony that they are not attached
8 either by clamping or screws, any device of that sort?
9 A To my knowledge, they do not clamp it.
10 Q Let's talk about the electric arc furnace. Can you
11 again go to Exhibit A, please, and on there mark with a
12 letter D as in David, the area in the plant where the
13 electric arc furnace is located?
14 A D?
15 Q Yes.
16 A (Witness complies.)
17 Q We discussed earlier that certain metals go into this,
18 certain scrap and other materials go into the furnace. It's
19 melted and poured out?
20 A Yes.
21 Q Do you know whether a slag is ever produced by the
22 furnace?
23 A Yes.
24 Q Is there a foundry pit slag and also a furnace pit slag
25 that's produced?

1 A Yes.
2 Q Can you describe the differences of those?
3 A The furnace pit slag is the slag that is taken out
4 of or removed from the surface of the steel and while it's in
5 the electric arc furnace or in the ladle immediately
6 adjacent to the furnace.
7 The foundry pit slag is that slag removed from the
8 ladle at another spot.
9 Q What other spot?
10 A Another pit in an adjacent area where the ladles are
11 inspected and cleaned out.
12 Q And these ladles are the devices that transfer the
13 molten metal to the molds?
14 A Correct.
15 Q Sort of like dishing soup out of kettle into a bowl?
16 A Very large ladle, yes.
17 Q Is a dross ever produced?
18 A Dross being similar to a slag, but one which floats on
19 top of the molten. Slag floats on top of the metal.
20 Q Is there anything that settles to the bottom?
21 A Not to my knowledge, no, sir.
22 Q Does ASF dispose of the slag in any way?
23 A Yes.
24 Q How is that done?
25 A It is taken to our landfill.

1 Q That's at Sebring?
2 A Yes.
3 Q Has ASF ever performed a chemical analysis on the slag
4 to determine whether it's EP toxic?
5 A Yes, as well as did the OEPA.
6 Q Are you familiar with the results of those tests?
7 A Yes.
8 Q What are they?
9 A That the material, if I remember the report correctly,
10 could not be analyzed for EP toxicity because of its glassy
11 nature substance.
12 Q Do you know about when that took place?
13 A In 1980.
14 Q Was that the only time?
15 A To my recollection, yes.
16 Q There was arc furnace dust also produced through this
17 melting process; is that correct?
18 A There is effluent from the electric arc furnace dust
19 there.
20 Q Is that electric arc furnace dust in the papers that we
21 received from the foundry?
22 A The dust is that which is collected out of the bag
23 house.
24 Q How has the dust been generated since November, 1980?
25 How does it physically work? How does a furnace produce this

1 dust?
2 A In the melting process, electrical energy is transfered
3 from the electrodes through the steel scrap to the other
4 electrodes. The way I understand, the resistance and all
5 this creates the heat at which melts the scrap. In the
6 course of this melting, certain materials are vaporized,
7 certainly scale dust or dirt that might have been on the
8 steel or any organic matter that may have been on the scrap,
9 dirt, likewise, would become airborne and then evacuated from
10 the furnace by the exhaust system and collected in the bag
11 house.
12 Q What is a bag house?
13 A To me a bag house is an emission control device that
14 contains fiberglass bags to separate the particular from the
15 air.
16 Q Is that what is used at the Alliance facility?
17 A Yes.
18 Q How is the emission drawn from the furnace into the
19 bag house? Is there a fan that draws it?
20 A There is a fan that sucks, if you will, the air and
21 carrying with it, the effluent off the electric arc furnace.
22 Q And that air is then driven where?
23 A Filtered through the bag house compartments.
24 Q Are you familiar enough with this system to draw a
25 diagram of the furnace and the adjoining bag house and the

1 pathway of the airborne dust?
2 A Yes.
3 Q Can you draw that for us?
4 - - - - -
5 (Plaintiff's Exhibit C
6 was marked for identification.)
7 - - - - -
8 Q If you could, start with the furnace, the electric arc
9 furnace and how it is connected to the bag house.
10 A Can I draw a schematic with no relationship to scale or
11 anything?
12 Q Sure.
13 A (Witness complies.)
14 Q You have drawn a circle with EAF in the middle of it.
15 Is that the electric arc furnace?
16 A Right.
17 Q Coming from that is a line which runs alongside an
18 arrow into a box which is labeled BH, and that is the bag
19 house?
20 A Right.
21 Q Extending out of the bag house is what looks like
22 piping with a circle labeled "Fan." Does that fan operate to
23 draw the air from the furnace through the bag house? Is that
24 the only fan there?
25 A Yes.

Q To the right of the fan or the other side of it away from the bag house side, there is just an ending there. Is that the emmisions pipe, the stack?

A I believe that's it.

Q Where in this system are the filters that you explained were operating?

A In the bag house.

Q How many filters are in that bag house, do you know?

A No, I do not know.

Q And they filter out particulate matter?

A Yes.

Q And then what is exhausted is air?

A Correct.

Q Where is the particulate matter collected?

A At the bottom of the bag house on a hopper in a collection area. It's an area for that purpose.

Q The area for the purpose of collecting the dust is called the hopper?

A The bottom portion of the bag house, yes.

Q Can you draw on the bottom of the box here labeled as bag house what the hopper might look like?

A This is just a schematic, meaning this represents the bag house. It does not look like the bag house. It's not representative of where the inlet is.

Q I understand.

1 Can you draw for us a diagram of what the hopper area
2 looks like of the bag house? If you can, draw a side view or
3 whatever is most convenient for you.
4 A (Witness complies.) This would be the V shaped area
5 below the compartment that contains the bags.
6 Q If you can, draw an arrow to the V shaped area. Is
7 that the hopper?
8 A Well, it's the hopper portion of the bag house.
9 Q Okay.
10 If you could, just mark an H by that.
11 A (Witness complies.)
12 Q And then the area above that is also part of the bag
13 house where the filters are contained?
14 A Yes.
15 Q The other portion of the diagram, there is a line that
16 extends from the EAF to the bag house?
17 A Yes.
18 Q What is that line? Is that pipe?
19 A Duct work.
20 Q What is the diameter of that duct work?
21 A Exactly, I don't know. In the neighborhood of three to
22 four foot in diameter.
23 Q How is it connected to the furnace or is it connected
24 to the furnace?
25 A The duct work begins on the roof of the furnace and

1 proceeds through the wall and goes outside the building
2 parallel with the outside wall to the bag house.
3 Q Do you know how it's attached to the top of the
4 furnace?
5 A I believe it's fastened on with nuts and bolts, I
6 assume, some physical connection.
7 Q How about the connection to the bag house? Are you
8 aware of how it's attached to that?
9 A At this end, it also is welded in place.
10 Q This pipe or duct work, what is it made out of?
11 A I believe stainless steel.
12 Q Has this bag house been added to the furnace at ASF or
13 was it built at the time that the furnace was installed?
14 A It is my understanding it was built at the time the
15 furnace was installed as one project.
16 Q When was the electric arc furnace installed at that
17 facility?
18 A I do not know the exact date.
19 Q Do you know roughly when?
20 A '69, 1969 or '70, that time period.
21 Q That's when the furnace was installed?
22 A Yes.
23 Q And it was installed at the same time as the bag house
24 system?
25 A From what I have been told, yes.

1 Q How long has American Steel Foundries been in operation
2 at Alliance?
3 A I do not know.
4 Q Was it pre-1969?
5 A Yes.
6 Q Did they use a different type of furnace other than
7 this arc furnace at that time?
8 A Yes, I understand we used another furnace.
9 Q That wasn't a blast furnace?
10 A No, sir.
11 Q Do you know what type it was?
12 A It was called an open hearth furnace.
13 Q Are the open hearth furnaces still in use at American
14 Steel Foundries?
15 A No.
16 Q Is this the electric furnace the only one in use?
17 A Other than the furnaces used for heat castings, that is
18 the only furnace used to melt steel.
19 Q When the airborne dust enters into the bag house, you
20 said it goes through a series of filters; is that correct?
21 A Yes, it passes through filters.
22 Q Does the dust accumulate on those filters?
23 A Yes.
24 Q Do those filters ever clog?
25 A Not to my knowledge, no.

1 Q Are those filters mechanically shaken from time to time
2 to shake dust off of them?
3 A They are mechanically shaken.
4 Q And is it through that mechanical shaking that the
5 dust falls to the bottom of the bag house into the area
6 labeled H for hopper?
7 A Yes.
8 Q Can the hopper area be detached from the bag house?
9 A No.
10 Q Is it engaged within one system? In other words, is it
11 one unit, one device that includes the hopper area?
12 A Yes.
13 Q What is the nature of the dust? What does it look
14 like? Have you inspected it and know the answer to that?
15 A Yes.
16 Q Okay.
17 A It's a dry, fine material, redish brown in color.
18 Q Is it finer than sand?
19 A Yeah, I would say it is finer than the sand we use in
20 our foundry.
21 Q Does it have the consistency of baking flour or baking
22 powder or is it more course than that?
23 A I would think it would be more course. Again, that's a
24 subjective determination. You might say it is and I might
25 say it isn't. I would say it's finer than sand. There are

1 sands that are finer than the dust, though.
2 Q What is it made out of? Is it simply metal particles
3 or other materials?
4 A That's what I referred to as a collection of metal
5 oxides.
6 Q Explain that, if you would.
7 A The particulate when analyzed, the test report comes
8 back and has various oxides of metal.
9 Q How often has ASF performed tests on electric arc
10 furnaces?
11 A What kind of tests?
12 Q EP toxicity tests.
13 A Very often.
14 Q Pardon me?
15 A Very often.
16 Q Are you familiar with the test results of the EP
17 toxicity tests that were performed on the dust?
18 A Yes.
19 Q To your knowledge, has this dust ever tested to be
20 toxic?
21 A The dust by itself has tested EP toxic.
22 Q Would you consider that a hazardous waste under RCRA?
23 MR. SCHILLAWSKI: Objection to the
24 extent that it calls for a legal conclusion on
25 the part of the lay witness here.

1 Q Are you familiar with the RCRA regulations as they
2 pertain to hazardous waste?
3 A Somewhat familiar, yes.
4 Q Is it your understanding that EP toxic substances were
5 considered hazardous waste under RCRA?
6 A Yes, I generally understand that, yes.
7 Q So would it be your conclusion that if this dust tested
8 EP toxic, as you said it has, that it is a RCRA hazardous
9 waste?
10 MR. SCHILLAWSKI: I am going to interpose
11 an objection here again. There are many other
12 constituents and inquiry which need to be made to
13 any material besides whether it's a RCRA
14 hazardous waste.
15 A The way I understand the regulations -- I assume I
16 can continue?
17 MR. WEISMULLER: Yes.
18 A That if you were to dispose of this, it would be
19 regulated as it is. As it is, it would be a regulated
20 material, as is.
21 Q In other words, if the electric arc furnace dust were
22 taken out of the hopper and disposed of in a landfill in
23 Sebring without any treatment or anything else, that would be
24 disposal of hazardous waste in your understanding?
25 A Well, I don't know if I would use those words.

1 Q Well, disposal of a regulated substance.
2 A Well, the material, if it was disposed of as is, would
3 be a regulated material. I don't know if it would be
4 classified as a quote "hazardous waste."
5 MR. WEISMULLER: Let's take our lunch
6 recess here.
7 - - - - -
8 (Luncheon recess had.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 August 30, 1989
2 1:30 p.m.
3 - - - - -
4 (EXAMINATION) CONTINUED
5 BY MR. WEISMULLER:
6 Q Before we get started, it's my understanding that you
7 need to leave at 2:30?
8 A Yes.
9 Q Rather than catch a plane at 2:30?
10 A Right.
11 Q That's fine.
12 Let me clarify a few of the things that we talked about
13 earlier, Mr. Ruud.
14 I believe you mentioned there was from the bag house
15 emission or effluent. Did you use either of those terms? I
16 am trying to clarify there was any liquid emissions that came
17 out of the bag house.
18 A What bag house?
19 Q The one connected to the electric arc furnace.
20 A There was no wet emissions.
21 Q Are there any other bag houses at ASF or is that the
22 only one, the one we discussed earlier?
23 A There are other bag houses.
24 Q How many other bag houses are there?
25 A I believe they are two.

1 Q What is the purpose of these two other bag houses?
2 A There is a bag house on a device called a shot blast.
3 It collects the dust that is generated in the process of shot
4 blast casting.
5 Q What does shot blasting do?
6 A Imagine, if you will, thousands of shotguns being fired
7 simultaneously at a steel casting. It is designed to remove
8 any surface imperfections and scale on the surface of the
9 casting, so that any imperfections can be observed and
10 repairs can be accomplished.
11 Q How is the dust generated in this operation?
12 A In the shot blast?
13 Q Yes.
14 A Through the process of incredible viscosity and
15 abrasion of steel shot being impinged upon the steel surface
16 and casting.
17 Q What does the dust consist of?
18 A Broken pieces of steel shot, scale, fine particles of
19 steel, metal and silica, dust.
20 Q Is there one area at the ASF facility where the shot
21 blasting takes place?
22 A There are two shot blasts. There must be more than two
23 bag houses additional to what we're talking about.
24 Q Can you draw an Exhibit A roughly where those are?
25 A I believe there is one here. (Indicating.)

1 Q Can you mark it with a letter D?
2 A We already used D.
3 Q How about E?
4 A (Witness complies.)
5 There is a second one in this area.
6 Q Mark that with an F.
7 A In that general area.
8 Q Has the dust from the shot blast operations ever been
9 tested to determine whether it is EP toxic?
10 A Yes.
11 Q Do you know what the results are of those tests?
12 A Not the specific.
13 Q Do you know whether the dust has tested as EP toxic?
14 A It has not tested as EP toxic.
15 Q Do you know on how many occasions this dust has been
16 sampled and tested?
17 A I recollect at least two specific times it was tested
18 that I recall.
19 Q Do you know when those times were?
20 A I believe one was in 1980 initially and subsequent,
21 I believe, at a later inspection somewhere in '85, '86.
22 Q Do you know whether the State of Ohio was involved in
23 any of the inspections?
24 A Yes, both of them, I believe, the tests were done with
25 the Ohio EPA.

1 Q Does this dust get disposed in any way from the shot
2 blast bag house?
3 A Yes, it is disposed.
4 Q How is that done?
5 A Taken to our landfill.
6 Q Is this dust mixed or treated in any way before it's
7 taken to the landfill?
8 A Not to my knowledge, no, sir.
9 Q That's the Sebring landfill?
10 A Correct.
11 Q Has this procedure been the same from 1980 until
12 present, the procedure of disposing the dust from the shot
13 blast bag house at Sebring?
14 A I do not know if it has changed or not.
15 Q Do you know who at the facility might have more
16 knowledge about the shot blast discharges from the bag houses
17 than are in the bag house?
18 A Other than it is performed by the yard department, no.
19 Q So is the shot blasting under the control of the yard
20 department?
21 A No. The shot blasting is the portion of our cleaning
22 and finishing department.
23 Q Who runs that department?
24 A The cleaning and finishing.
25 Q Yes.

1 A Robert Brennan.
2 Q How long has he been in that position?
3 A Somewhere around '85, '86, last four years or so.
4 Q And who was in that position prior to Mr. Brennan?
5 A Dave Smith.
6 Q Is Mr. Smith still with Amsted?
7 A No.
8 Q Is the amount of shot blast tied to the overall
9 production rate at the facility?
10 A It would have to be tied somewhat. Whether that
11 relationship is linear or not, I do not know.
12 Q Why wouldn't it be linear?
13 A The extent of sand adhesion to the castings may vary.
14 The type of steel shot that is purchased, some is frankly
15 better than others. Some last longer. There are a number
16 of considerations. The maintenance on the device. If it,s
17 not maintained properly, it will not run as well.
18 Q Do you know whether the analysis that was performed on
19 this dust was the acid leach EP toxic analysis?
20 A I believe it was, yes.
21 Q You mentioned there were other bag houses apart from
22 the shot blast bag houses. Can you tell us a little bit
23 about those?
24 A I believe there is a bag house that is situated over
25 and area called cooling bed that again collects dust

1 generated through the sand handling system.
2 Q What is the consistency of that dust? What is in it?
3 A What is in it? It would be sand particles.
4 Q Is it before the sand is washed or after the sand is
5 washed?
6 A I cannnot say. I do not know.
7 Q What department has responsibility for that operation?
8 A Exactly, I don't know what the sand handling system
9 covers, so I can't specifically state, you know, who has that
10 under their control.
11 Q Do you know how that dust is disposed of?
12 A Yes.
13 Q Is it also trucked to or taken to Sebring?
14 A Yes.
15 Q Is it treated in any way before it's taken there?
16 A Not to my knowledge.
17 Q Do you know whether there has been any chemcial
18 analysis performed on that dust?
19 A I believe so, yes.
20 Q Have any of the results shown this dust to be EP
21 toxic?
22 A No.
23 Q Was the analysis of that dust performed in conjunction
24 with or at the direction of the Ohio EPA?
25 A It may or may not be. I do not know.

1 Q How is the dust taken from the shot blast bag houses?
2 By what method is it transported to Sebring?
3 A I don't know exactly.
4 Q Are these bag houses the same size or smaller than the
5 electric arc furnace bag house?
6 A By appearance, much smaller.
7 Q They also have filters in them?
8 A Yes.
9 Q And do you understand how the dust is removed from the
10 filters and taken out of the system?
11 A Basically, yes.
12 Q Would you describe that for us, please?
13 A They, in essence, operate the same method as the
14 electric arc furnace bag house or furnace bag house, and that
15 air is drawn through the duct work into the bag house where
16 the particulate is collected on the filter bags and again
17 mechanically shaken. The bags and the materials fall to an
18 area below the bags.
19 Q To a device that's similar to the hopper area in the
20 furnace bag house?
21 A Yes.
22 Q How often is that bag house, the shot blast bag house
23 emptied and the dust disposed of?
24 A I do not know.
25 Q Let me ask you a little bit about the filters in the

electric arc furnace bag house. Do you know how big these things are?

A No.

Q Do you know whether the bag house is ever serviced or cleaned?

A No.

Q Do you know if the filters are ever replaced?

A It is my understanding that periodically the bags are replaced.

Q You mean the filters are replaced inside the bag house?

A Yes.

Q What is done with those filters? Are they disposed of?

A I do not know.

Q Do you know who might know how this system is serviced and who would know how the filters are cleaned or disposed of?

A The works engineer.

Q You mentioned earlier that the electric arc furnace tested EP toxic. Why did it test EP toxic?

A The results on the report.

Q Were there certain metals that --

A Yes.

Q Which were those?

A Cadmium and lead.

1 Q The diameter of the top of the torpedo car into which
2 the slurry is poured, do you know how big that hole is in
3 that opening?
4 A Exactly, no.
5 Q Do you have a rough idea? Is it a foot or two feet?
6 A I would estimate perhaps one foot.
7 Q Perhaps one foot?
8 A Yes.
9 Q And the pipe that the slurry comes out of you mentioned
10 is somewhere in the area of five inches in diameter?
11 A Again estimated from a distance. It's up on the wall.
12 Q How is the truck or the torpedo car transported from
13 the area where the slurry is added to it to the area where
14 dust is added to it?
15 A During a period of time we did that.
16 Q Which was when?
17 A We did it until 1987.
18 Q May of '87?
19 A Yes. The container is --
20 Q If you want to draw on Exhibit B, you may do so if it's
21 easier for you.
22 A A roll-off type truck is positioned adjacent to the
23 tank and a cable is used to pull the tank on to the truck.
24 Q Is it pulled off of the platform underneath where the
25 slurry is loaded into it. It rests on a platform; is that

1 correct?
2 A Correct.
3 Q Does the tank rest directly on the platform or does it
4 have rails underneath it holding it up?
5 A Never having concentrated on looking at it, I assume
6 it's on some kind of a rail.
7 Q And then a truck backs up, backs next to this platform
8 and draws the tank on to the back of the truck; is that
9 correct?
10 A Correct.
11 Q Once that's accomplished, where does the truck go?
12 A Well --
13 Q Does it go directly to the Sebring landfill or during
14 the time from 1980 to '87, did it ever go to the Sebring
15 landfill directly?
16 A Yes.
17 Q Would you consider this slurry a liquid?
18 A I don't know. We always called it a sludge.
19 Q Well, it's thinner than oil; right? We established
20 that.
21 A Right.
22 Q The reason I asked, are you aware of any regulations
23 that prohibit disposal of liquids in landfills in Ohio?
24 A Not by and far as a specific Ohio regulation, no.
25 Q How else would this slurry be disposed of other than

1 just directly into the landfill in its slurry form? I
2 understand you would add dust to it on occasion. When that
3 occurred, where would the truck be driven at the facility?
4 If you can, just draw a line on Exhibit A from where
5 the slurry is put into the tank or into the torpedo car and
6 where it goes to receive the electric arc furnace dust.
7 A From the location here. (Indicating.)
8 Q From location C following the road, the plant road,
9 which is being marked with a red line.
10 A To the bag house located here. (Indicating.)
11 Q Could you mark a letter G by the bag house?
12 A (Witness complies.)
13 Q How far is that distance?
14 A Just guessing at 1,000 feet.
15 Q How is the dust transferred from the bag house in the
16 hopper area into the truck? Can you describe that operation
17 for us?
18 A I assume we're continuing to talk about --
19 Q From 1980 to May of '87.
20 A The truck was backed under the bag house directly
21 beneath the discharge. Flexible tubes from the discharge
22 were lowered into the opening on the tank and a timer was
23 activated. When the timer stopped, the chute was jostled
24 somewhat and to make sure there was no dust collecting in the
25 tube. The tube was removed and the truck drove off.

1 Q At what temperature was the dust drawn into the bag
2 house, how hot?
3 A I can't say. I don't know.
4 Q Would somebody in the metals lab be able to shed some
5 light on that?
6 A I don't think so.
7 Q How long would the dust sit in the bag house before it
8 would be transfered into this truck or torpedo car?
9 A It would vary depending on the level of operations.
10 Q During times of heavy operations how long would it be
11 sitting there?
12 A Again, the period would vary depending on which amount
13 of dust you're talking about. Perhaps as little as -- I
14 really don't know the time that the dust is in the hopper
15 area of the bag house. I know it is generally emptied once a
16 day.
17 Q Is it ever emptied more than once a day?
18 A No, sir.
19 Q It's never emptied more than once a day?
20 A It is emptied when there is no more dust in it. We
21 stop taking dust out of it.
22 Q That cycle only takes place once a day. It fills up
23 with dust from the furnace, and the end of the day you pull
24 a truck under there, empty it and drive it off?
25 A Are we talking to when we're doing this?

1 Q This time period now.
2 A No. It took several trips. I don't know how many it
3 was. You didn't do it all at once, no, sir.
4 Q I see.
5 What was the purpose of the timer?
6 A To put in a specified amount of material.
7 Q Was the timer always set the same for the same period
8 of time?
9 A I believe so, yes.
10 Q Do you know what time that was?
11 A No, I do not.
12 Q Was it a switch that a worker would turn on that would
13 say sort of like a cooking timer and would say 15 seconds or
14 5 minutes or something like that?
15 A Well --
16 Q Was it an on-and-off type switch?
17 A I don't know what kind of device it was.
18 Q You don't know where the operator would dial in the
19 amount of time needed?
20 A No, I don't.
21 Q The pipe which comes out of the hopper and goes into
22 the truck, you mentioned that was a flexible hose?
23 A Yes.
24 Q What is the diameter of that hose?
25 A I don't know exactly.

1 Q Do you have a rough idea? Is it bigger than a foot or
2 smaller than a foot?
3 A Somewhat less than a foot.
4 Q How far down into the truck did the hose go when you
5 lowered the dust from the hopper into the truck?
6 A I don't know.
7 Q Did you ever observe the loading of this dust into the
8 truck?
9 A Yes.
10 Q On the occasions that you observed it, did you notice
11 that the hose was put into the truck?
12 A Yes.
13 Q Was it fixed and attached to the truck in any way? Was
14 it screwed down, slammed down? Was any gadget system put on
15 it?
16 A No.
17 Q When the hose was brought over the tank truck, torpedo
18 car, and the dust began to fall through the hose, did you
19 notice any residue or any emissions of dust as a result of
20 that operation?
21 A No.
22 Q Did you notice that when the hose was taken out of the
23 truck either that any dust fell out onto the tank truck or
24 anything of that nature?
25 A No.

1 Q Is it possible that this could have happened and you
2 didn't observe it?
3 MR. SCHILLAWSKI: I'll object to
4 speculating as a possibility.
5 MR. WEISMULLER: You can answer.
6 A I suspect anything is possible.
7 Q Who is responsible for the operation of the bag house
8 system for loading the dust into the tank truck?
9 A The yard department.
10 Q The yard department?
11 A Yes.
12 Q Do you know any individuals who were between 1980 and
13 '87 responsible for this operation?
14 A The assistant works manager, I believe, had
15 responsibility over the yard department.
16 Q Was he the one that physically moved the hose into the
17 tank truck or did he have other workers that had that
18 responsibility?
19 A Other workers would have been responsible for the work.
20 Q Do you recall the names of any of those workers?
21 A No.
22 Q Do you know whether ASF maintains lists of employees
23 during the time period from 1980 to '87 even if they have
24 already left the company?
25 A I assume thare are some personnel records. I do not

1 know where they are.
2 Q Who was the assistant works manager from 1980 to '87?
3 A The manager?
4 Q The assistant works manager, the person responsible
5 for overseeing operation.
6 A John DeFlore.
7 Q Do you know whether the roll off container or the
8 torpedo car, as you called it, whether it can be physically
9 attached to the bag house hopper?
10 A Can it?
11 Q Is there a mechanism there on the bag house on the
12 top of this torpedo car which enables the two units to join
13 together to seal?
14 A There is the opening on the top of the tanker, torpedo
15 car, and I know there is a flexible tube.
16 Q And that was the extent of it?
17 A That's correct.
18 Q Did you ever notice electric arc furnace dust in the
19 area surrounding where the roll off container would be
20 parked under the bag house?
21 A No, sir.
22 Q You never noticed any dust on the ground there?
23 A There may be dust on the ground. Whether it was
24 electric arc furnace dust or not, I don't know.
25 Q Was that area ever swept and cleaned?

1 A I can't honestly say. I have not observed anybody
2 sweeping or cleaning.
3 Q Are plant sweepings, the particles and scrap and the
4 dust and the other things that are collected during routine
5 sweeping and cleaning operations, are those disposed of at
6 the Sebring landfill?
7 A By and large, miscellaneous cleaning debris, they
8 dispose of it at the landfill.
9 Q Are there any other areas where miscellaneous cleaning
10 debris is disposed of?
11 A To my knowledge, no.
12 Q What department is responsible for cleaning the plant,
13 specifically the part of the plant underneath the bag house
14 area?
15 A The yard department.
16 Q The yard department?
17 A Yes.
18 Q Has the electric arc furnace dust ever been removed
19 from the bag house in a different fashion than you have
20 described?
21 A Ever?
22 Q Before 1980.
23 A I have no knowledge.
24 Q You have no knowledge of that?
25 A No.

1 Mr. Weismuller, I was reminded that I should be a
2 little more clear about the cleaning of that area underneath
3 the bag house. That area is not paved, so limestone is
4 placed there, and periodically that waste material was picked
5 up and recharged back into the furnace in lieu of the normal
6 lime that would be been placed in the furnace anyhow.
7 Q Why is limestone put underneath the bag house area?
8 A We have a limestone about that size that looks a lot
9 like gravel and we have a tremendous supply of it.
10 Q So for sake of convenience more than anything else or
11 economy?
12 A I believe that was the reason.
13 Q It would have nothing to do with the fact that the dust
14 is EP toxic and the limestone might somehow treat that
15 dust?
16 A No.
17 Q When the dust is transferred from the hopper into the
18 tank, is there a routine practice of marking down the date
19 and time when that dust is transferred into the tank?
20 A I don't know.
21 Q Did you ever observe any markings put directly onto
22 the tank?
23 A No, I did not.
24 Q Do you know whether that was the practice at ASF to
25 mark on the tank, and you may not have observed it?

1 A I don't know if it was.
2 Q How long would the tank sit underneath the bag house
3 after the dust had been put into it?
4 A After the material is placed into the truck, the truck
5 would leave for the landfill. Any delay would have been
6 incidental.
7 Q Do you recall whether any annual reports have been
8 filed to U. S. EPA or the Ohio EPA regarding the amount of
9 dust placed into a truck on an annual basis, where it was
10 disposed?
11 A No.
12 Q While the tank was being filled with dust, were there
13 any waste determinations made by ASF?
14 A Could you rephrase it or restate it?
15 Q While the tank was being filled with dust or
16 immediately thereafter, did ASF perform any waste
17 determinations on the mixture or the contents of the tank?
18 A Yes.
19 Q How often was that done?
20 A Many times.
21 Q Can you be more specific?
22 A I could not count. Many reports. Many reports have
23 been issued.
24 Q Every time ASF electric arc furnace dust was put into
25 this torpedo car, was it ASF's practice to sample that load

1 each time prior to disposal?
2 A No.
3 Q Would you be able to tell us how often ASF would sample
4 that? Was it every ten loads, every five loads, every --
5 A No, I don't, other than perhaps several times a year.
6 Q Several times a year?
7 A Yes.
8 Q Did you ever observe any electric arc furnace dust
9 dispersion in the areas this truck was being loaded?
10 A Nope.
11 Q What is the dust removal efficiency of the bag house?
12 A An exact figure, no, but maybe 98, 99 percent.
13 Q What does that mean? Does that mean that some of the
14 dust doesn't get captured by the filters and goes into the
15 air or some of it remains in the furnace? What does that
16 capturing efficiency represent?
17 A From the literature I have seen on this type of a
18 emission control device, it merely states that the efficiency
19 is some figure. What they mean that to be, I don't know.
20 Q How do your workers know when to empty the bag house?
21 A During what time period?
22 Q Between 1980 and '87.
23 A Still on that, okay. It was the normal practice to
24 empty the bag house into the torpedo cars starting with the
25 day shift. That was what they did. It was instructed by the

1 supervisor.
2 Q That's because there is a night shift, during which
3 time dust would have accumulated in the bag house?
4 A Depending on the level of operations. Melting
5 operations occurred at various times.
6 Q When this dust was put into the tank, was there always
7 slurry already in the tank or were there times between 1980
8 and '87 when dust was added to the tank without any slurry in
9 in it?
10 A To my knowledge, there always was slurry in the tank.
11 Q So it was never the case that dust was added to the
12 tank and then it was driven over to the clarifier area where
13 the slurry was added?
14 A That's correct.
15 Q It never happened that way?
16 A Right.
17 Q What were the ratios that these two components
18 represented in the tank, the dust and the slurry?
19 A We estimated an average, per se -- not an average. It
20 was a limit, I guess of 35, 36 to one meaning 35 or 36 parts
21 of slurry to one part of dust.
22 Q And what was that, by weight or by volume?
23 A I think by weight.
24 Q Okay.
25 A I really -- I am not sure. I just assumed it would be

1 by weight.
2 Q Was there a control system in the area of the plant
3 where the slurry was added, such as a timer or any other
4 device?
5 A Not to my knowledge. I don't know.
6 Q How did the workers know how much slurry to put into
7 the tank and when to shut it off?
8 A They inspected it, instructions through supervisors.
9 Q Those are the supervisors that would know intuitively
10 when enough slurry had gone into this tank?
11 A Yes.
12 Q Did you ever notice supervisors standing over the tank
13 and looking into it as the slurry was being added and
14 measuring how much went in?
15 A No.
16 Q Did you ever see or do you know whether it's ASF's
17 practice to measure with either a dipstick or any other
18 device how much slurry is added to that tank?
19 A I do not know.
20 Q Who would know if ASF has such a process?
21 A The yard department. The department head for the yard
22 department.
23 Q When dust is added to the tank, is it mixed in any
24 way?
25 A No, other than the normal natural occurring mixing that

1 would occur on the way to the landfill.
2 Q So there is no -- is there a procedure whereby workers
3 use some sort of steering device or an auger device or a
4 mixture to swirl around the dust and the slurry while it is
5 in the truck to insure that it forms one homogenous
6 substance?
7 A No.
8 Q I thought I made that point. Maybe I didn't. On the
9 amount of slurry that was added to the tanks, generally the
10 same amount was added every time. It was always taken to a
11 relatively full position for the prime reason of efficiency.
12 You don't make unnecessary trips to the landfill. The
13 employees are not paid by how many trucks they take out
14 there. There is no incentive to take a half empty load.
15 The tanks were full and they were taken.
16 A I don't know any better way than to explain.
17 Q By the same measure, isn't it possible that if there
18 happened to be a lot of dust in the hopper and not very much
19 slurry in the slurry system or in the clarifier system,
20 wouldn't it make sense then to add less slurry and a lot more
21 dust just as to fill up the truck?
22 A No, sir.
23 Q Why is that?
24 A The amount of slurry that is generated is dependent
25 upon the operation of the sand washer, primarily. That is

1 the main constituent of discharge into the clarifier which
2 generates the slurry. That equipment runs at a faster rate
3 than the dust could ever be generated. There would always be
4 full tanks of slurry to take to the landfill.
5 You asked me earlier if during that time period any
6 tanks were taken out without any dust in them, and yes.
7 Q That then explains the reason why you would transport
8 the slurry without the dust directly to the landfill just
9 because more of it was generated?
10 A That's correct.
11 Q How did workers know when this tank was full if they
12 didn't look into it or have any measuring device or dipstick
13 or anything?
14 A I don't know.
15 Q Would that be something that the yard department would
16 be able to tell us or the system works engineer or system
17 works manager?
18 A I suppose.
19 Q Is the sand washing system at the facility which
20 produces the slurry in any way connected physically with the
21 electric arc furnace?
22 A No.
23 Q Are the products generated by the electric arc furnace
24 and by the clarifier system in any way related to each other?
25 A I don't --

1 Q Are they dependent upon each other for the purposes
2 of producing railroad parts?
3 A The operation of our facility, we reclaim our sand.
4 It's normal practice of doing that. And also in the
5 operations of the facility to make real castings. You melt
6 steel.
7 Q There is no link between the electric arc furnace and
8 the clarifier other than the truck driving from one to the
9 other, is that correct, no physical link?
10 A Physical link, no.
11 Q There is no pipe that runs from the clarifier which
12 holds the slurry over to the area where electric arc furnace
13 dust is generated?
14 A Correct.
15 Q Have have you ever personally conducted the operation
16 of adding dust to the tank?
17 A No.
18 Q How did ASF personnel take samples of this mixture?
19 You mentioned that a couple times a year you would sample the
20 contents of the truck. How was that done?
21 A In my understanding, the samples were collected at the
22 landfill as the material was being deposited by collecting a
23 portion of the waste, beginning, middle and end of the
24 discharge.
25 Q How did ASF assure that these samples were

1 representative samples of the contents of the truck?
2 A By taking -- collecting the material from the
3 beginning, the middle and end of the discharge from the
4 truck.
5 Q Did ASF ever take a core sample, a sample which is
6 drawn into a tube which extends from the top of the truck
7 down into the load toward the bottom of the tank?
8 A I do not believe so.
9 Q To the best of your knowledge, all of the samples taken
10 by ASF were by taking the beginning, middle and end of the
11 load as it was being dumped?
12 A I believe so, that's correct.
13 Q This truck after the dust and slurry were placed in it
14 and it was driven to Sebring to be dumped, how long would it
15 take to dump a load?
16 A Out of the back of the truck perhaps several minutes.
17 Q How was the sample drawn by the truck?
18 A I don't know.
19 Q Did you ever observe that?
20 A No.
21 Q Were the results of those samples reported to either
22 the Ohio EPA or U. S. EPA?
23 A In some cases, yes, they were.
24 Q If this sampling occurred a couple of times a
25 year, as you earlier said between 1980 and '87, there must be

1 at least 14 or so of these sample results; is that correct?
2 A When I said a couple times a year, I might mean that it
3 might be a period of time where no sampling was done. There
4 was a time where several samples were taken, and like I said,
5 I don't know the exact numbers of samples that were taken.
6 Q Did you ever witness the dumping of one of the loads
7 at Sebring?
8 A Yes.
9 Q How many of these did you watch?
10 A I recollect one.
11 Q Do you know when that was?
12 A No.
13 Q These samples that you took, for what metals were they
14 analyzed?
15 A Samples from the --
16 Q From the dumping at Sebring.
17 A EP toxic.
18 Q For lead, cadmium, barium, these types?
19 A Yes.
20 Q Chromium?
21 A The metals that are in the --
22 Q Federal regulations?
23 A Yes.
24 Q What type of test was used? Was it an acid leach test
25 or water test in those cases?

1 A By and large we used the EP toxicity. At times we
2 tested with the water leach aid.
3 Q Could you see a difference in results?
4 A At times, yes.
5 Q Were the results from the EP toxix test, the acid
6 leach, did they ever show an EP toxicity in that discharge?
7 A All of the material out of the tank car?
8 Q Yes.
9 A No.
10 Q Why is it that ASF uses 36 parts clarifier slurry to
11 one part dust? Where did that ratio come from?
12 A I personally have no knowledge where it came from.
13 Q Do you know whether ASF has ever done tests on
14 different combinations of this mixture to see if different
15 combinations would result in different EP toxicity readings?
16 A Yes.
17 Q Who would have done that testing?
18 A An outside laboratory.
19 Q Did ASF ever mix in different ratios in others than 36
20 to 1?
21 A Yes.
22 Q What were those ratios and what did they mix?
23 A 4 to 1, 4 to 1.
24 Q When was that?
25 A Exact date, I don't know. Early.

1 Q Do you recall being in the '80s?
2 A It may have been. I don't know the exact date of when
3 it was done.
4 Q Did you just mix a little bit of the dust and the
5 slurry for these tests or did you take a gallon of slurry and
6 a quart of dust? How did that occur?
7 A I don't know. I believe they were lab samples.
8 Q So you're saying that ASF never disposed of a truck
9 load that had a 4 to 1 combination at Sebring?
10 A I believe that's correct. Never did that.
11 Q But could it have been less than 36 to 1?
12 A There is a possibility of anything. We do not believe
13 that it is possible for that to occur, because the slurry
14 tanks were always filled to a pretty high level and a certain
15 portion of dust was added to it.
16 Q Does the dust come out of this flexible hose in a
17 steady stream or does it come out in columns or how is it
18 removed from the hopper?
19 A The times I have observed it, it was a pretty steady
20 stream. It's fed by a screw conveyor.
21 Q Inside the hopper?
22 A Yes.
23 Q Sort of like an auger system?
24 A That could be a term, I guess, yes.
25 Q Did ASF ever take measures to insure that its workers

1 did not mix in any other ratio other than 36 to 1?
2 A I believe we took the measures necessary and through
3 proper job instruction how to do the task.
4 Q Was there any sort of training program that was
5 required of employees before they would combine these two
6 products?
7 A As a general rule in our company, it is policy to
8 thoroughly train employees before they do their job.
9 Q And this 36 to 1 mixture or ratio would have been part
10 of that training on how to achieve that ratio?
11 A I don't know.
12 Q Do you consider the combination of the slurry and the
13 electric arc furnace dust as treatment under RCRA?
14 MR. SCHILLAWSKI: Objection as to
15 calling for a legal conclusion.
16 Go ahead and answer.
17 A No.
18 Q You don't consider that true?
19 A No.
20 Q Is the electric arc dust EP toxic when it enters the --
21 A In that the dust tested EP toxic, I could conclude that
22 it entered the tank as EP toxic.
23 Q Does treatment of this electric arc furnace dust take
24 place anywhere at the ASF facility or at the Sebring
25 facility?

1 MR. SCHILLAWSKI: Again, a continuing
2 objection to any legal conclusions.
3 A No, I don't believe so.
4 Q Is the EP toxicity, when that characteristic removed
5 from the dust, is it rendered non-toxic, non-EP toxic before
6 it s disposed of at Sebring?
7 A Not being a scientist, I believe that the material when
8 tested did not exhibit those characteristics. Why it didn't,
9 I can't comment.
10 Q Okay.
11 Has ASF ever combined the dust with any other liquid
12 other than the slurry in these tanks?
13 A To my knowledge, no.
14 Q And has ASF ever disposed of electric arc furnace dust
15 alone without first combining it with slurry?
16 A To my knowledge, up until 1987, that is how it was
17 done. Since that time, alternative procedures have been
18 implimented before the dust is disposed of alone.
19 Q What happened after May of 1987 to the dust? How was
20 it disposed of?
21 A We began a recycling program to return the electric arc
22 furnace dust back to the electric arc furnace for a period of
23 time. Subsequent, we collected the waste material, sent it
24 off to Morstead Resource for metal recovery.
25 Following that, we sent the material to a corporation

1 for treatment and disposal. Subsequent to that, we sent our
2 dust to Chemical Waste Management for disposal.
3 Q How long did ASF recharge the dust into the furnace?
4 A Approximately six months.
5 Q And how was that done? How was the dust transported
6 from the bag house back to the furnace?
7 A As before, the same process essentially occurred.
8 Rather than putting the dust into a torpedo car, the dust was
9 loaded into 55-gallon drums and returned to the melted metals
10 department whereby electric magnets and cranes were used to
11 replace the dust.
12 MR. SCHILLAWSKI: I am going to insert
13 an objection as to matters outside the scope of
14 RCRA in a jurisictional sense as well as an
15 empirical sense. As you know, it's our position
16 that the recycling operation is exempt from
17 RCRA.
18 MR. WEISMULLER: I didn't know that was
19 your position. Now I know.
20 Q Was the drum and the dust put into the furnace or was
21 the drum opened and just dust poured in?
22 A The drum upon filling was covered and sealed, clamp-
23 type seal. The entire drum and its contents was loaded into
24 the furnace.
25 Q Did you observe the filling of these drums under the

1 bag hoist?
2 A Yes.
3 Q Did you notice any dust spilling onto the ground or
4 onto the limestone during this operation?
5 A No.
6 Q How was it actually put into the drum? Was the
7 flexible hose used to bring the material from the bag house
8 hopper into the drum or was there a different mechanism
9 used?
10 A Essentially, the flexible tube was used. The drums
11 were placed directly beneath the discharge.
12 Q Was the tube long enough to extend into the drum?
13 A Yes, sir.
14 Q Did you ever notice any airborne emissions as a result
15 of this? When the dust would come out, would it disperse
16 into the air?
17 A Not out the drum. As it came out, you would see it in
18 the drum, but not to blow around, no.
19 Q Is this area underneath the bag house protected from
20 wind and the elements? Is it under a cover?
21 A The area beneath the bag house is beneath the bag
22 house, so it is obviously not an open area. There are no
23 walls to the west or -- I better correct that. General
24 directions of west and north, it is protected from the east
25 and south.

1 Q Are you aware of whether Amsted or American Steel
2 Foundries has a permit for mobile treatment of hazardous
3 waste?
4 A No.
5 Q You're not aware of it or you know that it does not
6 exist?
7 A I know of no such permit.
8 Q Do you know whether American Steel Foundries has an EPA
9 identification number for the transportation of hazardous
10 waste?
11 A No.
12 Q During 1980 and May of 1987, did American Steel
13 Foundries use a manifest system for the transportation of the
14 electric arc furnace dust from the Alliance facility to the
15 Sebring landfill?
16 A The manifest system, as I understand it, we utilize
17 when we send dust to another site like we do now. That type
18 of system we did not use.
19 Q And those are the manifests that have been produced by
20 American Steel Foundries at its plant that show electric arc
21 furnace dust transported to the recycling and waste
22 management plant; is that correct?
23 A Yes.
24 Q Did American Steel Foundries follow labeling and
25 packaging procedures required for hazardous waste transport

1 between 1980 and '87 for the transportation of electric arc
2 furnace dust?
3 A The material that was disposed of was not a hazardous
4 waste and therefore, no.
5 MR. SCHILLAWSKI: I am going to object to
6 the legal conclusion.
7 Q But your answer is no, it did not use a labeling
8 procedure or packaging as required by RCRA regulations for
9 hazardous waste in its transportation of the electric arc
10 furnace dust.
11 MR. SCHILLAWSKI: I'll object. He
12 answered the question.
13 MR. WEISMULLER: Go ahead.
14 A We didn't dispose of electric arc furnace dust. We
15 disposed of chromium mixture or whatever term to describe the
16 waste. That wastes did not exhibit and was not
17 characteristic of hazardous waste, and therefore we did not
18 put any placards or manifests as we do now.
19 Q So your answer is no, for the disposal of the contents
20 of that tank which included both dust and the slurry, you did
21 not follow the labeling and packaging procedures as required
22 for hazardous waste?
23 MR. SCHILLAWSKI: Once again,
24 objection.
25 A No, we did not, because it wasn't --

1 Q Mr. Ruud, let me ask you a couple of clarification
2 questions. You mentioned that you and other individuals fed
3 information to the decision makers at ASF, the vice president
4 of manufacturing, I believe, who had the ultimate
5 responsibility for deciding questions of environmental
6 compliance; is that correct so far?
7 A We all gave opinions and expressed the input, yes.
8 Q Who was it at American Steel Foundries or at Amsted or
9 did anybody inform the president or the decision maker
10 that combining the slurry and electric arc furnace dust was
11 not treatment under RCRA?
12 MR. SCHILLAWSKI: Again, objection to
13 a legal conclusion.
14 MR. WEISMULLER: I am not asking for a
15 legal conclusion. I am asking if anybody
16 informed the president that this combination of
17 slurry and dust was not treatment.
18 MR. SCHILLASWKI: I'll object to it
19 again.
20 Q Did you advise him or that person that this combination
21 was not treatment?
22 A I don't know.
23 Q Do you know whether Amsted's legal department was
24 involved in that or served in the determination as to whether
25 or not this was treatment?

1 MR. SCHILLAWSKI: Objection again as to
2 privilege. I am going to make it continuing so I
3 can stay out of the conversation.
4 A Amsted Legal consulted us or advised us in all matters
5 such as this. I don't know.
6 Q Did the sampling people at ASF have any training in how
7 to take samples of the electric arc furnace dust when it was
8 sampled and also of the slurry and dust combination that was
9 disposed of at Sebring?
10 A I don't know who would have done such training.
11 Q Do you know whether ASF hired outside consultants to do
12 the sampling or was it formed by ASF personnel?
13 A The samples we have been talking about of the mixture,
14 and that's as far as I know, have all been done by ASF
15 personnel.
16 Q Actually been drawn by ASF personnel and sent out for
17 an analysis at other labs or --
18 A They were drawn by ASF personnel and sent out for
19 samples.
20 Q Who were the people that did this? Who took the
21 samples?
22 A I know of one individual who took samples. Whether
23 that person has taken them all, I can't say.
24 Q Who was that?
25 A Terry Bradway.

1 Q What position did he hold at ASF?
2 A Facility engineer.
3 Q Did ASF ever require its samplers to go to outside
4 training courses in sampling methods?
5 A No.
6 Q Were you ever trained in sampling methods?
7 A No.
8 Q You mentioned you had a one-day training in RCRA.
9 What did that training consist of, if you recall?
10 A What I recall is a general overview of the regulation.
11 That was all.
12 Q Was it specific to the type of wastes that are
13 generated at the Alliance facility?
14 A Well --
15 Q Was it tailored to those sorts of waste?
16 A No, I don't recall. I recall that it was not.
17 Q You mentioned also earlier that it was the practice of
18 ASF to put limestone under the bag house area?
19 A Yes.
20 Q What was the color of this limestone when it was put
21 there?
22 A I am somewhat color blind.
23 Q Was it very light?
24 A You know, it was lighter than blacktop, a lighter
25 color compared to dark, yeah.

1 Q Do you have any knowledge of electric arc furnace dust
2 ever falling onto the limestone underneath the hopper?
3 A Yes.
4 Q When did that occur and how much dust was found there?
5 A An incident was reported above -- I'm trying to get the
6 timing straight. It was reported when a roll off container
7 used to transport the material off site for treatment of
8 small amounts, perhaps 100 pounds. I don't know if that was
9 the weight, just an amount more than a little bit, was
10 spilled out the back of the container as it was being picked
11 up. This would have occurred this last February, March,
12 somewhere around there. I think it was early 1988.
13 Q What was the response to that spill?
14 A The supervisor was informed. Immediately the area was
15 -- people were sent there, the yard department. They
16 shoveled the material back into the container including the
17 limestone, and any limestone that was discolored was placed
18 into 55gallon drums, sealed, recharged back into the
19 furnace.
20 Q Why did Amsted recharge? You mentioned earlier that it
21 recharged or placed a lot or all of this limestone
22 periodically into the furnace that was under the hopper. Why
23 did it do that?
24 A Rather than throw it away. It's a usable product.
25 Q Why would you need to throw it away? Why couldn't it

1 remain under the hopper?
2 A That area is right adjacent to a truck scale, an area
3 where all our trucks pass. Every supply truck comes by this
4 area. And with the debris and the like that comes in with
5 the trucks and rain, the area would have become muddy in
6 certain portions. That also happens to be the area where all
7 visitors come. In order for it not to look like a pigsty, we
8 tried to dress up the area.
9 Q Are there any other areas of the plant where you place
10 limestone on the ground and then later collect it and put it
11 into the furnace?
12 A There was an area down near the same place that
13 limestone was used, and it was recently blacktopped to permit
14 normal cleaning technics.
15 Q And this was near the bag house you said?
16 A I wouldn't say near it. Perhaps 100 feet away.
17 Q What part of the plant was that?
18 A I believe this area here was all blacktopped, and I
19 believe additional areas in this portion right here as well.
20 Q If you can just mark an H in the general area there.
21 A (Witness complies.)
22 Q Just one more general question before we need to
23 close for today. Why is it that American Steel Foundries
24 decided to combine the slurry and the electric arc furnace
25 dust?

1 A I don't know. That's before I became responsible --
2 more involved in the program.
3 Q You were never told as part of your training earlier?
4 You mentioned that Amsted provides training to its
5 employees? You weren't given the background as to why this
6 decision was made, what its purpose was?
7 A All I can recall is that that was the practice when I
8 became aware of it. And I don't know specifically -- I can't
9 say that someone told me any specific reason for doing it.
10 Q And that was the practice in 1980 when you started with
11 the company?
12 A I assume. I don't know.
13 Q Do you know how long before 1980 that process was used?
14 A No.
15 Q Do you know whether it was used before 1980?
16 A No.
17 Q The Sebring landfill, do you know what year that first
18 came to use by ASF?
19 A Not really, I don't.
20 MR. WEISMULLER: Can we go off the
21 record?
22 (Discussion had off the record.)
23 MR. WEISMULLER: I'd like to just note that
24 counsel have made an agreement that this
25 deposition will be continued in Chicago at a

1 agreed upon date. I would also like to say that
2 it's the United States' position that any
3 subsequent depositions to this that pertain to
4 the 30 (b) (6) notice, which I'll enter as an
5 exhibit, should also be taken in Chicago. That
6 includes other witnesses that may need to be
7 called to respond to the subject areas listed in
8 attachment A to that notice.
9 And if counsel has any objection to that
10 arrangement, please let us know.
11 MR. BARNES: I think with respect to
12 the other people, we discussed that Chicago
13 is fine. Continuation of Mr. Ruud is fine. It
14 depends on who we are talking about. We will be
15 happy to comply with --
16 MR. WEISMULLER: The reason I am going
17 to insist that the deposition take place in
18 Chicago is because the 30 (b) (6) notice
19 specifically requested a series of areas which
20 Amsted was to be deposed on. And Mr. Ruud,
21 although, he has a lot of knowledge regarding
22 certain areas, his knowledge is not such that it
23 covers the entire notice.
24 MR. BARNES: Didn't your notice indicate
25 either Cleveland or Chicago?

1 MR. WEISMULLER: It did, but --
2 MR. BARNES: You used the term,
3 "insist." That seems entirely inconsistent with
4 the way things have been conducted so far.
5 We will be glad to talk about this. Our position
6 is on the record.
7 MR. WEISMULLER: Is there anything else
8 that we need to do before we close?
9 MR. BARNES: No.
10 MR. SCHILLAWSKI: No.
11 MR. WEISMULLER: That's it.
12 - - - - -
13 (Deposition adjourned.)
14 - - - - -
15
16 _____
17 CHARLES RUUD
18
19
20
21
22
23
24

The State of Ohio,)
) SS: CERTIFICATE
Cuyahoga County.)

I, Caryn L. Lott, Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named CHARLES A. RUUD, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given by him/her was by me reduced to stenotypy in the presence of said witnesses, afterwards transcribed upon a computer, and that the foregoing is a true and correct transcript of the testimony so given by him/her as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

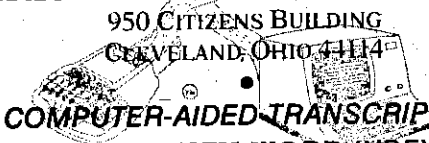
I do further certify that I am not a relative, counsel or attorney of either party or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio on this 13th day of September, 1989.

Caryn L. Lott, a Notary Public
in and for the State of Ohio.

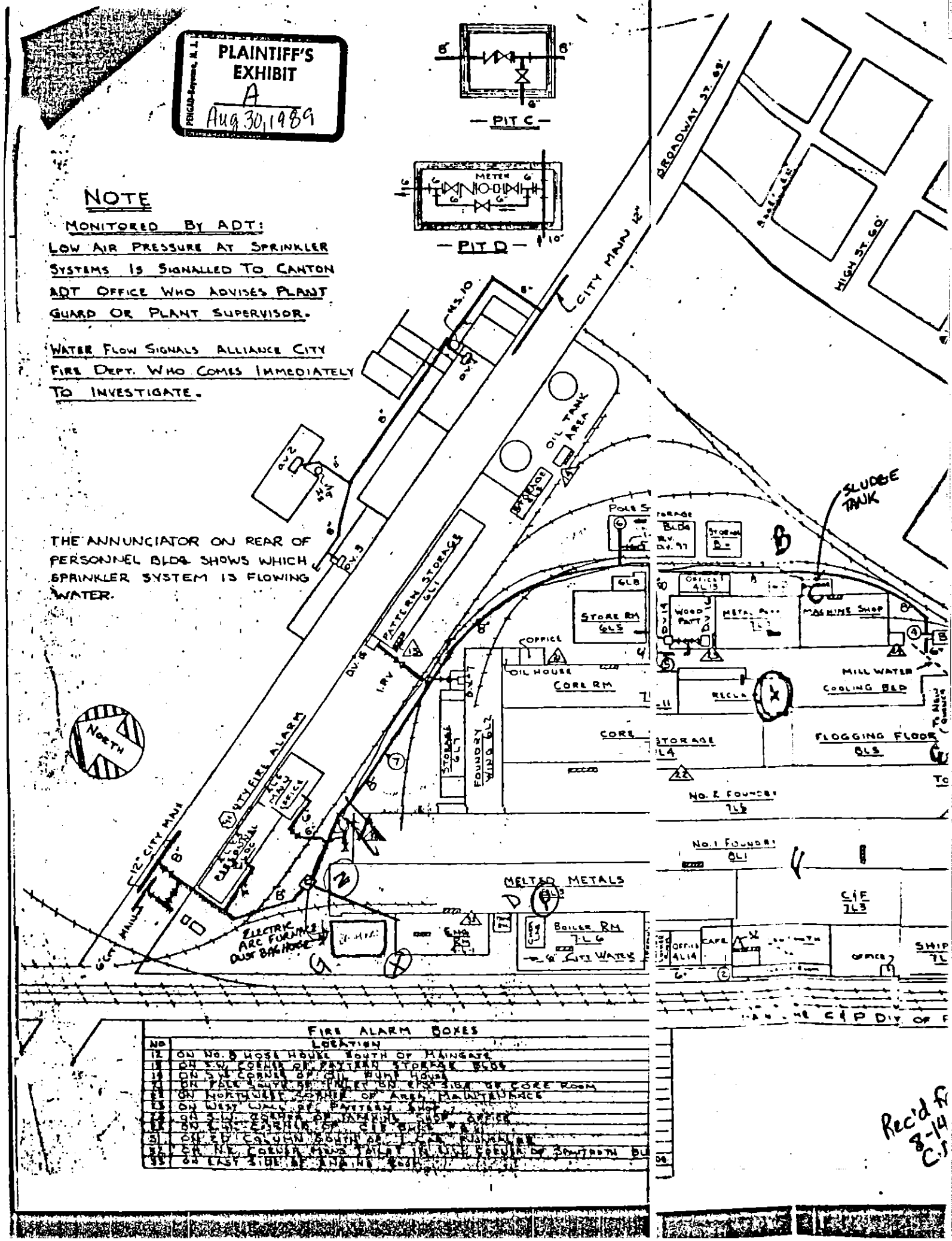
My Commission expires: 10-8-90.

CERTIFIED COURT REPORTERS
950 CITIZENS BUILDING
CLEVELAND, OHIO 44114



COMPUTER-AIDED TRANSCRIPTION
FEATURING **KEY-WORD** INDEXING

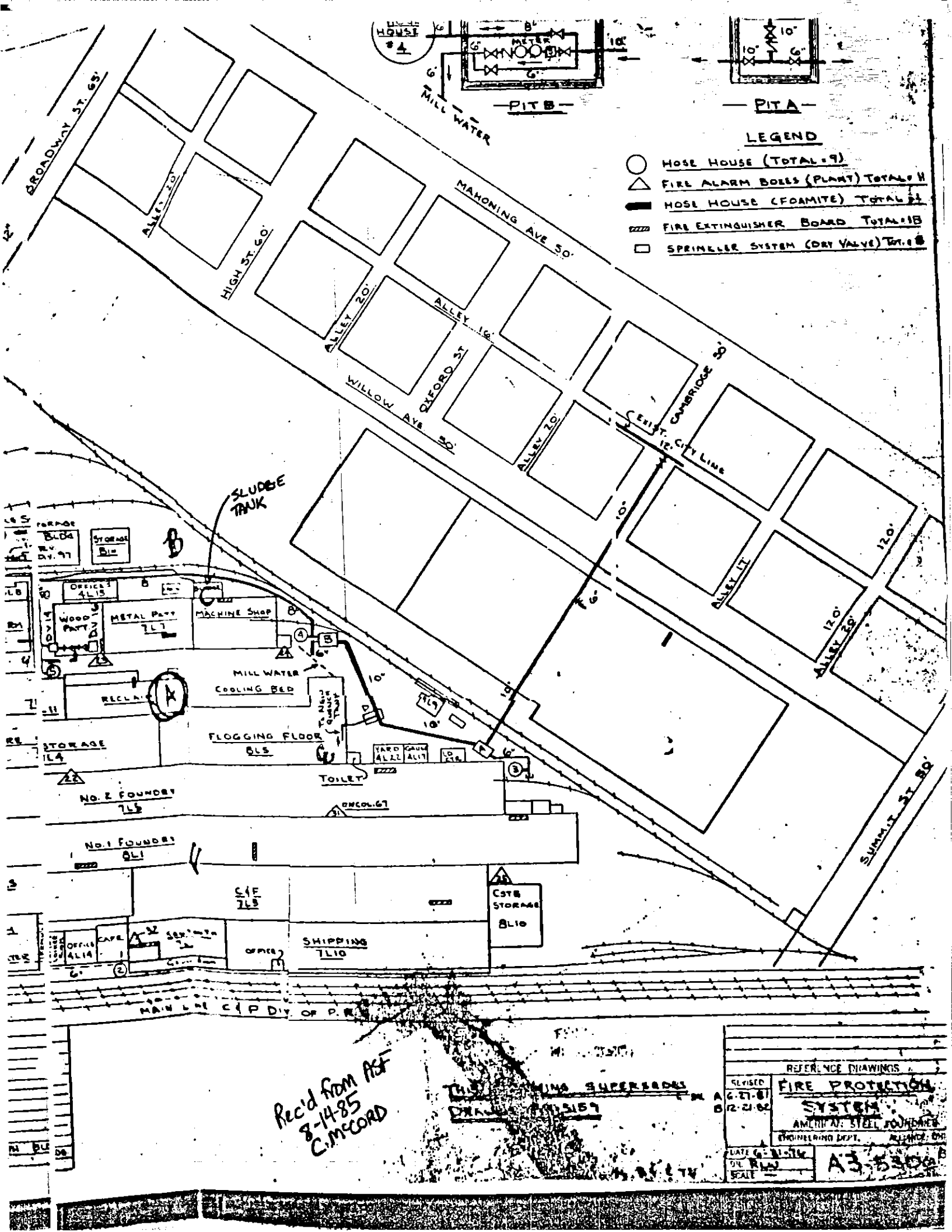
PLAINTIFF'S EXHIBIT
A
Aug 30, 1989



FIRE ALARM BOXES

NO	LOCATION
12	ON NO. 8 HOSE HOUSE SOUTH OF MAINGATE
13	ON S.W. CORNER OF PATTERN STORAGE BLDG
14	ON S.W. CORNER OF OIL PUMP HOUSE
21	ON POLE SOUTH OF INLET ON EAST SIDE OF CORE ROOM
22	ON NORTHWEST CORNER OF AREA MAINTENANCE
23	ON WEST WALL OF PATTERN SHOP
24	ON S.W. CORNER OF MACHINE SHOP OFFICE
25	ON S.W. CORNER OF C&P BLDG
31	ON 2D COLUMN SOUTH OF [illegible]
32	ON N.E. CORNER MENS TOILET IN [illegible] CORNER OF SPANTOOTH BLDG
33	ON EAST SIDE OF ENGINE ROOM

Rec'd fr
8-14
C.



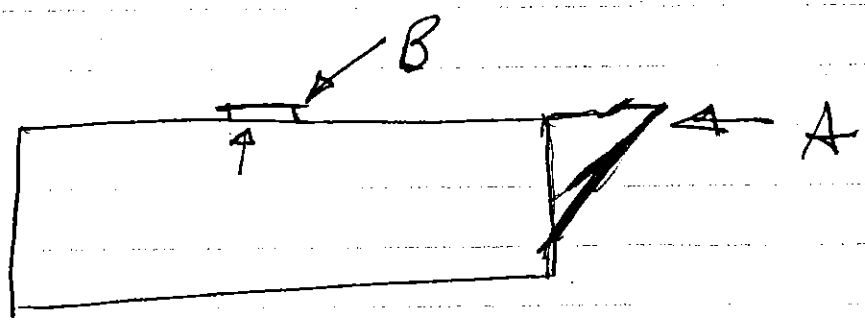
HOUSE #4
METER
PIT B
PIT A
MILL WATER
LEGEND
HOSE HOUSE (TOTAL = 9)
FIRE ALARM BOXES (PLANT) TOTAL = 11
HOSE HOUSE (FOAMITE) TOTAL = 4
FIRE EXTINGUISHER BOARD TOTAL = 18
SPRINKLER SYSTEM (DRY VALVE) TOT. = 8
BROADWAY ST. 65'
ALLEY 20'
HIGH ST. 60'
MAHONING AVE 50'
ALLEY 20'
ALLEY 16'
OXFORD ST
WILLOW AVE 50'
ALLEY 20'
CAMBRIDGE 30'
EXIST. CITY LINE
ALLEY 17'
ALLEY 20'
SUMMIT ST 50'
SLUDGE TANK
STORAGE BLDG
STORAGE BIN
OFFICE 4L15
WOOD PATT
METAL PATT 7L7
MACHINE SHOP
MILL WATER
COOLING BED
RECLAIM
FLOGGING FLOOR 8L5
STORAGE 7L4
YARD 4L22
GAUGE 4L17
TOILET
NO. 2 FOUNDRY 7L6
ONCOL. 67
NO. 1 FOUNDRY 8L1
C&F 7L5
CSTE STORAGE 8L10
OFFICE 4L14
CAFE
SHIPPING 7L10
OFFICE
MAIN LINE C&P DIV. OF P.R.
Rec'd from ASF 8-14-85 C. McCORD
REFERENCE DRAWINGS
REVISED
A 6-27-81
B 12-21-82
FIRE PROTECTION SYSTEM
AMERICAN STEEL FOUNDRIES
ENGINEERING DEPT.
DATE 6-31-76
DR. RLW
SCALE
A3-5300

PENGAD-Bayonne, N. J.

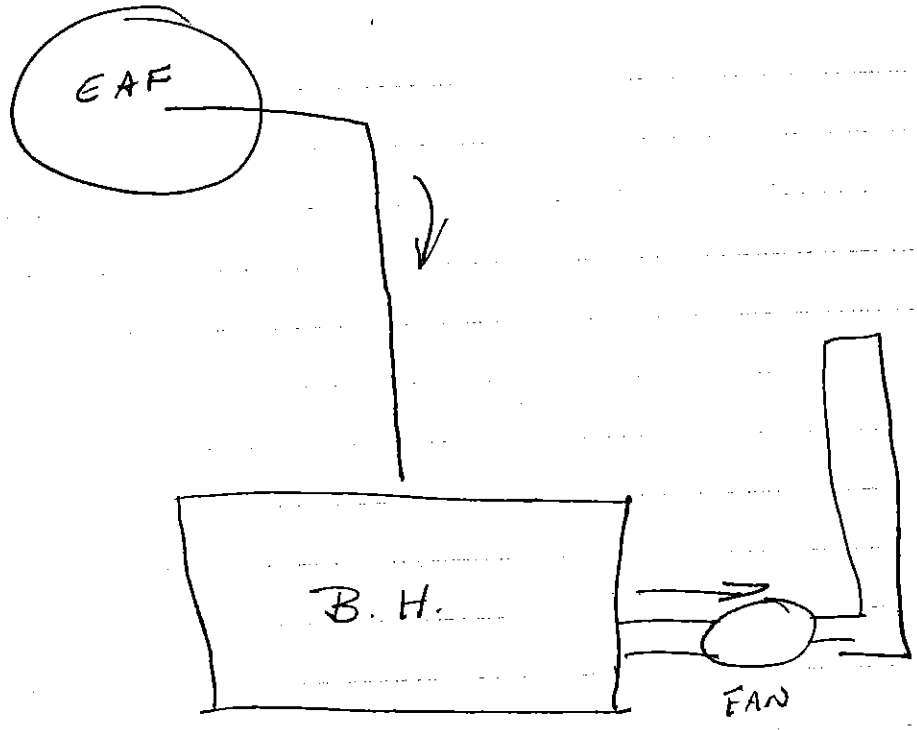
PLAINTIFF'S EXHIBIT

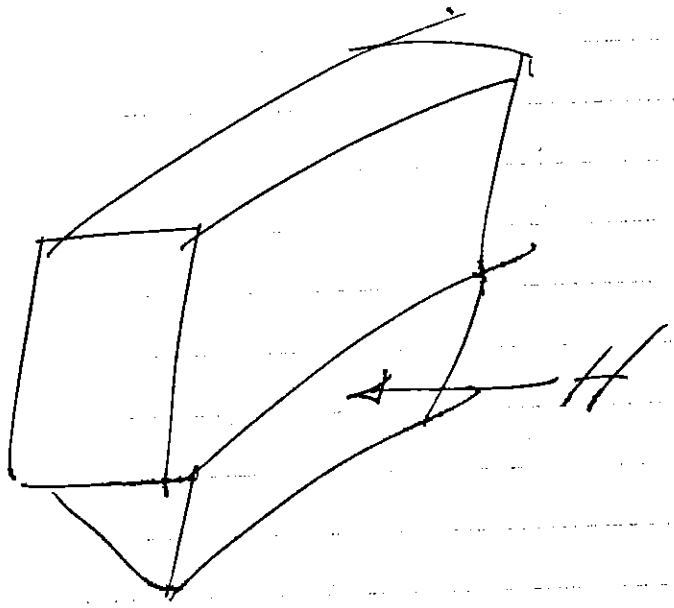
B

Aug 30, 1989

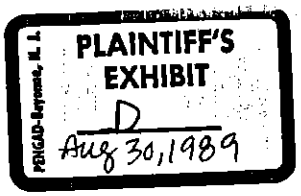


PENGAD-Bayonne, N. J.
PLAINTIFF'S EXHIBIT
C
Aug 30, 1989





File



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. AMSTED INDUSTRIES, INC. d/b/a AMERICAN STEEL FOUNDRIES, Defendant.	Civil Action No. C87-1284A JUDGE LAMBROS

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that pursuant to Rules 26 and 30(b)(6) of the Federal Rules of Civil Procedure, on June 29, 1989, beginning at 10:00 am, Plaintiff shall take the deposition of Amsted Industries, Inc. at the offices of the United States Attorney, Northern District of Ohio, 1404 West Ninth Street, Suite 500, Cleveland, Ohio, or, at Defendant's election, at the Environmental Protection Agency, Region 5, Office of Regional Counsel, 111 West Jackson, 3d floor, Chicago, Illinois. Said deposition will be taken before court reporters, or other competent authority authorized by law to administer oaths, shall continue from day to day until completed and shall be used for such purposes as are authorized or permitted under the Federal Rules of Civil Procedure.

Pursuant to Fed. R. Civ. P. 30(b)(6), the deponent, Amsted Industries, Inc., shall designate one or more officers, directors, or managing agents, or other persons who consent to

testify on its behalf to appear and testify under oath to the subject areas listed in Attachment A hereto. Amsted shall designate as many witnesses as necessary to enable it to testify competently to all listed subject areas.

You are invited to attend and cross examine.

Sincerely yours,

Acting Assistant Attorney General
Land and Natural Resources Division

By: Kurt Weissmuller

KURT WEISSMULLER
Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 633-2840

WILLIAM J. EDWARDS
Acting United States Attorney
Northern District of Ohio

K A Sutula

KATHLEEN SUTULA
Assistant United States Attorney
1404 East Ninth Street
Cleveland, Ohio 44114
(216) 363-3920

OF COUNSEL:

RICHARD CLARIZIO
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

MARIA CINTRON
Attorney
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

ATTACHMENT A

For the time period beginning with the installation of the baghouse at Amsted's Alliance, Ohio facility through 1987, Amsted Industries, Inc. is requested to designate individuals to testify to the following:

1. The production and chemical composition of electric arc furnace dust generated at the American Steel Foundries ("ASF") Alliance, Ohio facility, including the volume of such material generated, the method of its collection in the baghouse and any chemical or other analysis performed on the material.

2. The production and chemical composition of the clarifier sludge and/or slurry generated at the ASF Alliance, Ohio facility, including the volume of such material generated, its method of collection, and disposal.

3. The operation, model and design and capture efficiency of the baghouse used at the ASF Alliance, Ohio facility.

4. The process used to empty electric arc furnace dust from the baghouse, including the equipment and labor used to empty the dust, the frequency of emptying the baghouse and a description of the container into which the dust is transferred.

5. The process used to dispose of clarifier sludge and/or slurry, including the equipment and labor used to dispose of the sludge/slurry, the frequency with which Amsted disposes the sludge, the volumes disposed and a description of the container into the which the sludge/slurry is transferred for disposal.

6. The process used by Amsted to combine the electric arc furnace dust and sludge/slurry, including the method of operation of the roll-off container/tank truck, the ratio of dust to sludge/slurry and the procedures used, if any, to mix these substances before disposal.

7. The method of transporting the electric arc furnace dust and sludge/slurry mixture from the Alliance facility to the Sebring landfill, including the number of times per month the mixture was transported.

8. The description, monthly volume and chemical composition of all hazardous and non-hazardous wastes deposited by Amsted into the Sebring landfill, including also a description of the areas of the Sebring landfill used to dispose of various types of wastes.

9. The procedure used by Amsted to dispose of the electric arc furnace dust and sludge/slurry mixture at the Sebring landfill, including the areas of the landfill used for disposal, the

volumes disposed of at those locations and the frequency of disposal.

10. The testing or chemical analysis, if any, performed by Amsted or at Amsted's request, of the electric arc furnace dust, the sludge/slurry and the dust and sludge/slurry mixture.

11. The geology and hydrology of the Sebring landfill, including any groundwater monitoring or other tests performed at, or in the vicinity of, the landfill.

12. The release of any solid or hazardous waste from the Sebring landfill.

1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

3

UNITED STATES OF AMERICA,)
4)
Plaintiff,)
5)
vs.) No. C87-1284A
6)
AMSTED INDUSTRIES, INC.,)
7 d/b/a AMERICAN STEEL)
FOUNDRIES,)
8)
Defendant.)
9

10 The deposition of JOHN WORIES, called by
11 the Plaintiff for examination pursuant to notice and
12 pursuant to the Federal Rules of Civil Procedure for
13 the United States District Courts pertaining to the
14 taking of depositions, taken before Maureen K. Nagle,
15 Certified Shorthand Reporter and Notary Public within
16 and for the County of Cook and State of Illinois at
17 230 South Dearborn Street, Suite 1100, Chicago,
18 Illinois, on the 24th day of January, A.D., 1990,
19 commencing at the hour of 1:00 o'clock p.m.
20
21
22
23
24

ORIGINAL

1 APPEARANCES:

2

3 MR. RICHARD CLARIZIO,
(U.S. Environmental Protection Agency)
4 230 South Dearborn Street
Chicago, Illinois 60604
5 On behalf of the Plaintiff;

6

MR. PHILIP C. SCHILLAWSKI,
7 (Squire, Sanders & Dempsey)
155 East Broad Street
8 Columbus, Ohio 43215
On behalf of the Defendant;

9

10 MR. EDWARD J. BROSIUS,
(Amsted Industries, Inc.)
11 205 North Michigan Avenue
Chicago, Illinois 60601
12 On behalf of the Defendant.

13

* * * * *

14

15 ALSO PRESENT:

16 EUGENE F. MEYER

17

18

19

20

21

22

23

24

1 I N D E X

2

WITNESS:

3

4 JOHN WORIES

5

EXAMINATION BY: PAGE

6

Mr. Clarizio 5

7

8

E X H I B I T S

9

10 DEPOSITION EXHIBIT MARKED

11 A 10

12

13

14

15

16

17

18

19

20

21

22

23

24

MR. CLARIZIO: John, my name is Rich Clarizio. I'm with the U.S. Environmental Protection Agency. What I would like to do is just give you a few of the procedural ground rules.

If at any time during the deposition you don't understand one of my questions, just stop me and ask me to rephrase it. If you would like to take a break to talk to your attorney, just let me know and we can take a break at that time.

Basically, according to the Federal Rules, you are required to answer all questions even if your attorney objects. The only time when you are privileged not to answer is if he specifically instructs you not to answer.

For the ease of the court reporter, if you could direct your answers to her, she will be better able to transcribe your answers.

Would you state for her your name and the spelling of your name, please.

THE WITNESS: John Wories, W-o-r-i-e-s.

MR. CLARIZIO: Would you swear him in.

(Witness sworn.)

1 WHEREUPON:

2 JOHN WORIES

3 called as a witness herein, having been first duly

4 sworn, was examined upon oral interrogatories and

5 testified as follows:

6 DIRECT EXAMINATION

7 by Mr. Clarizio:

8 Q. John, did you prepare for this deposition by

9 reviewing any documents?

10 A. No, I did not.

11 Q. Did you discuss this deposition with anybody

12 prior to your coming here?

13 A. I'm sorry, would you repeat that?

14 Q. Did you prepare for this deposition by

15 discussing it with anybody?

16 A. Yes.

17 Q. Who did you discuss it with?

18 A. The two gentlemen to my right.

19 Q. Generally, the subject matter of your

20 discussion?

21 MR. SCHILLAWSKI: Objection as far as it is

22 privileged.

23 MR. CLARIZIO: Insofar as it is not

24 privileged, that's what the question is asking, if

1 there is nonprivileged information.
2 (Discussion had off record.)
3 BY THE WITNESS:
4 A. Procedural in nature in the fact that all
5 information provided should be the facts and the truth.
6 BY MR. CLARIZIO:
7 Q. John, from the time you graduated from high
8 school to the present, would you give us an indication
9 of your education and the dates when you may have
10 received any advanced degrees?
11 A. I'm a graduate of Purdue University in 1970.
12 Q. Any other degree other than Purdue?
13 A. The degree is in industrial management.
14 Q. Is that a bachelor's?
15 A. Yes.
16 Q. Do you have any degree past a bachelor's?
17 A. No.
18 Q. Any course work past the work that you did at
19 Purdue?
20 A. I'm not sure. When you say course work, there
21 has been numerous work but not necessarily towards a
22 degree.
23 Q. Did you take any classes for credit or
24 audit --

A. Not to my recollection.

Q. What was the major focus of the industrial management degree that you received?

A. Much like business management but with an industrial focus.

Q. From the time you graduated Purdue to the present, can you tell us who you were employed by and when you were employed by them?

A. American Steel Foundries as I obtained my degree.

Q. In 1970?

A. Correct.

Q. You have been continuously employed by them from 1970 to the present?

A. I take that back. I say 1970, that's when I came to work for American Foundries. My degree would have been while I was working. That's a correction. I was going to college while I was working for American Foundries.

Q. You received your degree when then?

A. It would be 1980.

Q. You started working for American Steel Foundries in 1970?

A. In 1970, correct.

1 Q. When you started employment at American Steel
2 Foundries in 1970 to the present, what were your
3 responsibilities?
4 A. Accounting initially, purchasing thereafter.
5 Q. When you say accounting initially, that's 1970
6 we are talking about?
7 A. Correct.
8 Q. To approximately what time?
9 A. Approximately 1976.
10 Q. Purchasing was from 1976 to the present?
11 A. Correct.
12 Q. Were you staff level or supervisory in those
13 positions?
14 A. I'm not sure. You can be in a staff position
15 and be supervisory. I had a number of people who were
16 working for me. I was in charge of the department at
17 the plant.
18 Q. From 1970 or when you became the purchasing --
19 A. No. In 1983, I took over the directorship in
20 the Chicago office, director of purchasing.
21 Q. Prior to 1983, you were not in a supervisory
22 position?
23 A. I was in charge of the purchasing at the plant
24 level from 1976, '77 to 1983.

1 Q. When you say you were in charge of purchasing
2 at the plant, is that only for the Alliance facility?
3 A. The Indiana Harbor facility.
4 Q. Two facilities?
5 A. Pardon?
6 Q. Just two facilities, two plants?
7 A. Just the Indiana Harbor facilities.
8 Q. Your responsibilities for the Alliance
9 facility, when did you assume those responsibilities?
10 A. Only in the director capacity in 1983 which is
11 that of a nature of policy setting.
12 Q. As the director, how many individuals do you
13 have working for you?
14 A. I don't know precisely.
15 Q. Approximately?
16 A. Twenty.
17 Q. What responsibilities other than policy
18 setting are you responsible for as the director of
19 purchasing?
20 A. The direct purchases of raw materials.
21 Q. That was precisely your responsibility?
22 A. One of which I had directed.
23 Q. When you say you directed it, did you actually
24 do the purchasing or did somebody on your staff do it?

1 A. Combination.
2 Q. Were you at all responsible for the sales of
3 finished product?
4 A. No.
5 Q. Who would be responsible for that?
6 A. Marketing.
7 Q. John, prior to you taking the directorship in
8 1983, who maintained that position from 1980 to '83?
9 A. Mr. Lou Dethloff.
10 MR. CLARIZIO: I would like to introduce
11 Exhibit A.
12 Could you please mark that.
13 (Document marked.)
14 BY MR. CLARIZIO:
15 Q. John, I would like you to just take a few
16 minutes and familiarize yourself with that, and then
17 I'll ask you a few questions. What I have just handed
18 you is Exhibit A, and it says report of material
19 charged in heat.
20 You had mentioned that as the director of
21 purchasing you were responsible for the direct purchase
22 of raw materials for the Alliance facility, correct?
23 A. Correct.
24 Q. On Exhibit A in the left-hand column under the

1 category of material basically, were those the items
2 that you purchased, the raw materials that you
3 purchased, for the Alliance facility?
4 A. To what degree are you referring to because
5 there are several material categories here.
6 Q. Let's go through them.
7 Under the first category, plate,
8 busheling, wheels, and flashing, were you responsible
9 for ordering those?
10 A. Yes.
11 Q. Those are commonly referred to as scrap. Were
12 those the only scrap materials that you were
13 responsible for ordering or were there others?
14 A. I purchased all scrap.
15 Q. For the Alliance facility?
16 A. Correct.
17 Q. What other scrap other than the four that are
18 listed there would you have purchased for the Alliance
19 facility?
20 A. Those are principally the commodities they
21 use.
22 Q. Would there be any others that you ordered?
23 A. Possibly.
24 Q. Would you have records of the others that were

1 ordered between the periods of 1983 and 1987?
2 A. Possibly. I don't know if I would go back
3 that far.
4 Q. How far do you think your records may go back?
5 A. I don't know without looking.
6 Q. You may have to speak up a little bit for her
7 purposes.
8 A. Sure.
9 Q. Out of the materials that are listed on
10 Exhibit A as plate, busheling, wheels, and flashing,
11 John, when you directed a purchase in a particular year
12 from '83 to '87, how did you determine the amount of
13 each of those that you were going to order?
14 A. Consumption patterns coupled with inventory
15 levels.
16 Q. Was that a decision made by your department or
17 by some other department?
18 A. I cited two. Which? Inventory levels were
19 established by management, and consumption patterns
20 were established by principally the melter.
21 Q. When you say inventory is established by
22 management, is that management in Chicago?
23 A. Correct.
24 Q. Consumption would be the Alliance

1 facility's --

2 A. The mix of the consumption.

3 Q. Who were the vendors that you used to supply

4 those four items to the Alliance facility?

5 MR. SCHILLAWSKI: Objection and continuing

6 objection for relevance on all this.

7 BY MR. CLARIZIO:

8 Q. You may answer.

9 A. Many.

10 Q. Can you give us an idea of some of them?

11 A. Kulka Steel.

12 Q. Could you spell that?

13 A. K-u-l-k-a. Luntz, L-u-n-t-z; David J.

14 Joseph. I can go on.

15 Q. Until your memory fails, I would say go ahead.

16 A. Luria Brothers. Those are the principal

17 suppliers that come to mind.

18 Q. Were there specifications that you had in your

19 arrangements with them in terms of the quality of the

20 items that were provided?

21 A. Yes.

22 Q. What were those specifications?

23 A. AISI standards. American Institute of Steel

24 were the typical standards I used.

1 Q. Do you remember what those standards might be
2 for each one of those entries?
3 A. No.
4 Q. Would you have documents that would indicate
5 what those standards may have been?
6 A. Yes.
7 Q. Were building materials or structural steel
8 ever ordered for the Alliance facility?
9 A. For the purposes of building and construction,
10 yes.
11 Q. Never for production or secondary steel?
12 A. When you say for production, you mean for
13 consumption in the electric furnace?
14 Q. Correct.
15 A. Not to my recollection.
16 Q. If a particular order of, let's say, a
17 busheling did not meet specification, who determined
18 that?
19 A. The plant.
20 Q. Do you know who at the plant?
21 A. Not specifically.
22 Q. Do you know what department would have?
23 A. Melting department.
24 Q. Were you ever contacted about loads not

Copy?

1 meeting specification?
2 A. Yes.
3 Q. What was your response to the call that the
4 load did not meet specifications?
5 A. It depended upon rejection.
6 Q. Were loads rejected?
7 A. From time to time.
8 Q. John, I would like you to look at Exhibit A
9 now, again the left-hand column, the middle section
10 that says furnace additions. There are basically five
11 elements there.
12 Were you responsible for ordering those
13 also for the Alliance facility?
14 A. A subordinate of mine is.
15 Q. Did you review the orders for those particular
16 materials?
17 A. No.
18 Q. Were the vendors used ones that were used at
19 your direction or your subordinate's direction?
20 A. Subordinate's.
21 Q. Were there specifications that were required
22 for those materials?
23 A. The term specifications is relative, and I
24 would say, yes, one might look at the order and decide

1 whether that's specifications or not.
2 Q. Is that something your subordinate specified
3 or you did?
4 A. It would be the plant.
5 Q. Do you know who at the plant would specify
6 that?
7 A. No.
8 Q. John, I would like you to look now again at
9 Exhibit A, the next group down on the left-hand side,
10 the ladle additions. There are about eleven entries
11 there.
12 Was it your department's responsibility
13 to order those elements?
14 A. Yes.
15 Q. Was it your responsibility or someone else's
16 in your department?
17 A. Someone else.
18 Q. Again, would that individual be familiar with
19 the specific quantities ordered?
20 A. Yes.
21 Q. The quality of the material requested?
22 A. The individual ordering it?
23 Q. Right.
24 A. Yes.

1 Q. Can you identify who that individual is?
2 A. Currently?
3 Q. Currently and in the past from '80 to '87.
4 A. John Trinkar.
5 Q. Could you spell the last name, please.
6 A. T-r-i-n-k-a-r. Garrett Huitsing prior to him.
7 Q. What year did John take over the
8 responsibilities?
9 A. I don't know precisely.
10 Q. Approximately?
11 A. '86.
12 Q. Would these be the two individuals responsible
13 for the ordering of the items listed under the category
14 furnace additions on Exhibit A?
15 A. Yes. You are referring to the lime and the
16 carbon raiser and the moly or molybdenum and flourspar?
17 Q. Yes.
18 A. Correct.
19 Q. Is your department responsible for ordering
20 the silica and chromite sands that are used at the
21 Alliance facility?
22 A. Yes.
23 Q. Who in your department is responsible for the
24 ordering?

1 A. Currently John Trinkar.
2 Q. Before John, was it Garrett Huitsing?
3 A. Yes. There was a period of time in which I
4 did actively involve myself with the chromite
5 purchases.
6 Q. What period of time was that?
7 A. I don't recall exactly when.
8 Q. Approximately?
9 A. '87, '88, 1988.
10 Q. Are there specific chemical requirements for
11 the percent chromite or chromium in the chromium sand?
12 A. I don't know.
13 Q. Would there be documents that would yield that
14 information, like purchase orders?
15 A. Possibly, if I understand the question
16 correctly. The percentage of chromite?
17 Q. Correct.
18 A. In looking at the purchase orders, it might
19 reflect that.
20 Q. Do you remember who the suppliers of the
21 chromite and silica sands were? Take the silica sands
22 first.
23 A. Yes.
24 Q. Can you tell us who the silica sand suppliers

evasive

Cursive

1 were from 1980 to 1987?
2 A. No.
3 Q. Can you tell us who the silica sand suppliers
4 were during the period of time that you remember?
5 A. Ottawa Silica, Wedron.
6 Q. Could you spell that?
7 A. I don't know how it is precisely spelled.
8 Those are the two that come to mind.
9 Q. What period of time are we talking about you
10 remember these people supplying sand at the foundry?
11 A. Over that entire time frame you referred to,
12 1983 to current.
13 Q. Now for the chromite sand, can you tell us if
14 you remember who the vendors were of that?
15 A. American Colloid.
16 Q. Are they the only vendor?
17 A. Pardon?
18 Q. Are they the only vendor used?
19 A. A small amount from American -- I believe it
20 is American Minerals.
21 Q. Were both of these used from 1980 to 1987?
22 A. I don't know.
23 Q. John, is your department responsible for
24 ordering the steel shot that is used in blasting?

1 A. Correct.
2 Q. Are there specifications for the steel shot?
3 A. Yes.
4 Q. Do you remember what those specifications are?
5 A. Not by memory.
6 Q. Would the purchase orders indicate what the
7 specifications were?
8 A. I believe so.
9 Q. Were you responsible for ordering the steel
10 shot?
11 A. No.
12 Q. Was it John and Garrett?
13 A. Yes.
14 Q. John, going back to Exhibit A, left-hand
15 column, the first entries under materials, what was the
16 period of time that orders were placed with vendors?
17 Was it an annual order? Was it a monthly order?
18 A. Which materials?
19 Q. Let's take each one of them. Let's say the
20 plates.
21 A. Monthly releases, yearly orders.
22 Q. Can you explain what a monthly release means?
23 A. The quantity was specified monthly along with
24 price.

1 Q. Can you give us an example?
2 A. An example of?
3 Q. What a yearly order for plates with a monthly
4 release would look like.
5 A. A yearly order would be placed once a year
6 with a vendor.
7 Q. For a total aggregate amount used in that
8 year?
9 A. For an unspecified amount. The releases
10 specified the quantity and the price along with the
11 reference to the purchase order.
12 Q. Monthly releases came from your department?
13 A. Procedurally it has changed in the last few
14 years.
15 Q. Maybe if you could tell me when it has changed
16 or when it changed?
17 A. When it changed?
18 Q. Yes, what year?
19 A. Two years ago, 1988.
20 Q. Prior to 1988, was it your department's
21 responsibility or someone else's?
22 A. My department.
23 Q. How did they determine the monthly releases
24 for a particular month?

1 A. Based on consumption and inventory.
2 Q. Looking at the previous month's consumption
3 and inventory on hand?
4 A. Correct.
5 Q. Looking at the bushelings, were those handled
6 in the same manner, with yearly orders and monthly
7 releases?
8 A. Correct.
9 Q. The same is true with the wheels?
10 A. Wheels on occasion were ordered on an
11 order-by-order basis.
12 Q. That would mean that you had a particular need
13 on a particular day and ordered the specified amount
14 for that day?
15 A. Wheels were not always a part of the mix.
16 Therefore, when the need arose we purchased wheels or
17 if the price happened to be competitive we purchased
18 wheels.
19 Q. Who decided if the wheels should be part of
20 the mix?
21 A. A combination of myself based on price and the
22 melter based on quality.
23 Q. Are the wheels more expensive than the plates,
24 bushelings, and flashings?

A. Not necessarily.

Q. For which grades of steel that were made at the Alliance facility would you require wheels? I understand there are four different grades.

A. The grade is not what determined the use of wheels.

Q. What was it that determined that?

A. Principally the price, at the same time the density of the products at any given point. If the density was poor on other products, we would purchase wheels to help the density or the heaviness of the product.

Q. The flashings, were those also placed yearly orders with monthly releases?

A. Yes.

MR. CLARIZIO: I think what I would like to do right now, Phil, is maybe take a ten-minute break.

MR. SCHILLAWSKI: Fine.

(A recess was taken.)

BY MR. CLARIZIO:

Q. John, you had mentioned that American Colloid and American Minerals were two of the suppliers of the chromite sand; is that correct?

A. Correct.

1 Q. Can you tell me where those companies are
2 located?
3 A. American Colloid has a corporate office, I
4 believe, in the western suburbs.
5 Q. Of Chicago?
6 A. Of Chicago. American Minerals is in the East,
7 I don't know where.
8 Q. Do you know what state?
9 A. I believe New Jersey. I'm not positive of
10 that.
11 Q. Did either of those companies have brochures
12 that they supplied your department which described
13 their chromite sands?
14 A. I'm sure they do. I don't remember seeing
15 any.
16 Q. John, I would like to refer back to Exhibit A
17 for a few minutes.
18 Again, under the category scrap
19 materials, the plates, bushelings, wheels, flashings,
20 under which category, if any of them, would railroad
21 cars fall under?
22 A. Wheels is part of a railroad car, it is the
23 wheels that you see.
24 Q. What about the actual box part of the car,

1 would it fall under any of those categories?
2 A. I'm not sure I understand you.
3 Q. As I understand, a railroad car is made up of
4 not only the wheels but the actual piece on top of it,
5 the body. Would those be covered in any of those
6 categories there?
7 A. I don't make it a practice to buy the top part
8 of a railroad car. Couplers would be defined as a
9 plate. Knuckles would be defined as a plate. Those
10 are parts of the railroad car.
11 Q. Are those painted?
12 A. No.
13 Q. Are any of those items there painted?
14 A. No.
15 Q. Any of the scrap materials that your
16 department ordered, would they be painted?
17 A. No.
18 Q. You had mentioned that there are documents
19 with the AISI specifications. Do you remember the
20 specific number associated for each one of those four
21 items?
22 A. Wheels would be a Class 42 wheel. Whether
23 that is the AISI spec, I don't know, but it is defined
24 as a Class 42. Busheling is classified as a No. 1

1 busheling. I don't know the other specs.
2 Q. Again, would those be contained in the
3 purchase orders?
4 A. I don't know.
5 Q. Did the specifications for each of those items
6 vary over the time period 1980 to '87 or did you always
7 order the same -- did you always order the material
8 with the same specifications?
9 A. I don't know.
10 Q. Is there someone who would know?
11 A. Other than myself, no.
12 Q. Would reviewing the purchase orders indicate
13 how the specifications might vary over time?
14 A. For the time frame we have on file, if I were
15 to look over those purchase orders and see if the
16 specification changed, yes.
17 Q. What's the company's policy on retaining
18 documents like purchase orders?
19 A. I don't know exactly.
20 Q. Approximately? Are they purged every ten
21 years?
22 A. I have three years in my office that I keep
23 rotated.
24 Q. Is there anyone else who would keep those

1 records?
2 A. Beyond that, I'm not sure. I don't get
3 involved in the exact filing. Three years has been our
4 office requirement so that we have something to draw
5 back on, previous purchases.
6 Q. That's your department?
7 A. That's our department. After that, I don't
8 know.
9 Q. After the third year, what does your
10 department do with the records?
11 A. I don't handle that, so I'm not sure.
12 Q. Who would handle that in your office?
13 A. I would guess my associate would handle that,
14 Mr. Joe Dillon. He coordinates the purchasing
15 activities from the clerical standpoint in my office.
16 I would assume that he would have some knowledge of
17 what we do with them after that.
18 Q. Does American Steel Foundries have a central
19 filing system?
20 A. No.
21 Q. John, as a result of this deposition, do you
22 feel that any promotion on your part would be
23 jeopardized if American Steel Foundries had to close
24 their facility or pay a penalty?

1 MR. SCHILLAWSKI: Objection, speculation.
2 BY THE WITNESS:
3 A. No.
4 MR. CLARIZIO: Phil, I think that's all we
5 have right now.
6 Off the record.
7 (Further deponent saith not.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 UNITED STATES OF AMERICA)
NORTHERN DISTRICT OF OHIO)
2 EASTERN DIVISION) SS.
STATE OF ILLINOIS)
3 COUNTY OF COOK)

4 I, MAUREEN K. NAGLE, Certified Shorthand
5 Reporter and Notary Public in and for the County of
6 Cook and State of Illinois, do hereby certify that
7 JOHN WORIES was first duly sworn by me to testify the
8 whole truth and that the above deposition was reported
9 stenographically by me and reduced to typewriting under
10 my personal direction.
11 I further certify that the said deposition
12 was taken at the time and place specified and that the
13 taking of said deposition commenced on the 24th day of
14 January, A.D., 1990, at 1:00 o'clock p.m.
15 I further certify that I am not a relative
16 or employee or attorney or counsel of any of the
17 parties, nor a relative or employee of such attorney or
18 counsel or financially interested directly or
19 indirectly in this action.
20
21
22
23
24

1 In witness whereof, I have hereunto set my
2 hand and affixed my seal of office at Chicago,
3 Illinois, this 30th day of January, A.D., 1990.
4
5
6
7
8
9
10
11 Maureen K. Nagle
MAUREEN K. NAGLE, C.S.R.
12 19 South LaSalle Street
Suite 704
13 Chicago, Illinois
Phone: (312)782-3332
14
15 OFFICIAL SEAL
MAUREEN K. NAGLE
16 NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. MAY 12,1992
17
18
19
20
21
22
23
24

1 IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

3

UNITED STATES OF AMERICA,)
4)
Plaintiff,)
5)
vs.) No. C87-1284A
6)
AMSTED INDUSTRIES, INC.,)
7 d/b/a AMERICAN STEEL)
FOUNDRIES,)
8)
Defendant.)
9

10 This is to certify that I have read the
11 transcript of my deposition taken in the above-entitled
12 cause, and that the foregoing transcript accurately
13 states the questions asked and answers given by me.

14

15 John Wories
JOHN WORIES

16

SUBSCRIBED AND SWORN TO
17 before me this 20th day
of February, A.D. 1990.
18 Doris M. Tokarski

19

"OFFICIAL SEAL"
20 Doris M. Tokarski
Notary Public, State of Illinois
My Commission Expires 5/7/91
21

22

23

24

ORIGINAL

1 CASE: DATE TAKEN:

2 DEPONENT:

3 PAGE LINE ERRATA SHEET

4 17 6 CHANGE: TRANKAR

5 ___ ___ REASON: SPELLING

6 18 1 CHANGE: TRANKAR

7 ___ ___ REASON: SPELLING

8 ___ ___ CHANGE:

9 ___ ___ REASON:

10 ___ ___ CHANGE:

11 ___ ___ REASON:

12 ___ ___ CHANGE:

13 ___ ___ REASON:

14 ___ ___ CHANGE:

15 ___ ___ REASON:

16 ___ ___ CHANGE:

17 ___ ___ REASON:

18 ___ ___ CHANGE:

19 ___ ___ REASON:

20 ___ ___ CHANGE:

21 ___ ___ REASON:

22 ___ ___ CHANGE:

23 ___ ___ REASON:

24 (SIGNED) John Warias DATE: 2-16-90

Form No. 0-562-4812-A
Furnace No. 1

REPORT OF MATERIAL CHARGED IN HEAT

General Heat No. 499

GRADE MODIFIED B

DATE 8-7-86

FURNACE CHARGE

MATERIAL	Ref. Acct	1st Bucket	2nd Bucket	TOTAL
Plate	Z413A	3700	4000	7700
Busheling	Z413B	10000	8000	18000
Wheels	Z413C	4000	—	4000
Flashing	Z413D	10000	10000	20000
Other: 100% Drop	Z414A	6300	—	6300
Shop Scrap	Z414A	—	4000	4000
TOTAL SCRAP		34000	26000	60000

TIME	TEMP	
1147 AM		Charge 1st Bucket
1219 AM		Charge 2nd Bucket
100 AM	2955°	Melt Test
108 AM	3020°	Tap Temp
110 AM		Tap
113 AM		Finish Tap

Heat Time 1 HOURS 23 MINUTES

FURNACE ADDITIONS

MATERIAL	Ref. Acct.	WEIGHT
Lime	Z416F	1400
Carbon Raiser	Z416E	100
Molybdenum	Z415D	
Flourspar	Z416I	
Other Fluxs	Z416J	

REFRACTORIES

MATERIAL	Ref. Acct.	WEIGHT
Burned Dolomite	Z446D	200
Basipatch	Z446C	
GUNDOL	Z446A	
Staset 51/PD55	Z446B	
Other:	Z446K	

PRELIMINARY ANALYSIS:

TIME	Melt 1257	1 106	2	3	4
C	28	20			
MN	27	30			
S	016	016			
Cr	15	17			
MO	03	03			
AL	15	15			

Number HEATS: ROOF 50
SIDEWALL 78
BOTTOM 4387

LADLE ADDITION

MATERIAL	Ref. Acct.	WEIGHT
50% FeSi	Z415A	—
SiMn	Z415B	360
Aluminum	Z416B	60
Graphidox	Z416A	90
Synthetic Graphite	Z416H	24
CSF #10	Z416C	
Charge Chrome	Z415C	430
RECARB-X	Z416D	
Other Alloys	Z415E	
Other Additives	Z416K	
75% FeSi	Z415F	167

DEPOSITION EXHIBIT
A ID
MD 1/24/90

REMARKS

CHEMIST: [illegible] MELTER: [illegible]

FINAL ANALYSIS:

C	Mn	SI	P	S
27	75	38	007	016

CR	MO	NI	AL	DI
55	03	09	05	X

OXYGEN USE
CU. FT. OXYGEN 870
LANCE TIME 4.5 min

KWH-Finish
KWH-Start
KWH-Used
KWH-TOM

ADD Electrodes
A
B
C