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June 15, 2011

RECEIVED

Ms. Rosalie K. Rusinko  
Senior Attorney  
New York State Department of Environmental Conservation  
Region 3  
100 Hillside Avenue, Suite 100  
White Plains, New York 10603-2860

JUN 16 2011

NYSDEC-REGION 3  
WHITE PLAINS OFFICE

**Re: Town of Oyster Bay as Responsible Party  
at Bethpage Community Park**

Dear Ms. Rusinko:

Northrop Grumman Systems Corporation ("Northrop Grumman") submits the following information and legal authority to the New York State Department of Environmental Conservation ("NYSDEC") regarding why the Town of Oyster Bay (the "Town") should be named as a responsible party for both soil and groundwater contamination at Bethpage Community Park ("Park") in the OU-3 Proposed Remedial Action Plan ("PRAP"). This letter is submitted as part of our confidential settlement discussions and should not be used for any other purposes.

Based on the following material and indisputable facts, the Town should be named by the State as a potentially responsible party at OU3:

- (1) the Town has liability for OU-3, as the current owner and operator of the Park and as the owner and operator of the Park at the time of disposal. The Town has been the sole owner and operator of the Park for nearly 50 years, a period of ownership that is twice as long as Northrop Grumman's past ownership of the Park;
- (2) the Town has liability for OU-3, as a generator, because of its release of Freon at the Park in connection with its ice skating rink; the groundwater IRM, which was installed and has been operated by Northrop Grumman is primarily treating Freon; and

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- (3) the Town has liability, as a generator and arranger, because the Town brought to the site significant quantities of untested fill materials from undocumented sources and, therefore, has liability for the soil conditions.

I. The Town is essential to any comprehensive resolution of the environmental issues at the Park because it has owned and operated the entire Park since 1962 and because it disposed of significant quantities of hazardous substances at the Park.

The Town has owned the 18-acre Park for almost 50 years (1962-2011), twice the period of time that Northrop Grumman's predecessor, Grumman Aircraft Engineering Corporation, owned the same parcel (approximately 1937-62). Section 107(a) of the Superfund Law provides that "the owner and operator of a vessel or facility...shall be liable." 42 U.S.C. § 9607(a). There is no question that the Town, as owner and operator, is statutorily liable for response costs at the Park. The only question is the Town's allocable share of such costs, which will be heavily influenced by its dual status as the owner/operator and waste generator. In any cost recovery or contribution action, the Town will likely be allocated a significant portion of response costs because of its status and past practices. Thus, the Town is an essential and indispensable party to any resolution of the issues related to the Park.

Under current case law, the courts typically hold the owner of a site responsible for a significant share of the response costs, even when the owner, unlike the Town, generates no waste at the site. See, e.g. *United States v. R.W. Meyer, Inc.*, 932 F.2d 568 (6th Cir. 1991) (allocating two-thirds to the operator and one-third to the current owner); *South Florida Water Management District v. Montalvo*, 84 F.3d 402 (11th Cir. 1996) (allocating 75% to the waste generators and 25% to the current owner); and *Weyerhaeuser v. Koppers*, 771 F. Supp. 1420 (D. Md. 1991) (allocating 60% to the operator who the court said was solely responsible for the environmental damage and 40% to the owner); and *United States v. Burlington Northern and Santa Fe Railway Co.*, 129 S. Ct. 1870 (2009) (9% allocated to party who owned less than 20% of the site for less than half the period of disposal).

In this case, however, the Town will have a significantly higher allocation because, in addition to being the long-term owner and operator, the Town arranged for the disposal of significant quantities of hazardous substances at the site. Attached hereto as Exhibit 1 is a chart showing that Freon accounts for almost 70% of the volatile organic compounds being removed from the site groundwater by the groundwater IRM. Freon is inextricably tied to the Town's activities. Based on the proximity of the Freon contamination to the ice skating rink and witness testimony regarding the deteriorated condition of piping associated with the ice skating rink and historic leaks, there is no doubt that the Town's ice skating rink is the source of the Freon contamination at and migrating from the Park. Further, Freon was not a chemical associated with the construction of military aircraft and is not a constituent of concern in groundwater at any other part of the former Northrop Grumman and Navy 600-acre war plant campus.

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Respectfully, Northrop Grumman does not believe that a decision by the State to carve-out the Town from the forthcoming PRAP would be consistent with the facts, the law or fundamental equities. Further, any decision by the State to exclude the Town from the PRAP will seriously complicate and, in fact, substantially and adversely impact the State's efforts to achieve a comprehensive solution of the issues at the Park.

II. The Town is likely to be responsible for the PCB remediation in the southwest corner of the Park.

As the State moves toward an extremely expensive, non-risk-based PCB cleanup in the southwest corner of the Park, it is important for the State to recognize that the Town is likely to be primarily responsible for the PCB soil contamination. The State is aware that the Town already performed some remedial work (primarily soil removal due to PCB contamination) and sued Northrop Grumman and the Navy to recover its costs. The Town has been unsuccessful in its efforts to recover its costs from Northrop Grumman or the Navy. Thus, without the Town's involvement in the PRAP, the State could be creating a substantial future orphan share.

The State needs the Town's involvement because there is very little evidence that anyone other than the Town is the source of the PCBs. In the Town's Statement of Material Facts in the litigation against Northrop Grumman and the Navy, (attached hereto as Exhibit 2), the Town presented a theory that the source of the PCBs is contaminated recharge basin scrapings from the Navy property. This theory was suggested in a deposition by Jean-Pierre Cofman (attached hereto as Exhibit 3), a Northrop Grumman employee who admittedly had no firsthand knowledge and a letter from Larry Leskovjan, a former employee who also had no firsthand knowledge. While the Town, in its Statement of Material Facts (paragraph 91), states that Northrop Grumman deposited recharge basin scrapings in the Park and cites the Cofman deposition as its sole support for that proposition, a review of the deposition transcript shows that there is no support for the Town's so-called facts. Mr. Cofman was asked, "How did you come to the understanding that this material was placed upon Park property?" In response he said, "Well, I never really came to that understanding, other than it's a possibility." (page 78). Thus, the Town's theory of Northrop Grumman responsibility for the PCBs at the Park is nothing more than a mere "possibility," with no corresponding facts.

The most plausible scenario is that the PCBs were disposed of at the site by the Town in connection with the large quantity of untested fill materials imported by the Town from unknown sources.

If the State continues to question whether Northrop Grumman and/or the Navy are also responsible for the disposal of PCBs at the site, the State should look to the Navy, and not Northrop Grumman. After all, it is black letter law that, if a property owner (the Navy) hires a contractor (Northrop Grumman) to remove hazardous substances (recharge basin scrapings) from that same government-owned property, the property owner is liable as a person who arranged for disposal, even if the property owner does not direct the contractor where to dispose of the waste

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and even if the property owner does not know where the waste was disposed. See, e.g. *United States v. Ward*, 618 F. Supp. 884 (E.D. N.C. 1985) (party who retains a contractor to “get rid” of something has arranged for disposal); *United States v. Conservation Chemical Co.*, 619 F. Supp. 162 (W.D. Mo. 1985); *United States v. Hardage*, 761 F. Supp. 1501 (D. Okla. 1990.)

In any case, as the State considers the important question as to whether it should purposely exclude the Town from the PRAP, Northrop Grumman wants to reiterate and be clear that it is not in a position to assume responsibility for third-party wastes, such as the Town’s PCBs. The State’s present course of proposing a highly expensive, non-risk-based PCB remedy makes that option cost-prohibitive for Northrop Grumman. If the State nonetheless adopts a high-cost remedy (which appears to be the course that it is on, in spite of Northrop Grumman’s technical support for a risk-based cleanup) and does not name the Town as a potentially responsible party under the PRAP, the State should be prepared to perform that selected remedy without full recourse and reimbursement of its costs.

III. The Supreme Court’s 2009 *Burlington Northern* Decision Provides a Strong Reason for the State to Name the Town as a PRP.

In *Burlington Northern*, the government attempted to impose joint and several liability on Shell as a waste generator and Burlington Northern as an owner. The District Court found Shell responsible for only one product that had been disposed of on-site and Burlington Northern responsible only for 9% of the costs. The result was a huge orphan share that the government could not recover. The Ninth Circuit reversed, noting that that making the government whole was one of the goals of CERCLA and the Supreme Court reversed, leaving the government with a large unrecovered share.

Prior to the Supreme Court’s decision in *Burlington Northern*, the State could reasonably expect that responsible parties would be held to be jointly and severally liable and could therefore proceed against one responsible party, leaving others on the sidelines. In *Burlington Northern*, however, the Court stated that where there is a reasonable basis for division and allocation of liability, as at the Park, each party will be responsible only for the waste it contributed to the site. Thus, in 2007, the Town had more latitude to theorize that Northrop Grumman disposed of, for example, chromium-containing waste<sup>1</sup> in the Park and is therefore potentially liable for remediation of all wastes, including PCB-containing waste. However, because the PCBs in the Park are in an area geographically distinct from the chromium-containing material, a court today is far more likely to find that there is a basis for divisibility, and the party who is found to have disposed of one chemical, but not the other, will be responsible for costs related to that one chemical and not the other. This presents the State with a significant probability that, if the Town is not named as a PRAP, the State will be unable to

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<sup>1</sup> Nothing contained herein should be viewed as an admission that Northrop Grumman disposed of chromium-containing waste at the site. We merely note that the Town believed that its evidence regarding chromium-containing waste was significantly stronger than its evidence regarding PCB-containing waste.

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recover its costs related to PCB remediation, costs which will be excessive because no consideration was given to risk and cost-effectiveness.

IV. Conclusion

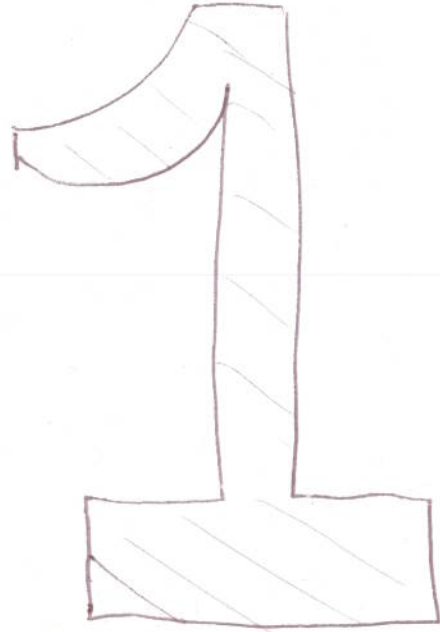
In a post-*Burlington Northern* world, the only way the State can have confidence that the responsible parties will implement the remediation, or that the State will be able to recover its costs after performing the remediation itself, is to bring all the responsible parties together—the Navy, the Town and Northrop Grumman. The facts demonstrating Town liability at the Park are straightforward and not subject to serious dispute. Northrop Grumman therefore respectfully requests the State to name the Town as a PRP, along with the Navy, when it issues the OU-3 PRAP.

Very truly yours,

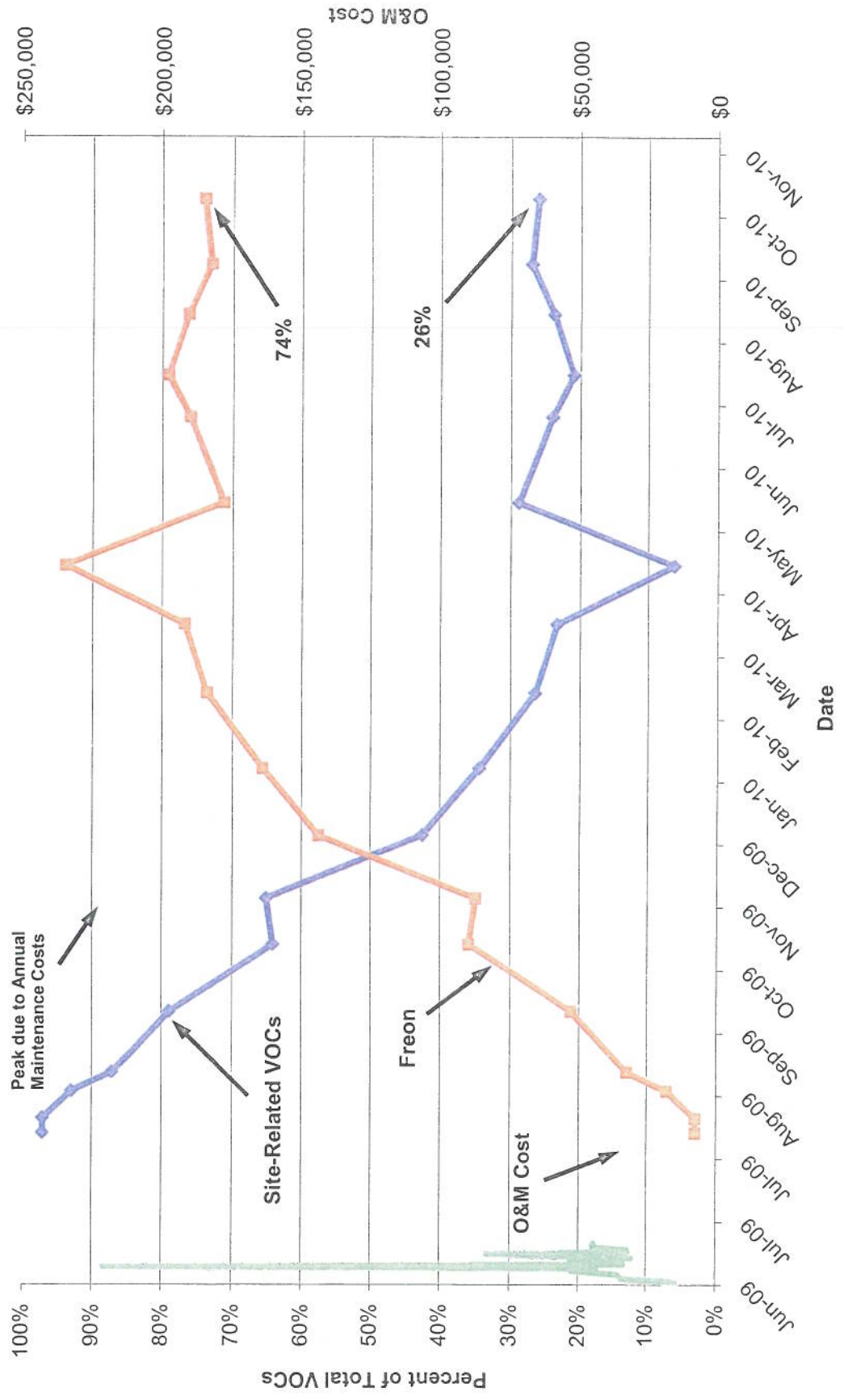


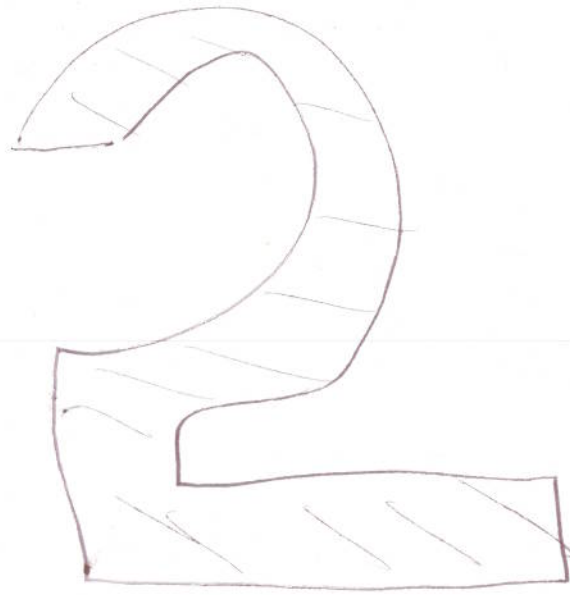
AARON GERSHONOWITZ

AG:lvb



### Comparison of Site-Related VOCs to Freon in Groundwater IRM Treatment System Influent & O&M Costs







**PLAINTIFF, THE TOWN OF OYSTER BAY'S STATEMENT OF MATERIAL FACTS  
UNDER FED. R. CIV. P. 56 AND LOCAL RULE 56.1**

1. The Bethpage Community Park (the "Park") is located on an 18-acre parcel of land in Bethpage, New York and is currently owned and operated by the plaintiff, Town of Oyster Bay (the "Town"). Deed No. 7083, p. 539 (Aug. 21, 1962), Bates No. BETPARK00918, NGSC-TOB0000306 (Exhibit 1); Deed No. 7083, p. 542 (Aug. 21, 1962), Bates No. BETPARK00921, NGSC-TOB0000304 (Exhibit 2); Town of Oyster Bay Resolution (Jan. 3, 1963), Bates No. TOB 012279 (Exhibit 3).

2. The land upon which the Park is located (the "Park Property") was formerly owned and operated by the predecessor in interest of defendant Northrop Grumman Systems Corporation ("NGSC"), Grumman Aerospace Corporation. Deed No. 7083, p. 539 (Aug. 21, 1962), Bates No. BETPARK00918, NGSC-TOB0000306 (Exhibit 1); Deed No. 7083, p. 542 (Aug. 21, 1962), Bates No. BETPARK00921, NGSC-TOB0000304 (Exhibit 2); Grumman Draft Minute Re Gift of Land to Bethpage Park District, Bates No. NGSC-TOB0001738 (Exhibit 4); In the Matter of the Development and Implementation of a Remedial Program for Operable Unit 3 of an Inactive Hazardous Waste Disposal Site, NGSC Respondent, Order on Consent, para. 2 (Exhibit 5).

3. NGSC owned the Park Property from on or about 1939 to October 1962. Letter from Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (July 25, 2002), Bates No. NGSC-TOB 0020910 (observing that Grumman operated at Bethpage since "the late 1930s") (Exhibit 6); Northrop Grumman Systems Corporation, Site Specific Work Plan (April 2003), Bates No.

NGSC-TOB0001882, 1907 (observing that Grumman acquired the Park “around” 1940, and that Grumman donated the Park to the Town on October 17, 1962) (Exhibit 7).

4. Grumman transferred the Park Property to the Town in October 1962. Deed No. 7083, p. 539 (Aug. 21, 1962), Bates No. BETPARK00918, NGSC-TOB0000306 (Exhibit 1); Deed No. 7083, p. 542 (Aug. 21, 1962), Bates No. BETPARK00921, NGSC-TOB0000304 (Exhibit 2); Letter from John J. Burns, Supervisor, Town of Oyster Bay, to Grumman Aircraft Engineering Corporation (October 16, 1962), Bates No. NGSC-TOB0001850 (Exhibit 8); Grumman Aircraft Engineering Corporation, Interoffice Memorandum, para. 1 (April 21, 1964), Bates No. NGSC-TOB0001784 (Exhibit 9); Northrop Grumman Systems Corporation, Site Specific Work Plan (April 2003), Bates No. NGSC-TOB0001907 (observing that Grumman donated the Park Property to the Town on October 17, 1962) (Exhibit 7).

5. In 2002, the New York State Department of Environmental Conservation (“DEC”) requested that NGSC obtain soil samples from the Park Property. Letter from Richard M. Walka, Vice President, Dvirka & Bartilucci Consulting Engineers, to John Cofman, Lead Engineer, Environmental Technology and Compliance, Northrop Grumman Corporation (July 18, 2002), NGSC-TOB0018949, 18950 (observing that on May 7, 2002, the DEC and New York State Department of Health “requested additional soil sampling be performed within the park”) (Exhibit 10).

6. NGSC obtained soil samples from the Park Property in 2002 and 2003. New York State Department of Environmental Conservation, Community Update, Bethpage Community Park, Operable Unit 3: Former Grumman Settling Ponds (June 2004), Bates No. NGSC-TOB0000038, 39 (“Northrop Grumman’s first round of soil sampling in the park took place in March 2002”) (Exhibit 11); Northrop Grumman, Town of Oyster Bay Bethpage

Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798 (Exhibit 12); Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Investigation Sampling Program: Site-Specific Work Plan (April 2003), Bates No. NGSC-TOB0001882 (Exhibit 7).

7. NGSC caused the soil samples from the Park Property that it obtained to be analyzed for the presence of certain contaminants. Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Steven M. Scharf, P.E., Project Engineer, New York State Department of Environmental Conservation, Division of Environmental Remediation (December 22, 2004), Bates No. NGSC-TOB0018908, 18913 (observing that in May/June of 2003, "NGC conducted a second soil sampling program within the Bethpage Community Park that . . . analyzed for PCBs, hexavalent chromium and metals . . .") (Exhibit 13); Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Investigation Sampling Program: Site-Specific Work Plan (April 2003), Bates No. NGSC-TOB0001882, 1913-1916 (March 2002 Soil Sampling Program, Summary of Detected Contamination, showing PCB and chromium contamination on the Park Property) (Exhibit 7).

8. The analysis of such soil samples showed levels of chromium were present in the soils of the Park Property. Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798, 2828-2837 (showing chromium and other RCRA metal concentrations detected at various depth intervals on the Park Property) (Exhibit 12); Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Investigation Sampling Program: Site-Specific Work Plan (April 2003), Bates No. NGSC-TOB0001882, 1913-1916 (March 2002 Soil Sampling Program, Summary of Detected Contamination, showing PCB and chromium contamination on the Park Property)

(Exhibit 7); Letter from G. Stephen Hamilton, Hazardous Waste Compliance Counsel, New York State Department of Environmental Conservation, to F. Franklin Amanat, Assistant United States Attorney (May 6, 2003), NGSC-TOB0000170, 172 (observing that a “contaminant typically found in the Park is chromium”) (Exhibit 14).

9. Chromium is a hazardous substance as defined by the Comprehensive Environmental Response Compensation And Liability Act (“CERCLA”). 42 U.S.C. § 9601(14) (cross referencing statutes that define “chromium” and “chromium compounds” as CERCLA hazardous substances); 40 C.F.R § 302.4 (identifying chromium” and “chromium compounds” as CERCLA hazardous substances).

10. The levels of chromium present in the soils at the Park Property exceeded criteria deemed acceptable by the DEC, as set forth in TAGM 4046. *Compare* New York State Department of Environmental Conservation TAGM 4046, Table 4 (stating that background concentrations for chromium in the Eastern USA is 1.5-40 ppm) (Exhibit 15), *with* Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Steven M. Scharf, P.E., Project Engineer, New York State Department of Environmental Conservation, Division of Environmental Remediation (December 22, 2004), Bates No. NGSC-TOB0018908, 18913-14 (“constituents detected at concentrations in excess of the TAGM 4046 criteria include . . . chromium (max. 1,780 ppm)”) (Exhibit 13).

11. The analysis of such soil samples also show that levels of polychlorinated biphenyls (“PCBs”) were present in the soils of the Park Property. Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Steven M. Scharf, P.E., Project Engineer, New York State Department of Environmental Conservation, Division of Environmental Remediation (December 22, 2004),

Bates No. NGSC-TOB0018908, 18913-14 (discussing the NGSC soil sampling program in May/June 2003 at the Park, in which PCBs were detected (max. 44 ppm)) (Exhibit 13); Letter from Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, to Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp. (June 11, 2002), Bates No. NGSC-TOB0020271, 20271 (“results from both the supplemental Park samples and the previous Park samples indicate that PCBs are present in surface soil above 1 ppm . . . .”) (Exhibit 16); Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798, 2823-2828 (showing PCB concentrations detected at various depth intervals on the Park Property) (Exhibit 12); Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Investigation Sampling Program: Site-Specific Work Plan (April 2003), Bates No. NGSC-TOB0001882, 1913-1916 (March 2002 Soil Sampling Program, Summary of Detected Contamination, showing PCB and chromium contamination on the Park Property) (Exhibit 7).

12. PCBs are hazardous substances as defined by Section 9601(14) of CERCLA. 42 U.S.C. § 9601(14) (cross referencing statutes that define PCBs as a CERCLA hazardous substance); 40 C.F.R. § 302.4 (identifying PCBs as a CERCLA hazardous substance).

13. The levels of PCBs present in the soils at the Park Property exceeded criteria deemed acceptable by the DEC, as set forth in TAGM 4046. *Compare* New York State Department of Environmental Conservation TAGM 4046, Table 4 (stating that the cleanup objectives for PCBs are 1.0 ppm for surface soils and 10 ppm for subsurface soils) (Exhibit 15), *with* Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798, §§ 4.3.1.1, 4-5-4-10

(showing soil samples from the Park Property contaminated with PCBs in concentrations exceeding TAGM standards of 1.0 ppm for surface soils and 10 ppm for subsurface soils) (Exhibit 12).

14. Other hazardous substances as defined by Section 9601 of CERCLA were also found in such soil samples. These substances include, but are not limited to, arsenic, barium, cadmium, lead, mercury, and selenium. *Compare* Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798, 2828-2837 (observing concentrations of arsenic, barium, cadmium, lead, mercury, and selenium at various depth intervals on the Park Property) (Exhibit 12), *and* Northrop Grumman Systems Corporation, Site Specific Work Plan (April 2003), Bates No. NGSC-TOB0001882, 1913-1916 (noting the presence of cadmium, mercury, and arsenic on the Park Property) (Exhibit 7), *with* 40 C.F.R. § 302.4 (identifying these metals as CERCLA hazardous substances).

15. Prior to February 2005, the Town requested that the DEC permit the Town to remediate a seven acre portion of the Park (“the Construction Area”), which would enable the Town to construct a new ice skating facility within such seven acre portion and return some of the Park facilities back into service for Town residents. Deposition of Matt Russo (January 9, 2007), pp. 54-55 (Exhibit 17).

16. In March 2005, the Town voluntarily entered into an Order on Consent with the DEC (“the Consent Order”). In the Matter of the Development and Implementation of an Interim Remedial Measure Program for an Inactive Hazardous Waste Disposal Site, Town of Oyster Bay, Respondent, Order on Consent (March 18, 2005), Bates No. NGSC-TOB0021273 (Exhibit 18).

17. The Consent Order required the Town to investigate the extent of the presence of contamination in the soil in the Construction Area. In the Matter of the Development and Implementation of an Interim Remedial Measure Program for an Inactive Hazardous Waste Disposal Site, Town of Oyster Bay, Respondent, Order on Consent (March 18, 2005), § C.3, Bates No. NGSC-TOB0021273, 21273-74 (Exhibit 18).

18. The Consent Order required the Town to develop a Work Plan, captioned "Site Characterization Work Plan", "Remedial Investigation/Feasibility Study Work Plan", "IRM Work Plan", "Remedial Investigation/Feasibility Study Work Plan", or "OM&M Work Plan", to address the presence of contamination in the soil in the Construction Area. In the Matter of the Development and Implementation of an Interim Remedial Measure Program for an Inactive Hazardous Waste Disposal Site, Town of Oyster Bay, Respondent, Order on Consent (March 18, 2005), § II.A, Bates No. NGSC-TOB0021273, 21275 (Exhibit 18).

19. The Consent Order required that all actions taken by the Town to discharge its obligations under the Consent Order be approved by the DEC. In the Matter of the Development and Implementation of an Interim Remedial Measure Program for an Inactive Hazardous Waste Disposal Site, Town of Oyster Bay, Respondent, Order on Consent (March 18, 2005), Bates No. NGSC-TOB0021273, 21274 (Exhibit 18).

20. The Consent Order required that all actions taken by the Town to discharge its obligations be consistent with CERCLA and the National Contingency Plan. In the Matter of the Development and Implementation of an Interim Remedial Measure Program for an Inactive Hazardous Waste Disposal Site, Town of Oyster Bay Respondent, Order on Consent (March 18, 2005), Bates No. NGSC-TOB0021273, 21274 (Exhibit 18).

21. The Town conducted an analysis of the soil samples in the Construction Area by way of its environmental consultants, H2M Group. Town of Oyster Bay, Interim Remedial Measure Investigation Report and Remedial Action Plan (November 2005), Bates No. H2M 003394, 003403 (Exhibit 19); Town of Oyster Bay, Supplemental Investigation Report (December 2005), Bates No. H2M 004158, 4166 (Exhibit 20); Town of Oyster Bay, Bethpage Community Park, Interim Remedial Measure – Construction Area: Addendum to the Remedial Action Plan (March 2006), Bates No. H2M 004295, 4304 (Exhibit 21).

22. The analysis of the soil samples in the Construction Area disclosed the presence of chromium at depths exceeding 40 feet below surface. Town of Oyster Bay, Interim Remedial Measure Investigation Report and Remedial Action Plan (November 2005), Bates No. H2M 003394, 3409, 3480-3574 (Exhibit 19).

23. The analysis of the soil samples in the Construction Area disclosed the presence of PCBs at depths exceeding at least 8 to 10 feet below surface. Northrop Grumman, Town of Oyster Bay Bethpage Community Park, Soil Sampling Program: Report of Findings (June 2002), Bates No. NGSC-TOB0002798, 2823-2828 (Exhibit 12). The concentration of PCBs exceeded 1 ppm in 48 of 141 boring locations, and exceeded 10 ppm in 10 of the 141 boring locations. One soil boring location revealed a PCB concentration of 550 ppm. Town of Oyster Bay, Interim Remedial Measure Investigation Report and Remedial Action Plan (November 2005), Bates No. H2M 003394, 3409 (Exhibit 19)

24. The analysis of the soil samples in the Construction Area disclosed the presence of other CERCLA hazardous substances, including but not limited to, arsenic, barium, beryllium, cadmium, copper, iron, magnesium, mercury, nickel, selenium, and zinc at depths exceeding 40



feet below surface. Town of Oyster Bay, Interim Remedial Measure Investigation Report and Remedial Action Plan (November 2005), Bates No. H2M 003394, 3409, 3480-3574 (Exhibit 19).

25. On February 10, 2006, the DEC recommended that the Town amend its Remedial Action Plan to include an analysis which screened various remedial alternatives with the following evaluation criteria to select a cost-effective remedy for the soils within the Construction Area: (1) overall protectiveness of human health; (2) compliance with applicable or relevant and appropriate regulations and guidance criteria; (3) long term effectiveness and permanence; (4) reductions in toxicity, mobility and volume through treatment; (5) short term effectiveness; (6) implementability; and (7) cost. Letter from Steven M. Scharf, Project Engineer, Remedial Bureau A, Division of Environmental Remediation, Department of Environmental Conservation, to Philip Schade, H2M Group, P.C. (February 10, 2006), Bates No. NGSC-TOB0044404 (Exhibit 22).

26. In March 2006, the Town submitted its "Addendum to the Remedial Action Plan" which, among other things, presented five remedial alternatives to address the soil contamination within the Construction Area. Town of Oyster Bay, Bethpage Community Park, Interim Remedial Measure – Construction Area: Addendum to the Remedial Action Plan (March 2006), Bates No. H2M 004295, 4320 (identifying the five remedial alternatives developed for the Bethpage IRM) (Exhibit 21).

27. The March 2006 "Addendum to the Remedial Action Plan" presented by the Town to the DEC screened five remedial alternatives and provided an evaluation of each alternative against the criteria recommended by the DEC. Town of Oyster Bay, Bethpage Community Park, Interim Remedial Measure – Construction Area: Addendum to the Remedial

Action Plan (March 2006), Bates No. H2M 004295, 4320 (identifying the five remedial alternatives developed for the Bethpage IRM) (Exhibit 21).

28. On May 4, 2006, the DEC approved the remedial alternative selected by the Town. Letter from Chittibabu Vasudevan, Director, Remedial Bureau A, Division of Environmental Remediation, New York State Department of Environmental Conservation, to Philip Schade, H2M Group, P.C. (May 4, 2006), Bates No. NGSC-TOB0044402 (Exhibit 23).

29. The DEC-approved remedial alternative is Remedial Alternative IV – Remediation to 10 Feet plus Targeted Removal of Fill Areas. Town of Oyster Bay, Bethpage Community Park Interim Remedial Measure – Construction Area: Addendum to the Remedial Action Plan (March 2006), Bates No. H2M 004295 (describing Remedial Alternative IV) (Exhibit 21).

30. The Town executed the DEC-approved Remedial Alternative IV with the oversight and approval of DEC. Deposition of Philip Schade (April 25, 2007), pp. 50-51 (Exhibit 24).

31. The Town executed the DEC-approved Remedial Action Plan for Remedial Alternative IV as outlined in the affidavit of Phillip Schade, the Project Manager for the Town's Engineering Consultant, H2M and the supporting documentation annexed thereto. Affidavit of Phillip J. Schade, P.E. in Support of Plaintiff's Motion for Summary Judgment with supporting documentation (December 11, 2007).

32. The Town expended in excess of \$22 million in investigating the extent of contamination in the Construction Area and implementing the DEC-approved IRM plan. Affidavit of Matthew Russo, P.E. in Support of Plaintiff's Motion for Summary Judgment (December 12, 2007).

## **Grumman's Ownership And Operation Of The Park Property Before Transfer To The Town**

33. Grumman conducted aircraft manufacturing and testing operations at two sites that were adjacent to the Park Property. "Northrop Grumman Corporation", <http://www.epa.gov/region02/waste/fsgrumm.pdf> (March 2005), ("[a]ctivities conducted at the facility included engineering, administrative, research and development, and testing operations, as well as manufacturing operations for the Navy and NASA") (Exhibit 25); Deposition of Joseph A. Kaminski (January 30, 2007), p. 25 (stating that Plant 5 on the Bethpage facility was used for "aircraft manufacturing") (Exhibit 26).

34. Grumman conducted these operations during the 1940s through and including, at least, October 1962, when Grumman transferred the Park Property to the Town. Department of Environmental Conservation, Record of Decision, Grumman Aerospace, Bethpage Facility, Operable Unit 1 (Inactive Hazardous Waste Site No. 130003A) (March 1995), § 2.1, Bates No. BETPARK00001, 6 ("Grumman Aerospace Corporation was established in the early 1930s at the present site in Bethpage.") (Exhibit 27).

35. One of these adjacent sites consisted of approximately 550 acres and was owned and operated by Grumman (the "Grumman site"). Deposition of Larry L. Leskovjan (January 11, 2007), pp. 35-36 (describing the Grumman-owned and Navy-owned properties at Bethpage as adjacent to each other) (Exhibit 28); Deposition of Jean-Pierre Cofman (February 1, 2007), p. 133-134 (describing the entire Bethpage facility as comprising approximately 650 acres, of which 105 acres were Navy-owned and 520-530 acres were Grumman-owned) (Exhibit 29).

36. The other adjacent site was known as the Naval Weapons Industrial Reserve Plant ("the NWIRP"). Deposition of Larry L. Leskovjan (January 11, 2007), pp. 35-36 (identifying the "naval weapons industrial reserve plant" as adjacent to the Grumman-owned property)

(Exhibit 28); “Northrop Grumman Corporation”,

<http://www.epa.gov/region02/waste/fsgrumm.pdf> (March 2005) (“[a]pproximately 105 of the 635 acres are occupied by the Naval Weapons Industrial Reserve Plant (NWIRP), a Government Owned Contractor Operated (GOCO) facility”) (Exhibit 25).

37. The NWIRP consisted of approximately 105 acres, and was owned by defendant, the United States Navy (“the Navy”). Deposition of Larry L. Leskovjan (January 11, 2007), p. 52 (describing the 105-Navy owned site) (Exhibit 28); “Northrop Grumman Corporation”, <http://www.epa.gov/region02/waste/fsgrumm.pdf> (March 2005) (“[a]pproximately 105 of the 635 acres are occupied by the Naval Weapons Industrial Reserve Plant (NWIRP), a Government Owned Contractor Operated (GOCO) facility”) (Exhibit 25); Deposition of Jean-Pierre Cofman (February 1, 2007), p. 133-134 (describing the entire Bethpage facility as comprising approximately 650 acres, of which 105 acres were Navy-owned and 520-530 acres were Grumman-owned) (Exhibit 29).

38. Grumman operated the NWIRP as a “Government Owned-Contractor Operated” (“GOCO”) facility pursuant to one or more “Facility Use Contracts” between the Navy and Grumman. Facility Use Contract No. NOW 6116-u, Bates No. NGSC-TOB0000088-127 (Exhibit 30); Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (July 25, 2002) (stating that NGSC could not locate the appropriate “facility use” contract pertaining to 1958 through 1963, and further stating that Contract No. NOW 6116-u is “typical of the various Bethpage facility use contracts over the last six decades at NWIRP”) (Exhibit 6); Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems

Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (May 24, 2002), Bates No. NGSC-TOB0001773, 1774 (observing that the government-owned NWIRP, and Northrop Grumman “operated the Bethpage facility under standard Government facility use and procurement contracts”) (Exhibit 31); “Northrop Grumman Corporation”, <http://www.epa.gov/region02/waste/fsgrumm.pdf> (March 2005) (“[a]pproximately 105 of the 635 acres are occupied by the Naval Weapons Industrial Reserve Plant (NWIRP), a Government Owned Contractor Operated (GOCO) facility”) (Exhibit 25).

39. The NWIRP was owned by defendant, the United States Navy (the “Navy”) and operated by Grumman. Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (May 24, 2002), Bates No. NGSC-TOB0001773, 1774 (“Northrop Grumman (and its predecessor, Grumman Corporation) operated the NWIRP as agents of the United States to manufacture critical military hardware and aircraft for the Department of Defense (DoD) for the last six decades”) (Exhibit 31).

40. A number of buildings (referred to as “plants”) and facilities located on the Grumman Site and the NWIRP were utilized to support Grumman’s aircraft manufacturing and testing operations. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 13-14 (stating that there were “dozens” of buildings or “plants” on Grumman-owned land) (Exhibit 29); Deposition of Joseph A. Kaminski (January 30, 2007), pp. 68 (describing Building 20 on the NWIRP), 25 (stating that Plant 5 on the Bethpage facility was used for “aircraft manufacturing”) (Exhibit 26); Deposition of Larry L. Leskovjan (January 1, 2007), p. 68 (referencing buildings on the 105 acre

property), p. 77 (stating that manufacturing activities were conducted on Grumman-owned property) (Exhibit 28).

41. A Contract for Plant Facilities, entered into between the Navy and Grumman in 1943 provided that, with respect to plants located Grumman-owned land:

each and every item of the Plant Facilities, including any and all repairs and replacements thereto which may hereafter be made in accordance with the provisions of this Contract, shall become the sole property of the [Navy]...

Contract for Plant Facilities, Nov. 30, 1943, NGSC-TOB0000715, 0000720 (Exhibit 32).

42. Plant 2 was one such facility that was located on the Grumman site but was owned by the Navy. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 86-87 (in connection with discussion of drying metal sludges from the NWIRP operation, testifying that “Plant 2 was on the Grumman-owned property”) (Exhibit 29).

43. The Contract for Plant Facilities provided that Grumman had to obtain the approval of the Navy for any additions or alterations to be made to the structure of Plant 2. Contract for Plant Facilities, Nov. 30, 1943, Art. IV, NGSC-TOB0000715, 0000717 (“Contractor may at any time make changes in Appendix A [indicating the location of the Plant Facilities] with the written consent of the Contracting Officer”) (Exhibit 32).

44. The Navy provided financing for additions and alterations made to the structure of Plant 2. Contract for Plant Facilities, Nov. 30, 1943, Art. VI, NGSC-TOB0000715, 0000718 (“The Department [of the Navy] shall pay to the Contractor the Allowable Cost . . . incurred by the Contractor (i) in acquiring, constructing and installing the Plant Facilities in accordance with the Contract, (including all costs incurred . . . by reason of compliance with, changes in Appendix A ordered by the [Navy] Contracting Officer) . . .”) (Exhibit 32).

45. In or about 1948, the New York State Department of Health determined that hexavalent chromium was present in Well No. 1 at the NWIRP. Letter from H. R. Lacy, District Public Works Officer, to Commandant, Third Naval District, United States Navy (October 25, 1948), ¶¶ 1-2, Bates No. NGSC-TOB0025220, 25220 (observing that hexavalent chromium contaminated Well No. 1 in the U.S. Naval Storehouse at Bethpage, Long Island) (Exhibit 33); Letter from H. R. Lacy, District Public Works Officer, to Chief, Bureau of Yards and Docks (date unreadable), ¶ 1, Bates No. NGSC-TOB0025224, 25224 (referring to “the contamination of Well No. 1 [at the Bethpage facility] by the presence of hexavalent chromium in excess of the available maximum permitted by U.S. Public Health Service standards”) (Exhibit 34). The Navy thereafter took steps to shut down Well No. 1. Letter from H. R. Lacy, District Public Works Officer, to Chief, Bureau of Yards and Docks (date unreadable), ¶ 1, Bates No. NGSC-TOB0025224, 25224 (recommending that the discharge pipe from Well No. 1 be disconnected from the distribution system) (Exhibit 34); Letter from R.G. Oakes, to Commandant, Third Naval District, Navy Department (October 27, 1948), Bates No. NGSC-TOB0025223 (reporting that automatic control equipment will be transferred from Well No. 1 to Well No. 5) (Exhibit 35).

46. Hexavalent chromium is a hazardous substance as defined by CERCLA. 42 U.S.C. § 9601(14) (cross referencing statutes that define “chromium” and “chromium compounds” as CERCLA hazardous substances); 40 C.F.R. § 302.4 (identifying chromium” and “chromium compounds” as CERCLA hazardous substances).

47. After the Navy and the New York State Department of Health determined that Well No. 1 at the NWIRP was contaminated with hexavalent chromium, the Navy approved plans to construct an industrial wastewater treatment facility (the “wastewater treatment

facility”), which was constructed in or about 1950. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 98 (“treatment started at Plant 2 with the construction of the industrial waste treatment facility, otherwise referred to as the acid house, around 1950”) (Exhibit 29).

48. The wastewater treatment facility was constructed in or about the area of Plant 2. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 98-99 (Exhibit 29).

50. The wastewater treatment plant treated wastewater generated from various industrial processes conducted at plants located on the Grumman site. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 98 (observing that wastewater treated at the wastewater treatment plant “came from wherever there was wastewater produced on site, not just from Plant 2, but that would have included Plant 1, Plant 3, wherever it was produced[.]”) (Exhibit 29).

51. The wastewater treatment plant treated wastewater generated from various industrial processes conducted at plants located on the NWIRP. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 98 (observing that wastewater treated at the wastewater treatment plant “came from wherever there was wastewater produced on site, not just from Plant 2, but that would have included Plant 1, Plant 3, wherever it was produced[.]”) (Exhibit 29).

52. From approximately 1950 through, at least, October 1962, hexavalent chromium-laden wastewater was transported from Grumman’s aircraft manufacturing and testing operations to the wastewater treatment facility through influent pipes or a 1,500 gallon tank truck. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 98-99 (observing that the wastewater before treatment contained hexavalent chromium) (Exhibit 29); Deposition of Robert Jasinkonis (October 5, 1999), pp. 31-34 (Exhibit 36)

53. The 1,500 gallon capacity tank truck was owned and operated by Grumman. Deposition of Robert Jasinkonis (October 5, 1999), pp. 31, 56 (Exhibit 36).



54. The hexavalent chromium-laden wastewater was transferred to several 11,000 gallon vats in the wastewater treatment plant for treatment. Deposition of Robert Jasinkonis (October 5, 1999), pp. 39-42 (Exhibit 36).

55. Following treatment of the hexavalent chromium at the wastewater treatment plant, the hexavalent chromium contained in the wastewater was reduced from a hexavalent state to a trivalent state. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 99 (Exhibit 29).

56. Wastewater and sludge containing trivalent chromium was the end product of the wastewater treatment process of the hexavalent chromium contained in the wastewater transported to the wastewater treatment plant. Deposition of Robert Jasinkonis (October 5, 1999), pp. 46-47 (Exhibit 36); Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (May 24, 2002), ¶ 6, Bates No. NGSC-TOB0001773, 1775 (referring to “[t]he drying of metal-bearing sludges from NWIRP operation on what is now the Park property . . . .” and stating that “[t]hese sludges resulted from the treatment of metal finishing wastewaters . . . to reduce the hexavalent chromium to trivalent chromium”) (Exhibit 31).

57. Following treatment of the hexavalent chromium contained in the wastewater, the resultant trivalent chromium-laden sludge was then transferred by a piping system and one or more pumps to two 3,000 gallon holding tanks located on the north side of the wastewater treatment plant. Deposition of Robert Jasinkonis (October 5, 1999), pp. 53-55 (Exhibit 36).

58. The trivalent chromium-laden sludge was then pumped from the holding tanks to Grumman’s 1,500 gallon tank truck. Deposition of Robert Jasinkonis (October 5, 1999), p. 55 (Exhibit 36).

59. The trivalent chromium-laden sludge in the Grumman 1,500 gallon tank trucks was later deposited onto sludge drying beds located at the Park Property. Deposition of Robert Jasinkonis (October 5, 1999), pp. 56-57 (Exhibit 36); Letter from Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (May 24, 2002), ¶ 1, Bates No. NGSC-TOB0001773-1777 (“[w]hile it was owned by Grumman, the future park property was used to dry sludges produced from industrial wastewater treatment activities in support of Navy and DoD programs.”), ¶ 6 (“the drying of metal-bearing sludges from NWIRP operation on what is now the Park property presumably continued until this property was transferred to the Town in 1962 . . . .”) (Exhibit 31); Letter from Edwin Dassatti, Director, Bureau of Solid Waste and Corrective Action, New York State Department of Environmental Conservation, to Larry J. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp. (March 12, 2003), ¶ 5, Bates No. NGSC-TOB0020284, 20286 (“waste at [the Park] was deposited in individual truck loads rather than by natural processes”) (Exhibit 37).

60. The sludge drying beds located at the Park Property were approximately 20 feet wide, 20 feet long and five feet deep. Deposition of Robert Jasinkonis (October 5, 1999), p. 57 (Exhibit 36).

61. The bottoms of the sludge drying beds consisted of bare soil. Deposition of Robert Jasinkonis (October 5, 1999), p. 57 (Exhibit 36).

62. After the sludge was dried in the sludge drying beds located on the Park Property, Grumman employees used backhoes to scrape the dried sludge from the beds and place it onto dump trucks. Deposition of Robert Jasinkonis (October 5, 1999), pp. 59-60 (Exhibit 36).

63. The dump trucks onto which the dried sludge had been placed then brought the sludge to another part of the Park Property and dumped it. Deposition of Robert Jasinkonis (October 5, 1999), pp. 59-62 (Exhibit 36).

64. In or about 1961, Grumman and the Navy began to conduct "autoclave" operations at Plant 3. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 23-25 (Exhibit 29).

65. The autoclave operations involved three or four machines known as autoclaves. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 23 (Exhibit 29).

66. The autoclave operations were used to heat and cool composite structures for curing used in the aircraft manufactured by Grumman for the Navy. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 31 (Exhibit 29).

67. The heating and cooling process in the autoclave operations was achieved by circulating fluid known as "Therminol." Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 31-34 (Exhibit 29).

68. Therminol had a PCB concentration of approximately 97 to 98%. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 125 (Exhibit 29).

69. The autoclave operations included a separate heating and cooling system and an intricate network of tubing that lined the autoclave machines through a large table-like structure known as a "platen." Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 32-35 (Exhibit 29).

70. The autoclave operations, including the system used to heat and cool the autoclave machinery, the piping that lined the autoclave machinery, and the storage facilities had

the capacity to hold several thousand gallons of the PCB-laden Therminol. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 37-38 (Exhibit 29).

71. The autoclave machinery and related systems experienced leaks of the PCB-laden Therminol. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 39-40 (Exhibit 29).

72. Grumman was aware of the existence of such leaks as a result of maintenance that was performed on the autoclave machinery. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 39-40 (Exhibit 29).

73. Specifically, "packing glands" on "positive placement pumps" and the control valves, were items that often required maintenance due to leakage of Therminol. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 110-11 (Exhibit 29); Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (July 25, 2002), Bates No. NGSC 0001786, 1789 (Exhibit 6).

74. During maintenance, Grumman employees drained the system of the PCB-laden Therminol, which resulted in some of the fluid being spilled onto the floor of the areas of the autoclave operations. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 39-41 (Exhibit 29).

75. There were one or more floor drains located in the area of the autoclave operations. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 43 ("[t]o my knowledge, there was at least one drain, perhaps more, in the area of the autoclaves") (Exhibit 29).

86. These floor drains led to a drywell below Plant 3. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 43-44 (Exhibit 29). Plant 3 was located on Navy property. *Id.* at 19.

87. The drywell below Plant 3 discharged to the storm water collection system. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 70 (Exhibit 29).

88. The storm water collection system was directed to three recharge basins that were located east of Plant 3. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 71-73 (Exhibit 29).

89. These recharged basins were approximately the length and width of a football field and were 20 to 30 feet deep. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 71-73 (Exhibit 29).

90. Before October 1962, the soils at the bottom of these recharge basins were periodically scraped by Grumman with a bulldozer to restore their percolation capability. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 73-74 (Exhibit 29).

91. The soils that were scraped from the bottom of these recharged basins were dried by depositing them on land in the vicinity of the recharge basins, as well as areas on the Park Property. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 75, 78 (Exhibit 29).

92. In 2002, the New York State Department of Environmental Conservation requested that NGSC test soil samples from the Park Property for PCBs. Letter from Roger Murphy, Supervisor, Corrective Action Section, New York State Department of Environmental Conservation, to Larry L. Leskovjan, Manager, Environmental, Safety, Health & Medical Services, Northrop Grumman Corporation (May 7, 2002), Bates No. 0001868 (Exhibit 38).

93. NGSC represented to the DEC that, as a result of its investigation, NGSC believed that some of the PCB contamination at the Park resulted from leaks of Therminol originating from Plant 3 autoclave operations, which traveled through the storm water system into the recharge basins on the NWIRP, and were deposited on the Park Property when

Grumman disposed of the soils scraped from bottoms of the recharge basins. Letter from Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (July 25, 2002), Bates No. NGSC0001786, 1789 (Exhibit 6).

94. In the late 1980's through the mid-1990's, NGSC and the Navy conducted numerous environmental investigations and implemented remedial activities to address soil and groundwater contamination that existed in various portions of the Grumman site and the NWIRP. Letter from Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Steve Kaminski, Division of Solid and Hazardous Materials, New York State Department of Environmental Conservation, and Richard Fedigan, Center for Environmental Health, New York State Department of Health (June 27, 2001), Bates No. 0018961, 18961 (stating that "over the past several years, Northrop Grumman Corporation (NGC) has been conducting assessment and remedial activities to support closure and sale of various properties as its Bethpage, NY facility") (Exhibit 39); Northern Division Naval Facilities Engineering Command / New York Department of Environmental Conservation, Record of Decision, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Sites 1, 2, 3, NYS Registry 1-30-003B (May 1995) (Exhibit 40).

95. PCBs were among the contaminants found at the Grumman site. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 137 (stating that PCB contamination was found on Plant 12 on Grumman-owned property) (Exhibit 29); Deposition of Larry L. Leskovjan (January 11, 2007), pp. 81-84 (stating that investigation in 1999 revealed the presence of PCBs on the Northrop Grumman property) (Exhibit 28).

96. Trivalent chromium was among the contaminants found at the Grumman site. Deposition of Larry L. Leskovjan (January 11, 2007), pp. 93-94 (Exhibit 28).

97. Other metals within the definition of hazardous substances under CERCLA were also found at the Grumman site. Deposition of Jean-Pierre Cofman (February 1, 2007), p. 174-77 (stating that metals contamination was found in receiving basins on Northrop Grumman property at Bethpage) (Exhibit 29); Deposition of Larry L. Leskovjan (January 11, 2007), pp. 81-82 (stating that investigation in 1999 revealed the presence of heavy metals on the 550 acre parcel of Northrop Grumman property) (Exhibit 28).

98. PCBs were also found at the NWIRP. Northern Division Naval Facilities Engineering Command / New York Department of Environmental Conservation, Record of Decision, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Sites 1, 2, 3, NYS Registry 1-30-003B (May 1995), pp. 5-10 (Exhibit 40); Foster Wheeler Corporation, NORDIV Remedial Action Contract, Contract N62472-94-D-0398, Delivery Order 0004, Naval Weapons Industrial Reserve Plant, Bethpage, NY, pp. 3-1-3-3 (Exhibit 41); Halliburton NUS Environmental Corporation, Final Remedial Investigation Report, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Volume 1 (May 1992), p. 4-38, 4-44, 4-46, 4-66, 4-91, 4-93 (Exhibit 42).

99. PCBs were found in the drywell below Plant 3. Deposition of Jean-Pierre Cofman (February 1, 2007), pp. 66-67 (Exhibit 29).

100. Chromium was also among the contaminants found at the NWIRP. Northern Division Naval Facilities Engineering Command / New York Department of Environmental Conservation, Record of Decision, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Sites 1, 2, 3, NYS Registry 1-30-003B (May 1995), p. 6 (“[o]n at least one occasion

hexavalent chromium was detected in the recharge basins water at concentrations in excess of allowable limits [at Site 2 on NWIRP]” (Exhibit 40); Halliburton NUS Environmental Corporation, Final Remedial Investigation Report, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Volume 1 (May 1992), p. 4-32 (noting the presence of chromium in groundwater samples) (Exhibit 42).

101. Other metals within the definition of hazardous substances under CERCLA were also found at the NWIRP. Halliburton NUS Environmental Corporation, Final Remedial Investigation Report, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Volume 1 (May 1992), p. 4-34 (noting the presence of beryllium, cadmium, iron, lead, vanadium and thallium in groundwater samples), 4-44 (noting the presence of mercury and silver in subsurface soil samples) (Exhibit 42); Foster Wheeler Corporation, NORDIV Remedial Action Contract, Contract N62472-94-D-0398, Delivery Order 0004, Naval Weapons Industrial Reserve Plant, Bethpage, NY, pp. 3-4, 4-2 (reporting that soils at the NWIRP were contaminated with arsenic) (Exhibit 41).

102. The remedial measures that NGSC undertook at the NWIRP included excavation, up to depths of 30 feet below surface, of PCBs and offsite disposal of PCBs. Deposition of Larry L. Leskovjan (January 11, 2007), pp. 43-44 (Exhibit 28); Northern Division Naval Facilities Engineering Command / New York Department of Environmental Conservation, Record of Decision, Naval Weapons Industrial Reserve Plant, Bethpage, New York, Sites 1, 2, 3, NYS Registry 1-30-003B (May 1995), §§ 6-7, pp. 26-37 (Exhibit 40).

103. The remedial measures that NGSC undertook at the Grumman site included soil vapor extraction at the Plant 2 source area. Department of Environmental Conservation, Record



of Decision, Grumman Aerospace, Bethpage Facility, Operable Unit 1 (Inactive Hazardous Waste Site No. 130003A) (March 1995), § 9, Bates No. BETPARK00001, 12 (Exhibit 27).

104. The Facilities Use Contracts between Grumman and the Navy provided that the Navy owned the waste products resulting from Grumman's aircraft manufacturing operations that Grumman performed on behalf of the Navy. Facility Use Contract No. NOW 6116-u, Schedule 400, Section D(a), Bates No. NGSC-TOB0000088, 0000111 (defining "Material" and "Facilities") (Exhibit 30).

105. The Facilities Use Contracts between Grumman and the Navy provided that Grumman was responsible for the disposal of waste from the manufacturing operations that Grumman performed on behalf of the Navy. Facility Use Contract No. NOW 6116-u, Schedule 400, Section D(a), Bates No. NGSC-TOB0000088 (Exhibit 30).

106. The Navy owned some or all the materials used by Grumman in the aircraft operations that Grumman performed for the Navy. Letter from Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials (July 25, 2002), Bates No. NGSC0001786, 1788 ("[a]ny materials placed in these [sludge drying] beds [by NGSC] would have been produced from Government-owned materials, used in Government-owned equipment, following Government specifications for Government contracts") (Exhibit 6).

107. Grumman represented in a communication with the DEC that the Navy supplied material used by Grumman in the aircraft operations that Grumman performed for the Navy. Letter from Larry L. Leskovjan, Manager, Environmental, Safety, Health, and Medical, Northrop Grumman Systems Corp., to Roger Murphy, New York State Department of Environmental

Conservation, Division of Solid and Hazardous Materials (July 25, 2002), Bates No. NGSC0001786, 0001788 (“[a]ny materials placed in these [sludge drying] beds [by NGSC] would have been produced from Government-owned materials, used in Government-owned equipment, following Government specifications for Government contracts”) (Exhibit 6).

108. Other wastes containing hazardous substances that were generated as a result of Grumman’s manufacturing and testing operations for the Navy which were disposed of at the Park included sludge from metal finishing operations, sludge scraped from recharge basins located on the NWIRP, spent rags from paint booth operations, as well as waste oil and jet fuel from fire training exercises. Arcadis G&M, Operable Unit 3 – Remedial Investigation/Feasibility Work Plan, Former Grumman Settling Ponds, Bethpage, New York Site # 1-30-003A (August 18, 2005), Bates No. NGSC-TOB0001568, 1584 (Exhibit 43).

109. Another plant used by Grumman was Plant 3, was located on the NWIRP, and, beginning in the early 1940’s, was utilized by Grumman in connection with a number of aircraft production lines, including alodining and anodizing, cadmium plating, honeycomb pretreatment, tank weld cleaning, “chem” milling and painting. Department of the Navy, Facilities Engineering Command, Initial Assessment Study of NWIRP Bethpage, NY and NWIRP Calverton, NY (December 1986) (Exhibit 44).

110. NGSC, from at least 1940 to 1980, had produced in excess of ninety-eight percent of its output at the Grumman site and the NWIRP for government use. Chart entitled “Grumman Aircraft Production, 1940-1980, Military vs. Non-Military”, Bates No. NGSC-TOB0000143, 144 (Exhibit 45).

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**TOWN OF OYSTER BAY -V- NORTHROP**

**JEAN-PIERRE COFMAN – 2/1/2007**

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CONDENSED TRANSCRIPT AND CONCORDANCE  
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1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
4 -----  
5 TOWN OF OYSTER BAY, Plaintiff,  
6  
7 -against-  
8 NORTHROP GRUMMAN SYSTEMS CORPORATION  
9 (f/k/a Northrop Grumman Corporation),  
10 THE UNITED STATES NAVY and THE UNITED  
11 STATES OF AMERICA, Defendants.  
12  
13 Civil Action No. CV-05-1945  
14 -----  
15 926 Reckson Plaza  
16 Uniondale, New York  
17  
18 February 1, 2007  
19 9:35 a.m.  
20  
21  
22  
23 Deposition of the Defendant, NORTHROP  
24 GRUMMAN SYSTEMS CORPORATION by JEAN-PIERRE  
25 COFMAN, pursuant to Notice, before Jennifer  
Fuchs, a Notary Public of the State of New  
York.  
  
REALTIME REPORTING, INC.  
133 Broadway  
Hicksville, New York 11801  
516-938-4000

1  
2 IT IS HEREBY STIPULATED AND AGREED by  
3 and between the attorneys for the respective  
4 parties herein, that the filing, sealing and  
5 certification of the within deposition be  
6 waived.  
7 IT IS FURTHER STIPULATED AND AGREED that  
8 all objections, except as to the form of the  
9 question, shall be reserved to the time of the  
10 trial.  
11 IT IS FURTHER STIPULATED AND AGREED that  
12 the within deposition may be sworn to and  
13 signed before any officer authorized to  
14 administer an oath with the same force and  
15 effect as if signed and sworn to before the  
16 Court.

19 - oOo -

1  
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18  
19 UNITED STATES ATTORNEY'S OFFICE  
20 Attorney for Defendants The United States Navy  
21 and The United States of America  
22 Eastern District of New York  
23 610 Federal Plaza  
24 Central Islip, New York 11722-4454  
25 BY: ROBERT B. KAMBIC, ESQ.

1  
2 JEAN-PIERRE COFMAN, called  
3 as a witness, having been duly sworn by  
4 a Notary Public, was examined and  
5 testified as follows:  
6 EXAMINATION BY  
7 MR. SMIRTI:  
8 Q. Please state your full name for  
9 the record.  
10 A. Jean-Pierre Cofman.  
11 Q. What is your address?  
12 A. Business, Northrop Grumman  
13 Corporation, Plant 25, Mail Stop Z-18-025,  
14 Bethpage, New York 11714. Home, 2 Koster  
15 Court, Huntington Station, New York 11746.  
16 Q. Mr. Cofman, good morning. My  
17 name is Steve Smirti. I'm with my colleague  
18 Janice Greenberg. We represent the Town of  
19 Oyster Bay in this matter.  
20 I am going to be asking you a  
21 couple of questions today, more than a couple,  
22 and please tell me if you don't understand any  
23 of the questions, and I will try to clarify.  
24 Also, if you would, for the sake of the court  
25 reporter, wait until I am finished asking my

5

1 Cofman  
 2 question before you respond, okay?  
 3 A. Okay.  
 4 Q. Thank you, sir.  
 5 Did you attend college?  
 6 A. Yes.  
 7 Q. Where did you attend?  
 8 A. Bethlehem, Pennsylvania.  
 9 Q. What was the college?  
 10 A. Lehigh University.  
 11 Q. Did you obtain a degree?  
 12 A. Yes.  
 13 Q. In what?  
 14 A. I obtained a bachelor's of  
 15 science in chemical engineering.  
 16 Q. When was that?  
 17 A. In 1969.  
 18 Q. After college did you go to  
 19 graduate school?  
 20 A. Yes, I did.  
 21 Q. Where did you go?  
 22 A. University of Michigan in Ann  
 23 Arbor, Michigan.  
 24 Q. Did you obtain a degree?  
 25 A. Yes, I did.

6

1 Cofman  
 2 Q. What was that?  
 3 A. That was a master's of science in  
 4 civil engineering/water resources.  
 5 Q. When did you get your master's  
 6 degree?  
 7 A. In 1972.  
 8 Q. After the master's degree did you  
 9 attend school?  
 10 A. Yes.  
 11 Q. Where did you go then?  
 12 A. I went to the university of -- I  
 13 think it was called University of Michigan in  
 14 Ypsilanti for one course. I took courses at  
 15 New York Institute of Technology in Westbury.  
 16 I think it was Westbury. I took some courses  
 17 there. I took some courses at Brooklyn  
 18 Polytechnic Institute in -- I think they were  
 19 in Melville. They had an office in Melville.  
 20 I took some courses there, and I think that's  
 21 about it.  
 22 Q. Did you obtain a degree after  
 23 your master's degree from the University of  
 24 Michigan?  
 25 A. No.

7

1 Cofman  
 2 Q. In the course of your studies  
 3 either at Lehigh or the University of Michigan  
 4 or the other schools that you've mentioned,  
 5 did you take courses on environmental  
 6 pollution?  
 7 A. Yes.  
 8 Q. What types of courses?  
 9 A. Well, the course work I took at  
 10 the University of Michigan was in the civil  
 11 engineering department, and it primarily  
 12 involved the water resources and water  
 13 pollution control, so it was a general  
 14 sanitary engineering kind of curriculum, which  
 15 pertains to pollution control and  
 16 environmental issues. At Lehigh I did not  
 17 take any courses in naval areas.  
 18 I did work for a summer for one  
 19 of the professors who was working on a study  
 20 of activated carbon absorption using a  
 21 phenolic substrate, and that was related to  
 22 pollution control. It was to be applied to  
 23 physical chemical treatment of sanitary  
 24 wastewaters.  
 25 At Brooklyn Poly I took a course

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1 Cofman  
 2 on environmental auditing, and also at New  
 3 York Institute of Technology I took a course  
 4 on water resources, mathematical modeling of  
 5 groundwater flow. I think that about covers  
 6 what I've taken there.  
 7 Q. Have you written any papers on  
 8 pollution or water resource control?  
 9 A. No.  
 10 Q. You got your master's degree from  
 11 the University of Michigan in 1971 was it?  
 12 A. '72.  
 13 Q. What did you do after that?  
 14 A. I worked for a consulting firm in  
 15 Ann Arbor.  
 16 Q. What was the name of the firm?  
 17 A. Ayres, Lewis, Norris & May,  
 18 Incorporated.  
 19 Q. What were your responsibilities  
 20 there?  
 21 A. I was doing initially preliminary  
 22 designs on sanitary and industrial wastewater  
 23 treatment facilities, and then I concentrated  
 24 more on writing proposals for public works  
 25 associated with sewage treatment, waterworks,

<p style="text-align: right;">9</p> <p>1 Cofman</p> <p>2 water supply. That's basically it. I'm</p> <p>3 sorry, I also did operation and maintenance</p> <p>4 manuals for sanitary sewage treatment plants.</p> <p>5 Q. What was the business of the</p> <p>6 Ayres firm?</p> <p>7 A. They were consultants to</p> <p>8 municipalities primarily working in standard</p> <p>9 civil engineering work, roadwork, parking</p> <p>10 lots, but primarily in water and wastewater</p> <p>11 engineering.</p> <p>12 Q. How long did you work at the</p> <p>13 Ayres firm?</p> <p>14 A. Five years.</p> <p>15 Q. While you were there were you</p> <p>16 involved in any cleanup of waste sites?</p> <p>17 A. No. When you say "waste sites,"</p> <p>18 just to clarify that, you mean contaminated</p> <p>19 properties?</p> <p>20 Q. Yes.</p> <p>21 A. No.</p> <p>22 Q. Were you involved in cleanup of</p> <p>23 contaminated water?</p> <p>24 A. Yes.</p> <p>25 Q. Tell me what your involvement</p>	<p style="text-align: right;">11</p> <p>1 Cofman</p> <p>2 contaminated water, and this was strictly</p> <p>3 sanitary waste. It wasn't groundwater that</p> <p>4 was being remediated. Typically you refer the</p> <p>5 term remediation to a natural resource, like</p> <p>6 groundwater or soils. With water that's</p> <p>7 coming down the pipe, whether it's storm water</p> <p>8 or sanitary wastewater, it's typical</p> <p>9 treatment, not remediation.</p> <p>10 Q. Did you deal with any remediation</p> <p>11 of groundwater?</p> <p>12 A. No.</p> <p>13 Q. Did you deal with remediation of</p> <p>14 PCBs?</p> <p>15 A. No.</p> <p>16 Q. Remediation involving heavy</p> <p>17 metals?</p> <p>18 A. No.</p> <p>19 Q. So you worked at the Ayres firm</p> <p>20 until approximately 1977?</p> <p>21 A. Yes.</p> <p>22 Q. What did you do then?</p> <p>23 A. Then I started working for a firm</p> <p>24 in Bethpage, New York.</p> <p>25 Q. What firm was that?</p>
<p style="text-align: right;">10</p> <p>1 Cofman</p> <p>2 was.</p> <p>3 A. Well, as I mentioned, the</p> <p>4 preliminary design of works to treat sanitary</p> <p>5 wastes.</p> <p>6 Q. What did you do?</p> <p>7 A. Just that.</p> <p>8 Q. Well, can you explain it to me;</p> <p>9 what kind of work did you do?</p> <p>10 A. Well, I would be -- a typical</p> <p>11 case might be municipality XYZ needs to expand</p> <p>12 their treatment facilities because the</p> <p>13 projections are the population growth is going</p> <p>14 to be such that the flow to the existing</p> <p>15 treatment facility is going to be exceeded in</p> <p>16 X number of years. I would come up with</p> <p>17 typically three alternative ways of expanding</p> <p>18 their facilities to handle the additional</p> <p>19 flows. So I would do preliminary designs on</p> <p>20 those, come up with estimates, and that would</p> <p>21 be submitted to the Town for further</p> <p>22 deliberation.</p> <p>23 Q. At the Ayres firm did you get</p> <p>24 involved in remediation of contaminated water?</p> <p>25 A. Well, it was treatment of</p>	<p style="text-align: right;">12</p> <p>1 Cofman</p> <p>2 A. Grumman Corporation.</p> <p>3 Q. What was your title when you</p> <p>4 first started to work for Grumman?</p> <p>5 A. I think it was chemical engineer.</p> <p>6 Q. And you worked in Bethpage?</p> <p>7 A. Yes.</p> <p>8 Q. Where in Bethpage?</p> <p>9 A. On Stewart Avenue, the building</p> <p>10 was called Plant 30.</p> <p>11 Q. Do you know whether that was on</p> <p>12 property owned by Grumman?</p> <p>13 A. Yes, it was.</p> <p>14 Q. What were your duties as chemical</p> <p>15 engineer?</p> <p>16 A. I did design work for various</p> <p>17 chemical processes that the company used for</p> <p>18 manufacturing, so I would do -- for example, I</p> <p>19 would design a pump for a certain application</p> <p>20 or do the process design work for a metal</p> <p>21 finishing operation, including material</p> <p>22 selection, tank sizing, pumps, piping, valves,</p> <p>23 that kind of thing. I would do the design.</p> <p>24 That would be turned over to a -- I would do</p> <p>25 the engineering design. That would be turned</p>



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1 Cofman  
 2 over to a draftsman who would put a package  
 3 together. I would be involved in purchasing  
 4 equipment, supervising the draftsman,  
 5 reviewing his designs. That was eventually  
 6 all packaged up, and I would be involved then  
 7 in overseeing construction of the facility  
 8 that was under design.

9 Q. Your office was in Plant 30?

10 A. In Plant 30.

11 Q. How long was your office in Plant  
 12 30?

13 A. I don't know exactly. I can give  
 14 you --

15 Q. Approximately, yes.

16 A. I would say about 15 years.

17 Q. So from about 1977 to 1992 or so?

18 A. Yeah, 1990, 1993. I'm not sure  
 19 exactly.

20 Q. What types of operations went on  
 21 in Plant 30?

22 A. It was strictly an office  
 23 building, so the only operations that occurred  
 24 there were office-type operations, including  
 25 my department, which was the facilities

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1 Cofman  
 2 engineering department. So they basically did  
 3 all the engineering for any of the activities  
 4 that were going on in Bethpage or in  
 5 Calverton, which is another facility we ran,  
 6 or other parts of the country for that matter.  
 7 It was all centralized in that office. The  
 8 building also contained procurement  
 9 department, I think it was materials  
 10 department. That's about all I can remember  
 11 that was located at that office.

12 Q. How many plants were there on the  
 13 Grumman-owned property?

14 A. "Plants" meaning buildings?

15 Q. Yes.

16 A. Dozens.

17 Q. Do you know their designations?

18 A. They were normally designated by  
 19 a plant number, so there would be 1 through  
 20 whatever. 77 I think is the highest number I  
 21 can remember, but that included facilities off  
 22 the Bethpage site and off Long Island also.

23 Q. In that 77 number?

24 A. Yes.

25 Q. Approximately how many buildings

1 Cofman  
 2 were on the Grumman-owned site at Bethpage?

3 A. I don't have that number. I  
 4 could estimate it.

5 Q. Just your best estimate.

6 A. Thirty.

7 Q. Now, near or adjacent to the  
 8 Grumman-owned property was there Navy-owned  
 9 property to your knowledge?

10 A. Yes.

11 Q. Did you work on the Navy-owned  
 12 property at all?

13 A. Yes. Some of the duties that I  
 14 worked on involved production facilities in  
 15 the Navy property.

16 Q. What did you do with respect to  
 17 the Navy property?

18 A. The same thing as I just  
 19 described.

20 Q. Did that cause you to go onto the  
 21 Navy property to work?

22 A. Yes. There was very little  
 23 distinction made between the Navy property --  
 24 from my point of view, between the Navy  
 25 property and non-Navy property. All the work

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1 Cofman  
 2 we did was under government contract primarily  
 3 for the Navy. And the first few years I  
 4 worked there it just so happened that yeah,  
 5 that area was known as owned by the Navy, and  
 6 that area was not owned by the Navy, but in  
 7 terms of my duties, there was very little  
 8 difference. The difference primarily came  
 9 in I guess the way the budgets were set up and  
 10 the way upper management dealt with submitting  
 11 proposals and some of the oversight that was  
 12 done by Navy personnel.

13 Q. Grumman did work for the Navy at  
 14 the Bethpage site?

15 A. Yes.

16 Q. Did Grumman also do work for  
 17 individuals or corporations outside of the  
 18 Navy?

19 A. I don't think so.

20 Q. So no private work so to speak?

21 A. No private work.

22 Q. It was all operations with  
 23 respect to Navy contracts, to your  
 24 understanding?

25 A. No. I think there were contracts

<p style="text-align: right;">17</p> <p>1 Cofman</p> <p>2 that were supporting sales of military</p> <p>3 equipment to other nations, and I think there</p> <p>4 was a -- it was channeled through the Navy</p> <p>5 somehow or approved by the Navy, but there was</p> <p>6 definitely work done that the end product did</p> <p>7 not go to the Navy.</p> <p>8 Q. I see, but it was subject either</p> <p>9 to approval or somehow through the Navy?</p> <p>10 A. That's my understanding. I never</p> <p>11 really got very involved in that, but I do</p> <p>12 know, for example --</p> <p>13 MR. TOPOL: Objection. I don't</p> <p>14 want the witness to disclose, and I</p> <p>15 don't think you want him to disclose,</p> <p>16 any specific contracts. We may be</p> <p>17 dealing with national security issues</p> <p>18 here, and you've obviously gotten what's</p> <p>19 a relevant answer.</p> <p>20 MR. SMIRTI: I'm not interested</p> <p>21 in any national security issues.</p> <p>22 Q. Now, you said that your job</p> <p>23 responsibilities would cause you on occasion</p> <p>24 to go onto the Navy property, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">19</p> <p>1 Cofman</p> <p>2 Q. Any way you could, Mr. Cofman. I</p> <p>3 understand that you were at or your office was</p> <p>4 at Plant 30 from 1977 until approximately</p> <p>5 1990, correct?</p> <p>6 A. Yes.</p> <p>7 Q. Let's take that.</p> <p>8 From 1977 to 1990, while your I</p> <p>9 guess permanent office was at Plant 30,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. You had occasion to be at Plant 3</p> <p>13 on the Navy property?</p> <p>14 A. Yes.</p> <p>15 Q. How often would you visit Plant 3</p> <p>16 on the Navy property during that time period?</p> <p>17 A. Once a day sometimes, three times</p> <p>18 a week sometimes. It all depended on what I</p> <p>19 was doing. Sometimes it could be four times a</p> <p>20 day.</p> <p>21 If we were, for example, starting</p> <p>22 up a facility that I had been involved in the</p> <p>23 design of or if there was some problem with a</p> <p>24 facility that I was involved in, when I say</p> <p>25 facility, I am talking about a production</p>
<p style="text-align: right;">18</p> <p>1 Cofman</p> <p>2 Q. Do you recall the buildings that</p> <p>3 you worked in on the Navy property?</p> <p>4 A. Yes.</p> <p>5 Q. What were their designations?</p> <p>6 A. Plant 3 was the major building,</p> <p>7 there was Plant 20, I think there was a plant</p> <p>8 by the designation of Plant 10, I could be</p> <p>9 wrong about that, but it was the laboratory</p> <p>10 facility that was a Navy building. There were</p> <p>11 warehouses north and south of Plant 3 with</p> <p>12 various numbers, I don't recall those numbers,</p> <p>13 maybe 17 and a few others. There was a roads</p> <p>14 and grounds building just to the south of</p> <p>15 Plant 3. That was a Navy building. That's</p> <p>16 about it, as far as Navy buildings. There</p> <p>17 were sometimes small buildings, little sheds</p> <p>18 that were associated with larger buildings.</p> <p>19 No specific designation that I can recall for</p> <p>20 those.</p> <p>21 Q. Can you give me an estimate as to</p> <p>22 how often you were at Plant 3 either in terms</p> <p>23 of number of days --</p> <p>24 A. In terms of what kind of answer</p> <p>25 are you looking for?</p>	<p style="text-align: right;">20</p> <p>1 Cofman</p> <p>2 line, I might be there several times a day or</p> <p>3 all day.</p> <p>4 Q. So it would be rare if you were</p> <p>5 not at Plant 3 at least once or twice or three</p> <p>6 times a week?</p> <p>7 A. Yes.</p> <p>8 Q. How long would you typically be</p> <p>9 at Plant 3 during the course of any week, five</p> <p>10 hours, ten hours, fifteen hours?</p> <p>11 A. I wouldn't be able to say there</p> <p>12 was a typical amount of time. Sometimes it</p> <p>13 would be all day. Sometimes it would just be</p> <p>14 to pick up something.</p> <p>15 Q. What types of operations went on</p> <p>16 in Plant 3?</p> <p>17 A. Well, there was some office</p> <p>18 areas. The Navy had some offices there, we</p> <p>19 had some offices there, but primarily Plant 3</p> <p>20 was a manufacturing operation, so there were</p> <p>21 typically metal finishing operations that</p> <p>22 would be conducted there.</p> <p>23 Q. Anything else?</p> <p>24 A. Riveting, metal bending. There</p> <p>25 were ovens, but all this falls under the</p>

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1 Cofman  
 2 category of metal finishing, anodizing,  
 Alodine works, etching. It was all related to  
 4 the production of metal parts for the  
 5 airplanes.  
 6 Q. Now, how big was Plant 3?  
 7 A. About a million square feet.  
 8 Q. How many people worked in Plant  
 9 3?  
 10 A. I don't know.  
 11 Q. Did you have occasion to work at  
 12 other plants on Navy-owned property, again  
 13 just focusing for now the period 1977 until  
 14 approximately 1990?  
 15 A. Now, when you say work at the  
 16 plants, what do you mean by that?  
 17 Q. Did you visit the plants?  
 18 A. I did visit other plants.  
 19 Q. What was the purpose of the visit  
 20 of plants other than Plant 3 on the Navy  
 21 property?  
 22 A. At times it might be to look over  
 23 a design of something or to prepare for  
 24 designing something. It might be to meet with  
 -- personnel. It might be to inspect some

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1 Cofman  
 2 equipment.  
 3 Q. Do you recall the designation of  
 4 the plants, the other plants that you visited?  
 5 A. Yes.  
 6 Q. What was their designations?  
 7 A. There was the Plant 20 garage,  
 8 which is a Navy facility. There was the  
 9 laboratory, which I think was Plant 10. I  
 10 occasionally met with people from the roads  
 11 and grounds department at their building on  
 12 Navy property. In the mid-'80s there was an  
 13 industrial waste treatment facility built on  
 14 the Navy property, and I was closely involved  
 15 in that design and construction and then the  
 16 operation of that, so I was often at that  
 17 location.  
 18 Very rarely did I have occasion  
 19 to go into the warehouses, but sometimes I  
 20 would if there was some piece of equipment  
 21 that I might become involved in, with rather.  
 I think that's all I can recall.  
 23 THE WITNESS: Excuse me. May I  
 24 get one of those bottles of water?  
 25 MR. SMIRTI: Of course, of

23

1 Cofman  
 2 course.  
 3 THE WITNESS: Thank you.  
 4 Q. At Plant 3 was there an autoclave  
 5 operation?  
 6 A. Yes.  
 7 Q. What's an autoclave operation?  
 8 A. Well, in Plant 3 there was an  
 9 area that was designated the autoclave area,  
 10 and in that area there were -- I'm not sure of  
 11 the exact number, but I think at least three  
 12 autoclaves. That was in the time period I'd  
 13 say -- well, it was certainly there when I  
 14 started working for the company, and I think  
 15 it might have gone on there until mid-'80s.  
 16 Q. You said there were three  
 17 autoclave machines is it?  
 18 A. I'm not sure of the number, but I  
 19 think it was at least three.  
 20 Q. The three autoclave machines were  
 21 in Plant 3 at or about the time that you  
 22 started in Grumman in 1977?  
 23 A. Yes, they were.  
 24 Q. And they were there until did you  
 25 say the late 1980s?

24

1 Cofman  
 2 A. I'm not sure, but I think around  
 3 the mid-'80s. There was an effort to move  
 4 some production facilities to another location  
 5 in the country, and the autoclaves were there  
 6 to support composite structures, composite  
 7 structures as opposed to just strict metal  
 8 structures. The company would make some parts  
 9 out of fiberglass or carbon fibers, just  
 10 composite plastic structures, and the  
 11 autoclaves would support manufacture of  
 12 composite structures. In the '80s the  
 13 composite structure manufacturing operation  
 14 was moved to Milledgeville, Georgia, so during  
 15 that operation some of the autoclaves were  
 16 moved to Georgia, and the autoclave operation  
 17 was phased out in Plant 3.  
 18 Q. Do you have an understanding as  
 19 to how long the autoclave operation was in  
 20 operation before 1977?  
 21 A. Yes, I do.  
 22 Q. What's that understanding?  
 23 A. That the autoclave operation  
 24 started somewhere in the area of 1961. I'm  
 25 not sure if that's when the autoclaves went

<p style="text-align: right;">25</p> <p>1 Cofman</p> <p>2 into full operation or when the construction</p> <p>3 was completed, I don't know exactly what</p> <p>4 phase, but somewhere around 1961 is my</p> <p>5 understanding when the operation started.</p> <p>6 Q. How did you arrive at that</p> <p>7 understanding?</p> <p>8 A. Certainly by talking to people.</p> <p>9 I don't recall exactly. But subsequent to</p> <p>10 that I've discussed the autoclave operation</p> <p>11 with my immediate supervisor, and he had</p> <p>12 discussions with some of our contracts people</p> <p>13 regarding their understanding of when the</p> <p>14 autoclave operation might have been</p> <p>15 implemented, and that information was relayed</p> <p>16 to my supervisor, and then he spoke to me</p> <p>17 about it.</p> <p>18 Q. Let's see if we can get some</p> <p>19 names.</p> <p>20 Who is your supervisor?</p> <p>21 A. Larry L. Leskovjan.</p> <p>22 Q. When did you speak to</p> <p>23 Mr. Leskovjan about the autoclave operation?</p> <p>24 A. Several years ago.</p> <p>25 Q. Did Mr. Leskovjan identify for</p>	<p style="text-align: right;">27</p> <p>1 Cofman</p> <p>2 people with respect to the autoclave</p> <p>3 operation?</p> <p>4 A. Yes. That was much longer ago.</p> <p>5 When I first started working at Grumman, the</p> <p>6 person who sat at the desk in front of me was</p> <p>7 one of the primary engineers involved in</p> <p>8 design of the autoclave and equipment</p> <p>9 associated with the autoclave. I learned</p> <p>10 quite a bit from that man. His name is Jim --</p> <p>11 well, you didn't ask me.</p> <p>12 Q. Please. You anticipated my</p> <p>13 question.</p> <p>14 A. Sorry. His name was Jim Ohrtman,</p> <p>15 O-H-R-T-M-A-N. I'm not sure if there's a</p> <p>16 second N on there or not.</p> <p>17 Q. And you first became acquainted</p> <p>18 with Mr. Ohrtman when?</p> <p>19 A. 1977.</p> <p>20 Q. He was a Grumman employee?</p> <p>21 A. Yes.</p> <p>22 Q. Was he your supervisor at that</p> <p>23 time?</p> <p>24 A. No, no. He was in the same group</p> <p>25 that I was working in, but he was not my</p>
<p style="text-align: right;">26</p> <p>1 Cofman</p> <p>2 you people from whom he received information</p> <p>3 about the autoclave operation?</p> <p>4 A. Yes.</p> <p>5 Q. What were their names, if you</p> <p>6 recall?</p> <p>7 A. The only one that I can recall is</p> <p>8 a man by the name of John DeBois.</p> <p>9 Q. What did Mr. Leskovjan tell you</p> <p>10 about the information he received from John</p> <p>11 DeBois?</p> <p>12 A. I don't recall very much detail</p> <p>13 involved. John DeBois was involved in</p> <p>14 contracts. My understanding was that he</p> <p>15 researched contracts with the Navy associated</p> <p>16 with the autoclave operation and that their</p> <p>17 conclusion was that -- his conclusion was the</p> <p>18 date that I gave you.</p> <p>19 Q. Was Mr. DeBois a Grumman</p> <p>20 employee?</p> <p>21 A. I don't really know his history.</p> <p>22 When I first ran into him, he was a Northrop</p> <p>23 Grumman employee.</p> <p>24 Q. Now, aside from the discussions</p> <p>25 with Mr. Leskovjan, you spoke with other</p>	<p style="text-align: right;">28</p> <p>1 Cofman</p> <p>2 supervisor.</p> <p>3 Q. And you had conversations with</p> <p>4 Mr. Ohrtman about the autoclave equipment?</p> <p>5 A. Yes.</p> <p>6 Q. Over the course of what time</p> <p>7 period did you have discussions with</p> <p>8 Mr. Ohrtman about the autoclave equipment?</p> <p>9 A. Several years at least. I don't</p> <p>10 know the exact number, but I would say four or</p> <p>11 five years.</p> <p>12 Q. As best as you recall, as best as</p> <p>13 you can recall, what were those discussions</p> <p>14 that you had with Mr. Ohrtman about the</p> <p>15 autoclave equipment?</p> <p>16 A. Well, I didn't know much about</p> <p>17 autoclaves at the time, so since he was the</p> <p>18 expert, he would explain to me how they worked</p> <p>19 and the kind of equipment that was involved in</p> <p>20 it, just basically the technology of it.</p> <p>21 Q. Did you talk to Mr. Ohrtman about</p> <p>22 how long the autoclave equipment had been in</p> <p>23 operation?</p> <p>24 A. Yes.</p> <p>25 Q. What did he tell you about that?</p>

29

1 Cofman  
 2 A. That it had been around since  
 early '60s.  
 4 Q. Did he show you any documents  
 5 that indicated that?  
 6 A. No.  
 7 Q. Did you speak with anyone else,  
 8 and now I am talking about the time period  
 9 from 1977 through 19 -- well, I guess the  
 10 early 1980s is when you had these  
 11 conversations with Mr. Ohrtman?  
 12 A. Um-hum.  
 13 Q. Did you speak to anyone else at  
 14 that time about the historic operation of the  
 15 autoclave equipment?  
 16 A. Not that I can recall.  
 17 Q. Do you know if Mr. Ohrtman is  
 18 still employed by Northrop Grumman?  
 19 A. Yes, I do know that he's not.  
 20 Q. He's retired?  
 21 A. He's dead.  
 22 Q. Did you have occasion when you  
 23 were at Plant 3 to view the autoclave  
 24 operation?  
 -- A. Yes, yes.

30

1 Cofman  
 2 Q. Let me make sure I have the right  
 3 designation. It's called an autoclave  
 4 machine?  
 5 A. Well, it's typically referred to  
 6 as an autoclave.  
 7 Q. How big was one autoclave?  
 8 A. I don't have an exact number, but  
 9 I would say these things would be -- if you  
 10 could imagine something that's in the shape of  
 11 a cocoon with dished ends and a tube, maybe  
 12 20, 30 -- 20, 25 feet long and with an  
 13 interior diameter of 10, 12 feet, something  
 14 like that.  
 15 Q. And there were, to your best  
 16 recollection, at least three autoclaves?  
 17 A. I think so, three or four.  
 18 Q. How often did the autoclave run;  
 19 did it run 24 hours a day?  
 20 A. I don't think so, but I don't  
 21 know how often they ran.  
 22 Q. Did it use oil?  
 23 A. It used an oil for its heat  
 24 transfer fluid.  
 25 Q. Do you know the process in which

31

1 Cofman  
 2 it used the oil?  
 3 A. Yes. The autoclave was used to  
 4 heat composite structures for curing, so the  
 5 temperature would go up to -- we brought it up  
 6 to -- I don't know exact numbers, but several  
 7 hundred degrees, maybe 3, 400 degrees, we  
 8 kept -- for a certain period of time, and then  
 9 it would be cooled at a certain rate, and the  
 10 atmosphere inside the autoclave was controlled  
 11 to prevent various chemical oxidations or  
 12 whatever. I'm not sure exactly, but it was a  
 13 controlled environment.  
 14 In order to heat and cool the  
 15 autoclave, the autoclave was pretty much lined  
 16 with tubing, which was used for heating and  
 17 cooling, and so these tubes would be brought  
 18 up to temperature and down to temperature,  
 19 depending on whether heating or cooling was  
 20 required. And the way those tubes were heated  
 21 and cooled was by pushing a fluid through them  
 22 at the desired temperature, and the fluid was  
 23 heated and cooled externally to the autoclave.  
 24 So if the autoclave was to be heated, this oil  
 25 was heated in a heater and then run through

32

1 Cofman  
 2 the autoclave, and of course it would all be  
 3 controlled by various sensors to keep the  
 4 temperature at the right level and have the  
 5 flow of the fluid occur at the right flow  
 6 rate.  
 7 Q. And the idea was that this fluid  
 8 that ran through the tube in the autoclave  
 9 would heat up the autoclave?  
 10 A. It would heat up the autoclave,  
 11 yes, or cool it.  
 12 Q. Or cool it, as the case may be.  
 13 A. Yes. Externally there were  
 14 heaters and there were cooling systems to heat  
 15 and cool the oil. There were pumps and  
 16 valves. There was a lot of piping associated  
 17 with this heating fluid. This heat transfer  
 18 fluid, I'm sorry.  
 19 Q. And the heat transfer fluid ran  
 20 through the tubes that ran through the  
 21 autoclave?  
 22 A. Yes. In addition, it would run  
 23 through something called a platen, and the  
 24 platen was something that the composite  
 25 structure would be placed on. The platen

33

35

1 Cofman  
 2 would be like a large table, but thick and  
 3 with -- the platen would have similar to those  
 4 tubes, some of them were just drilled holes  
 5 through this platen, I'm not sure exactly the  
 6 design of this thing, but it was something  
 7 that would supplement the heating and cooling  
 8 of the autoclave, and the platen would be  
 9 rolled in and out of the autoclave with the  
 10 part in it.  
 11 Q. Do you know the diameter of the  
 12 tube that ran through the autoclave?  
 13 A. No.  
 14 Q. Approximately.  
 15 A. An inch.  
 16 Q. And about how much fluid would be  
 17 in the autoclave as it was running through the  
 18 tube, any idea?  
 19 A. I don't know that.  
 20 Q. Do you know the name of the  
 21 fluid?  
 22 A. I think it was called Therminol.  
 23 Q. To your understanding, did  
 24 Therminol contain PCBs?  
 25 A. Yes.

1 Cofman  
 2 and it would be from these locations it would  
 3 be pumped to the -- and circulated through the  
 4 autoclave.  
 5 So as far as storing of the  
 6 Therminol, I think there were surge tanks  
 7 associated with the process in line, but not  
 8 that -- I don't recall a storage tank for  
 9 Therminol was a standalone storage tank, if  
 10 that's what you're asking.  
 11 Q. Yes, that was.  
 12 Now, I want to go back to what  
 13 you mentioned, I think you said several  
 14 hundred gallons of Therminol.  
 15 A. That would be my guess.  
 16 Q. Was the several hundred gallons,  
 17 was that the amount of Therminol that would be  
 18 used for one autoclave operation?  
 19 A. No. When I referred to several  
 20 hundred gallons, I was referring to the  
 21 capacity of the -- the volumetric capacity of  
 22 the heaters, the heating system and the  
 23 cooling system.  
 24 Q. And Therminol would run through  
 25 the heating system and the cooling system?

34

36

1 Cofman  
 2 Q. Was the Therminol recycled; was  
 3 it reused through the autoclaves?  
 4 A. Yes, yes. It's very much like a  
 5 refrigeration system. If you think of a  
 6 refrigerator, yeah, a refrigerator, it's  
 7 got -- the refrigerator will have Freon  
 8 typically, and it's circulated through coils  
 9 to keep the freezer cold and the refrigerator  
 10 cold, and then part of the loop goes outside,  
 11 and then there's a compressor and a heat  
 12 exchanger on the outside to get rid of the  
 13 heat. So it's a similar kind of operation  
 14 where this fluid would be circulated through,  
 15 and it wouldn't stay in the autoclave.  
 16 Q. Was there a place in or around  
 17 Plant 3 where the Therminol was stored?  
 18 A. I don't know the storage location  
 19 specifically for Therminol. I think there  
 20 were drums of it that were used to top off the  
 21 system, but the system was a relatively  
 22 complicated piping, assemblage of piping,  
 23 valving, pumps, and the heating and cooling  
 24 units would have capacity probably for, you  
 25 know, several hundred gallons of Therminol,

1 Cofman  
 2 A. To be heated and cooled, yes.  
 3 Q. To be heated and cooled, and then  
 4 transmitted to the autoclave?  
 5 A. Yes, right.  
 6 Q. I see.  
 7 A. I also don't want to mislead you.  
 8 I don't think all the autoclaves used this  
 9 heat transfer fluid. If I recall, I think  
 10 there was at least one autoclave that was  
 11 operated strictly electrically, but I think  
 12 the majority of the autoclaves, two or three  
 13 of them, were using the PCB fluid.  
 14 Q. Used the Therminol that contained  
 15 PCBs?  
 16 A. Yes.  
 17 Q. Was the heating and cooling  
 18 system, was that used for all three  
 19 autoclaves?  
 20 A. I'm not sure, but I think so.  
 21 Q. So at any one time in the  
 22 operation of the three autoclave systems there  
 23 would be a few hundred gallons of Therminol  
 24 that was either going from the heating system  
 25 to the cooling system through one or more of

1 Cofman  
 2 the autoclaves?  
 A. I really don't know the capacity  
 4 of the tube in the autoclave, so I can't --  
 5 and I don't know the flow rate that was used  
 6 to push it through. But if you have a  
 7 thousand gallon capacity in the heating tank  
 8 and you're pumping from that heating tank to  
 9 the autoclave, you know, if you're pumping at  
 10 5 gallons a minute, all you can talk about is  
 11 the rate, not so much the volume that is  
 12 involved.

13 Q. But again, it was a closed  
 14 system?

15 A. Yes.

16 Q. So at any one time in that system  
 17 from the heating system, the cooling system to  
 18 the piping in the autoclaves there would be  
 19 several hundred gallons?

20 MR. TOPOL: Objection to the  
 21 form. Is that a statement or a  
 22 question?

23 MR. SMIRTI: It's a question.  
 24 Everything I say to the witness is a  
 25 question.

1 Cofman  
 2 A. I think there were quite a bit  
 3 more than that. That was the capacity I think  
 4 of the -- when I'm talking about several  
 5 hundred gallons, it could be 500. I'm talking  
 6 to the heating loop. There might be another  
 7 certain volume for the cooling side of the  
 8 operation, some surge tanks. So I don't  
 9 really know the volume, total volume, that was  
 10 involved in the system, but I would guess it  
 11 was at least several thousand gallons.

12 Q. Several thousand gallons of  
 13 Therminol in the system, correct?

14 A. In the whole system.

15 Q. And again, the whole system  
 16 comprising the heating system, the cooling  
 17 system and the tubing that ran through the --

18 A. The piping, yes.

19 Q. -- the piping that ran through  
 20 the autoclaves?

21 A. And the external piping.

22 Q. And the external piping.

23 A. And surge tanks or whatever other  
 24 piping was associated with these things. And  
 25 again, that's an estimate. I never worked

1 Cofman  
 2 directly on the autoclave, as far as its  
 3 production or operation. This is just what  
 4 I've learned from being in the area and  
 5 speaking to my compatriots.

6 Q. And speaking to people who ran  
 7 the autoclave system?

8 A. Mostly speaking to the engineers  
 9 that were involved. I had very little contact  
 10 with the operators, other than just if I was  
 11 in the area, you know, being friendly, but not  
 12 a business relationship.

13 Q. Were the operators employed by  
 14 Grumman?

15 A. Yes.

16 Q. Were there any Navy employees in  
 17 Plant 3, who worked in Plant 3?

18 A. I think so, yes.

19 Q. Do you know what their  
 20 responsibilities were?

21 A. Not really.

22 Q. Do you have an understanding as  
 23 to whether there were ever any leaks of the  
 24 Therminol?

25 A. Yes.

1 Cofman  
 2 Q. What's that understanding?

3 A. That there were leaks.

4 Q. What's your understanding as to  
 5 how they occurred?

6 A. I don't really know exactly.  
 7 I've never witnessed it specifically, but in a  
 8 system as complicated as the piping that I  
 9 just described for the autoclave system,  
 10 especially because we were operating at -- the  
 11 equipment was operating at elevated  
 12 temperatures and then lower temperatures, it's  
 13 pretty hard on the mechanical components, so  
 14 things such as valves and pumps would require  
 15 maintenance on a periodic basis. And of  
 16 course all this was filled with fluid, so when  
 17 you -- when you do maintenance on these  
 18 things, you might have a leaking valve or a  
 19 leaking pump seal, that would cause fluid to  
 20 leave the piping, land on the floor.

21 During maintenance, if some piece  
 22 of equipment was taken out, they would try  
 23 to -- the maintenance would try to drain the  
 24 system first, but there's always residual  
 25 leftover, so when you take the piping apart

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1 Cofman  
 2 there would be some fluid that might hit the  
 3 floor, and I think that's pretty much the  
 4 nature. I'm not aware of any specific  
 5 accident that occurred or major rupture that  
 6 would have released large quantities in one  
 7 fell swoop.  
 8 Q. You just mentioned about draining  
 9 the system.  
 10 A. Yes.  
 11 Q. How many gallons would have to be  
 12 released in order to drain the system?  
 13 A. Well, when you say "released,"  
 14 you mean removed from the system?  
 15 Q. Yes.  
 16 A. This would go into like a surge  
 17 tank or a storage -- temporary storage area,  
 18 storage tank. I couldn't say.  
 19 Q. You personally did not witness  
 20 any leaks of the Therminol?  
 21 A. No.  
 22 Q. But your knowledge about leaks of  
 23 the Therminol comes from discussing it with  
 24 colleagues?  
 25 MR. TOPOL: Objection, asked and

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1 Cofman  
 2 answered.  
 3 You can answer if you want to.  
 4 A. From that, from observation of  
 5 the way piping and equipment was maintained at  
 6 the facility. That's basically -- and we've  
 7 also seen contamination outside the Plant 3  
 8 facility in areas that would indicate that it  
 9 came from the autoclave.  
 10 Q. Do you know whether there was any  
 11 record that was regularly kept by Grumman with  
 12 respect to leaks in the autoclave system?  
 13 A. No.  
 14 Q. There was no record?  
 15 A. I'm not aware of a record.  
 16 Q. Where was the temporary storage  
 17 tank located?  
 18 A. I think it was located in the  
 19 same general area of the autoclave operations.  
 20 Q. Were there leaks from the  
 21 temporary storage tank?  
 22 A. I don't know.  
 23 Q. Were there floor drains in Plant  
 24 3?  
 25 A. It's my understanding that there

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1 Cofman  
 2 were floor drains in Plant 3.  
 3 Q. Were they in the area of the  
 4 autoclave, autoclaves?  
 5 A. To my knowledge, there was at  
 6 least one drain, perhaps more, in the area of  
 7 the autoclaves.  
 8 Q. What were the drains for?  
 9 A. They were to convey any fluid  
 10 that landed on the floor outside the building  
 11 to a -- again, from my understanding, it was  
 12 originally a dry well, which was subsequently  
 13 turned into part of a storm water collection  
 14 system.  
 15 Q. So the fluid flowed into the  
 16 drains, the fluid from the floor on Plant 3  
 17 flowed into the drains on the floor?  
 18 A. Say that again, please.  
 19 Q. I'm sorry. I'm trying to trace  
 20 if there was fluid on the floor of Plant 3, it  
 21 flowed into the drain?  
 22 A. It could.  
 23 Q. It could flow into the drain?  
 24 A. It could flow into the drain.  
 25 Normally there would be precautions taken,

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1 Cofman  
 2 such as rags or whatever, but -- for example,  
 3 if maintenance is breaking apart some piping,  
 4 they would certainly put a bucket underneath  
 5 the broken connection. But yes, if something  
 6 landed on the floor, if sufficient quantities  
 7 that would flow and it found its way to the  
 8 drain, it would go to that drain, yes.  
 9 Q. From the drain it went to where?  
 10 A. Outside the building.  
 11 Q. Outside the building to where?  
 12 A. Initially it went to a dry well.  
 13 Q. Below the surface?  
 14 A. Yes.  
 15 Q. How big was the dry well?  
 16 A. I don't know exactly, but they  
 17 were all pretty much the same, invert  
 18 elevation of perhaps 15, 20 feet below ground  
 19 surface, maybe 8 foot diameter ring.  
 20 Q. Did you have occasions to view  
 21 these dry wells?  
 22 A. Not directly, no.  
 23 Q. How many dry wells were there?  
 24 A. That the drain from the autoclave  
 25 went to?



45

1 Cofman  
 2 Q. Yes, sir.  
 3 A. Well, before the storm water  
 4 collection system came in I think there was  
 5 just one. But once the storm water piping was  
 6 connected, it connected a number of dry wells.  
 7 There were dry wells -- if you can imagine  
 8 Plant 3, there were dry wells outside the  
 9 building, and at some point in time, I don't  
 10 know when, a storm water sewer was run along  
 11 the outside of the building which connected  
 12 these dry wells. It would also take roof --  
 13 drainage from roof leaders, and that storm  
 14 water was then conveyed to on-site recharge  
 15 basins.  
 16 Q. How big was the floor drain by  
 17 the autoclaves?  
 18 A. I don't know.  
 19 Q. Were there transformers at Plant  
 20 3?  
 21 A. To the best of my knowledge there  
 22 were, although I'm not intimately familiar  
 23 with their location or number.  
 24 Q. Do you have any estimate as to  
 25 how many?

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1 Cofman  
 2 A. No.  
 3 Q. How did you come to an  
 4 understanding there were transformers at Plant  
 5 3?  
 6 A. Well, in the middle of the '80s  
 7 or a little bit later than the mid-'80s my  
 8 responsibilities migrated more into a -- at  
 9 the environmental department of the  
 10 corporation, and so I was associated with  
 11 individuals that were responsible for  
 12 retrofitting transformers, if they were  
 13 suspected to contain PCB transfer fluid. And  
 14 discussions with those people, seeing what  
 15 they were doing or in staff meetings where we  
 16 would discuss what they were doing, the  
 17 transformers at Plant 3 were touched on by the  
 18 individuals who were responsible for  
 19 retrofitting them.  
 20 Q. What do you mean by retrofitting  
 21 the transformers?  
 22 A. Well, back in time transformers  
 23 typically had -- many transformers typically  
 24 had heat transfer fluid to allow them to be  
 25 cooled through heat exchangers, and that heat

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1 Cofman  
 2 transfer fluid would often be PCB containing.  
 3 Q. What does it mean to retrofit  
 4 transformers?  
 5 A. Oh. I think in the early '80s  
 6 there was -- late '70s, people became aware  
 7 that PCBs were a dangerous material, and  
 8 legislation was passed to prevent the  
 9 manufacture of PCBs, sale of PCBs, and then  
 10 through a phased-in approach to eliminate the  
 11 usage of PCBs in transformers and PCB  
 12 containing equipment, such as autoclaves. And  
 13 you could just get rid of the stuff, that was  
 14 one alternative, but if you wanted to keep the  
 15 equipment, you would have to retrofit it so  
 16 that it would use a different heat transfer  
 17 fluid that did not contain PCBs. So that  
 18 involved draining the system, flushing it,  
 19 testing it, draining it again, flushing it  
 20 again, doing that until you got below a  
 21 certain regulatory level for the concentration  
 22 remaining, and that's what was called  
 23 retrofitting.  
 24 Q. Did you personally participate in  
 25 retrofitting transformers?

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1 Cofman  
 2 A. No.  
 3 Q. Grumman did, though?  
 4 A. Yes.  
 5 Q. Do you know where the  
 6 retrofitting operation took place?  
 7 A. No. Let me back that. I think  
 8 some took place where the transformers were.  
 9 Some transformers -- other than that I don't  
 10 know. I suspect some of them may have been  
 11 removed and then retrofitted and put back in  
 12 place, but I don't really know.  
 13 Q. Do you know whether there was any  
 14 retrofitting of transformers at Plant 3?  
 15 A. I don't know.  
 16 Q. Who would you go to to find out  
 17 about the retrofitting operation that Grumman  
 18 performed?  
 19 A. I don't really know. The people  
 20 that were involved are no longer with the  
 21 company. I suppose a search could be done to  
 22 see if their files were available. I'm not  
 23 sure.  
 24 Q. To your understanding there was  
 25 retrofitting that Grumman performed on the

<p style="text-align: right;">49</p> <p>1 Cofman</p> <p>2 Navy property?</p> <p>3 MR. TOPOL: Objection.</p> <p>4 Mr. Smirti, you asked a specific</p> <p>5 question on that twice. The witness</p> <p>6 answered your specific question. Now</p> <p>7 you're asking the same question a third</p> <p>8 time.</p> <p>9 MR. SMIRTI: I think I asked</p> <p>10 Plant 3. Now I'm asking about the Navy</p> <p>11 property.</p> <p>12 Q. Do you have an understanding as</p> <p>13 to whether Grumman performed any retrofitting</p> <p>14 operations on the Navy property?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know whether Grumman</p> <p>17 performed any retrofitting operations on the</p> <p>18 Grumman property?</p> <p>19 A. I'm not sure.</p> <p>20 Q. But your best understanding is</p> <p>21 that there was some retrofitting operations</p> <p>22 that were performed on site?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have an understanding as</p> <p>25 to what would be done with the PCB-containing</p>	<p style="text-align: right;">51</p> <p>1 Cofman</p> <p>2 operations where parts would be heat treated,</p> <p>3 metal parts would be heat treated in ovens.</p> <p>4 Also in the front of the plant there was a</p> <p>5 conversion coat operation known by the trade</p> <p>6 name of Alodine or Alodine. It was a process</p> <p>7 line to provide Alodine coating, and that</p> <p>8 would involve half a dozen or more tanks in</p> <p>9 one line which would be used to deoxidize and</p> <p>10 basically prepare the surface for this coating</p> <p>11 operation and then dry it afterwards.</p> <p>12 Towards the middle of the plant</p> <p>13 there was a process line for I think testing</p> <p>14 leaks on fuel tanks. Moving towards the back</p> <p>15 of the facility, the Plant 3 facility, there</p> <p>16 was a sulfuric acid anodize line, a chromic</p> <p>17 acid anodize line, a honeycomb pretreatment</p> <p>18 line. The honeycomb pretreatment line was</p> <p>19 more in the middle, but each of these are tank</p> <p>20 lines, each of which was comprised of half a</p> <p>21 dozen or more tanks.</p> <p>22 There was a flow coat operation,</p> <p>23 as it was known, which was basically a process</p> <p>24 whereby metal parts were dipped into a rubber</p> <p>25 maskant, and then some of the maskant would be</p>
<p style="text-align: right;">50</p> <p>1 Cofman</p> <p>2 fluid that was drained from the transformer</p> <p>3 during the retrofitting process?</p> <p>4 A. Yes.</p> <p>5 Q. What's that understanding?</p> <p>6 A. It would be disposed of through a</p> <p>7 licensed contractor, disposed of in accordance</p> <p>8 with regulations, typically incineration.</p> <p>9 Q. Do you have an understanding as</p> <p>10 to whether there were leaks that were</p> <p>11 discovered during the retrofitting process?</p> <p>12 A. No.</p> <p>13 Q. Were there operations at Plant 3</p> <p>14 other than autoclave operations?</p> <p>15 A. Yes, there were.</p> <p>16 Q. What were the other operations at</p> <p>17 Plant 3?</p> <p>18 A. I wouldn't be able to tell you</p> <p>19 all of them. Do you want me to tell you the</p> <p>20 ones I remember?</p> <p>21 Q. Please, whatever you know, sir,</p> <p>22 whatever you can recall.</p> <p>23 A. Okay. In the front of the plant,</p> <p>24 which would be the -- I guess that would be</p> <p>25 the northern side, there were heat treating</p>	<p style="text-align: right;">52</p> <p>1 Cofman</p> <p>2 removed from the metal part, and then the</p> <p>3 parts would be brought over to a chemical</p> <p>4 milling line, also in Plant 3, where the parts</p> <p>5 would be dipped into these tanks, and by</p> <p>6 chemical action some of the metal would be</p> <p>7 dissolved where the maskant had been removed.</p> <p>8 So there's the flow coat</p> <p>9 operation, chemical milling operation, there</p> <p>10 was a sulfuric anodize line. I don't know if</p> <p>11 I mentioned that already. There were</p> <p>12 degreasing operations associated within these</p> <p>13 tank lines, there were paint booths and paint</p> <p>14 tunnels and all the mechanical equipment</p> <p>15 associated with the painting operations. One</p> <p>16 of the painting operations was a mechanized</p> <p>17 automated process line that would -- like a</p> <p>18 conveyor belt.</p> <p>19 There was a lot of machining that</p> <p>20 was done in Plant 3, so there would be large</p> <p>21 machines that would be used for cutting,</p> <p>22 milling, drilling, riveting, that kind of</p> <p>23 thing. I think that covers the general areas.</p> <p>24 Of course each of these areas had -- each of</p> <p>25 these process lines or operations, you know,</p>

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1 Cofman  
 2 had many parts to them. I am just giving you  
 the overall.  
 4 MR. SMIRTI: Sure, the overview.  
 5 MR. TOPOL: Counsel, could we  
 6 take a short rest room break?  
 7 MR. SMIRTI: Absolutely.  
 8 (Recess taken at 10:32 a.m.)  
 9 (Examination resumed at 10:42  
 10 a.m.)  
 11 Q. Mr. Cofman, was there an area on  
 12 the Navy property known as the drum  
 13 marshalling area?  
 14 A. Yes.  
 15 Q. Can you describe that?  
 16 A. It was a -- essentially a slab --  
 17 a concrete slab with a roof over it, but it  
 18 was open on the sides.  
 19 Q. What was the area of the slab,  
 20 approximately?  
 21 A. 100 by 300 feet.  
 22 Q. Was there always a slab?  
 23 A. When you say "Was there always a  
 24 slab"?  
 -- Q. Well, to your understanding, did

54

1 Cofman  
 2 the drum marshalling area always have a slab?  
 3 A. Oh, yes. Yes, yes, it did.  
 4 Q. Was there anything stored on the  
 5 drum marshalling area?  
 6 A. Yes.  
 7 Q. What was on it?  
 8 A. Drums of waste or typically --  
 9 yeah, drums of waste were stored there.  
 10 Q. How big were the drums?  
 11 A. 55 gallon drums. There may have  
 12 been 30 gallon and smaller containers, but 90  
 13 percent of what was stored there I would say  
 14 was -- at least 90 percent were 55 gallon  
 15 drums.  
 16 Q. What was in the drums?  
 17 A. Waste.  
 18 Q. What kind of waste?  
 19 A. Any waste we have would go to the  
 20 drum marshalling area.  
 21 Q. From which plants?  
 22 A. From plants -- from any of the  
 23 plants in the Bethpage facility and even some  
 24 of the other Long Island facilities.  
 25 Q. Would there be any Therminol in

55

1 Cofman  
 2 any of the drums?  
 3 A. I don't know.  
 4 Q. On how many occasions did you  
 5 view the drum marshalling area?  
 6 A. I don't know.  
 7 Q. Did you ever see leaks from the  
 8 drums at the drum marshalling area?  
 9 A. No.  
 10 Q. You never did?  
 11 A. No.  
 12 Q. Are there any documents to your  
 13 understanding that are maintained with respect  
 14 to the drum marshalling area?  
 15 A. I know that there were documents  
 16 that were maintained when the drum marshalling  
 17 area was in operation, if that's what you're  
 18 asking me.  
 19 Q. Yes. What kind of documents?  
 20 A. There were inventories and  
 21 documents on laboratory results of tests taken  
 22 on the contents of the drums.  
 23 Q. Who maintained those documents?  
 24 A. It was maintained by the -- I'm  
 25 trying to think of the right term of that

56

1 Cofman  
 2 group, environmental operations group and also  
 3 the environmental -- let's see, a group known  
 4 as environmental technology and compliance I  
 5 think. That was the environmental engineering  
 6 group.  
 7 Q. Did you ever have any discussions  
 8 with anyone where it was indicated to you that  
 9 there was leakage that took place at the drum  
 10 marshalling area?  
 11 A. Not to my recollection.  
 12 Q. When was the drum marshalling  
 13 area first put in place?  
 14 A. I don't really know exactly.  
 15 Q. Approximately.  
 16 A. 1981.  
 17 Q. Until when?  
 18 A. I think it was in the early '90s  
 19 that that facility was decommissioned.  
 20 Q. And all the drums removed?  
 21 A. Oh, yes.  
 22 Q. But from 1981 until 1990 it was  
 23 in use?  
 24 A. Those dates are approximate, yes.  
 25 Q. About how many drums were on the

<p style="text-align: right;">57</p> <p>1 Cofman</p> <p>2 drum marshalling area?</p> <p>3 A. On average you're saying?</p> <p>4 Q. On average, sure.</p> <p>5 A. I would guess 600, 700, something</p> <p>6 like that.</p> <p>7 Q. Was there waste from the Grumman</p> <p>8 property that was in the drums or some of the</p> <p>9 drums on the drum marshalling area?</p> <p>10 A. Yes.</p> <p>11 Q. And the Navy property?</p> <p>12 A. Yes.</p> <p>13 Q. Before 1981 was there another</p> <p>14 place on the Navy property where the drums</p> <p>15 were stored?</p> <p>16 A. I think there was, but I'm not</p> <p>17 sure.</p> <p>18 Q. Was there a place on the Grumman</p> <p>19 property where the drums were stored?</p> <p>20 A. I think there was there too, but</p> <p>21 I'm not sure of that.</p> <p>22 Q. Was there an automotive</p> <p>23 maintenance facility on the Navy property?</p> <p>24 A. Yes.</p> <p>25 Q. What was that?</p>	<p style="text-align: right;">59</p> <p>1 Cofman</p> <p>2 system. I don't know where those drums were</p> <p>3 kept before the Therminol was used. It could</p> <p>4 have been on the Navy property.</p> <p>5 Q. Now, with respect to the Grumman</p> <p>6 property, again from 1977 until approximately</p> <p>7 1990, you worked at Plant 20, correct?</p> <p>8 A. No.</p> <p>9 Q. I'm sorry. What plant?</p> <p>10 A. 30.</p> <p>11 Q. 30, sorry. Was there a Plant 12</p> <p>12 on the Grumman property?</p> <p>13 A. There was a Plant 12. It was not</p> <p>14 contiguous with the main Bethpage facility,</p> <p>15 but it was kind of across the street, so there</p> <p>16 was a Plant 12 which was Grumman property.</p> <p>17 Q. Did you have occasion to view</p> <p>18 Plant 12?</p> <p>19 A. Yes.</p> <p>20 Q. How often would you go to Plant</p> <p>21 12?</p> <p>22 A. I couldn't put a number on it,</p> <p>23 because it varied so much between the years.</p> <p>24 I was not there on a regular basis.</p> <p>25 Q. Between 1977 and 1990 --</p>
<p style="text-align: right;">58</p> <p>1 Cofman</p> <p>2 A. That was Plant 20.</p> <p>3 Q. What operations took place there?</p> <p>4 A. Maintenance of Grumman vehicles.</p> <p>5 It was a garage facility, and also fueling of</p> <p>6 those vehicles and washing of those vehicles.</p> <p>7 Q. Now, aside from the operation of</p> <p>8 the three autoclaves on the Navy property, was</p> <p>9 there any other operation on the Navy property</p> <p>10 to your understanding that used any fluid</p> <p>11 containing PCBs?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Aside from what you've described</p> <p>14 in the autoclave operation and the storage of</p> <p>15 Therminol containing PCBs in Plant 3, was</p> <p>16 there any other place on the Navy property</p> <p>17 where Therminol was stored?</p> <p>18 A. I don't know.</p> <p>19 Q. Was there any other place on the</p> <p>20 Navy property where any fluid containing PCBs</p> <p>21 was stored?</p> <p>22 A. Other than the autoclave, I</p> <p>23 really don't know if there were. Shipments of</p> <p>24 drums make up Therminol would be required, you</p> <p>25 know, to fill the system or to make up the</p>	<p style="text-align: right;">60</p> <p>1 Cofman</p> <p>2 A. Oh, between 19 --</p> <p>3 Q. Yes.</p> <p>4 -- approximately how often would</p> <p>5 you be at Plant 12?</p> <p>6 A. Probably not more than once a</p> <p>7 month.</p> <p>8 Q. Did you have occasion to view the</p> <p>9 operations of Plant 12?</p> <p>10 A. Yes.</p> <p>11 Q. What were the operations in Plant</p> <p>12 12?</p> <p>13 A. Well, there were several</p> <p>14 buildings that comprised Plant 12 complex.</p> <p>15 One of the buildings was engineering</p> <p>16 development, materials development in nature,</p> <p>17 and the remaining buildings included a boiler</p> <p>18 plant for heating the facility, and there were</p> <p>19 also -- that's where the -- it was at the</p> <p>20 Plant 12 facility that the main maintenance</p> <p>21 operation, maintenance personnel, had their</p> <p>22 shops, so there would be a carpenter shop,</p> <p>23 metal shop, metal fabrication shop, I think</p> <p>24 there was a paint shop there, but these are</p> <p>25 all maintenance kind of related operations,</p>

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1 Cofman  
 2 not production operations.  
 3 Q. Was any fluid or substance  
 4 containing PCBs used at Plant 12?  
 5 A. Not that I know of.  
 6 Q. Did you come to any understanding  
 7 that PCBs were used at Plant 12?  
 8 A. Not that I know of.  
 9 Q. Did you have any understanding  
 10 that PCBs or any fluid or substance containing  
 11 PCBs were used on any portion of the Grumman  
 12 property?  
 13 A. Other than the likelihood of  
 14 transformers, I can't say that I know of any.  
 15 Q. What do you know about  
 16 transformers?  
 17 A. There were transformers at the  
 18 Bethpage site, as I've discussed before.  
 19 Q. On the Grumman property?  
 20 A. Yes.  
 21 Q. You don't know where those  
 22 transformers were?  
 23 A. I know where some were.  
 24 Q. Okay. Where were those?  
 25 A. There were some transformers that

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1 Cofman  
 2 were located just south of Plant 30, across  
 3 the street from the access road that runs  
 4 along Plant 30 known as Cherry Avenue  
 5 Extension. I know they were there because I  
 6 worked at Plant 30 and I saw them.  
 7 Q. That was on Grumman property?  
 8 A. Yes.  
 9 Q. How many transformers?  
 10 A. Two. They were like two boxes.  
 11 Q. When did you see them?  
 12 A. In the '70s and '80s.  
 13 (Cofman Exhibit 1, Document Bates  
 14 stamped BETPARK 200 through BETPARK 203,  
 15 marked for identification.)  
 16 Q. Mr. Cofman, let me just put this  
 17 question on the record, and I will just state  
 18 for the record I've handed you Cofman Exhibit  
 19 1. Please take a moment to take a look  
 20 through Cofman Exhibit 1, sir.  
 21 (Witness perusing document.)  
 22 Q. Mr. Cofman, have you seen Cofman  
 23 Exhibit 1 before?  
 24 A. Yes, I have.  
 25 Q. When did you first see it?

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1 Cofman  
 2 A. I think I saw it before it was  
 3 submitted to the State.  
 4 Q. Did you participate in the  
 5 preparation of this letter?  
 6 A. What do you mean by the  
 7 preparation of the letter?  
 8 Q. Well, did you draft the letter?  
 9 A. No.  
 10 Q. Did you help draft the letter?  
 11 A. No.  
 12 Q. Did you comment on the letter?  
 13 A. Yes.  
 14 Q. When did you comment on the  
 15 letter?  
 16 A. Before it was sent. I don't know  
 17 exactly when.  
 18 Q. Who did you give comments to?  
 19 A. Certainly my boss. I don't know  
 20 if there's anybody else involved.  
 21 Q. Who was your boss at the time?  
 22 A. Larry Leskovjan.  
 23 Q. What did you talk to  
 24 Mr. Leskovjan about concerning the letter?  
 25 A. I don't recall.

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1 Cofman  
 2 Q. Let me direct your attention,  
 3 please, to page 3 of the letter, paragraph  
 4 numbered 5 starting with the words "From the  
 5 currently available information." Do you see  
 6 that, sir?  
 7 A. Yes.  
 8 Q. Did you discuss with  
 9 Mr. Leskovjan any of the information contained  
 10 in paragraph 5 --  
 11 A. I think I did.  
 12 Q. -- before preparation of the  
 13 letter?  
 14 A. Yes.  
 15 Q. Did you tell Mr. Leskovjan that  
 16 some of the PCBs and metals detected within  
 17 the Bethpage Park property may have originated  
 18 from Navy and Grumman property and production  
 19 lines as a result of operations supporting  
 20 military production contracts?  
 21 A. I don't remember specifically,  
 22 but I very well could have.  
 23 Q. Let's go to the next sentence.  
 24 Did you talk to Mr. Leskovjan about the  
 25 autoclave operations?

65

1 Cofman

2 A. Yes.

3 Q. Did you tell Mr. Leskovjan that

4 you believed that the PCBs came from the

5 autoclave operations in Plant 3?

6 A. I don't think I would have said

7 that exactly.

8 Q. What do you recall saying?

9 A. Well, I would -- I don't recall

10 exactly, but I think I would have said that

11 they may have come from the Plant 3 operation.

12 Q. Continuing on in that sentence,

13 Mr. Cofman, did you talk to Mr. Leskovjan

14 about occasional leaks and discharges of PCBs?

15 A. I think I did.

16 Q. What did you tell him about that?

17 A. That it was not unlikely that

18 maintenance operations at the autoclaves would

19 have resulted in leakage of fluid.

20 Q. What else did you tell him about

21 leakage?

22 A. I don't recall anything other

23 than that.

24 Q. Did you tell him the extent of

25 the leaks?

66

1 Cofman

2 A. No.

3 Q. Did you tell Mr. Leskovjan as to

4 whether any other person observed leaks or

5 discharges?

6 A. No.

7 Q. Look at the next phrase after

8 operations in Plant 3. It says, "which

9 previously testing suggests." Did you talk to

10 Mr. Leskovjan about any previous testing that

11 suggested that there were leaks in the

12 autoclave system?

13 A. Yes.

14 Q. What did you say about that?

15 A. We had done testing of a dry well

16 outside of the building in the area of the

17 autoclave, which I've discussed with you

18 earlier, and that dry well was investigated

19 and found to have PCB contamination in it, and

20 that to me indicated that there was a good

21 likelihood that the PCB contamination in that

22 dry well was associated with the operation of

23 the autoclave.

24 Q. That's the dry well that the

25 drain in the floor at Plant 3 led to?

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1 Cofman

2 A. Yes.

3 Q. When was the testing done?

4 A. I don't recall.

5 Q. Approximately.

6 A. In the late '80s or early '90s.

7 No, let me correct that. I would think it was

8 in the '90s.

9 Q. Who did the testing?

10 A. It was a consulting firm, and my

11 recollection that it was Roux Associates,

12 R-O-U-X.

13 Q. What prompted the testing?

14 A. There came a time when we decided

15 to cease operations on the Navy property, and

16 in conjunction with turning the property back

17 over to the Navy we did a environmental

18 investigation of all the buildings and the

19 property to determine whether there was any

20 contamination, and it was in doing that

21 that -- the environmental investigation, there

22 are a number of steps that are done in the

23 environmental investigation, and the initial

24 steps indicated that there was a potential for

25 contamination to have reached this dry well,

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1 Cofman

2 and subsequently the next step of the

3 environmental investigation was involving

4 conducting testing, and that's how it came

5 about.

6 Q. Did you have any role in the

7 testing?

8 A. Yes, I did.

9 Q. What was that role?

10 A. Well, not the -- not in the

11 initial testing, but once contamination had

12 been found in that storm drain, some

13 remediation was done, and the State in

14 evaluating the level of decontamination that

15 was done to that dry well requested that

16 additional decontamination be done, and it was

17 at that point I became involved in the project

18 of investigating the remaining contamination

19 in the dry well.

20 Q. Again, what time period are we

21 talking about; is that early '90s I think you

22 said, sir?

23 A. I would have to guess the

24 mid-'90s.

25 Q. What was your job title at that

1 Cofman  
 2 point?  
 3 A. I don't recall.  
 4 Q. So what did you do once the  
 5 contamination was found?  
 6 A. Well, it was -- what we had to do  
 7 was fully delineate the contamination, so  
 8 there were several rounds of testing that were  
 9 done of the soil at depth and also groundwater  
 10 that was coming to and from the area to  
 11 determine whether PCBs were impacting not only  
 12 the soil but also groundwater, and my  
 13 responsibility was strictly to do this  
 14 investigation.  
 15 Q. What did you do?  
 16 A. So a report resulted, and that  
 17 was the end of that.  
 18 Q. What did you do in the course of  
 19 the investigation?  
 20 A. Just media sampling and analysis.  
 21 Q. Were you involved in any effort  
 22 to trace the source of the PCB contamination  
 23 in the dry well?  
 24 A. No.  
 25 Q. When you were doing the

1 Cofman  
 2 A. Yes.  
 3 Q. But any fluid or any matter that  
 4 flowed into the dry well would have only been  
 5 from Plant 3?  
 6 A. I think so, although I guess  
 7 under abnormal storm conditions there might  
 8 have been a general flooding of the area, and  
 9 who knows what would have gotten there from  
 10 that condition, but I don't know of that  
 11 happening. That's just conceptual.  
 12 Q. As part of your investigation did  
 13 you determine whether there were leaks and  
 14 discharges of PCBs on the floor of Plant 3?  
 15 A. I was not involved in that  
 16 investigation.  
 17 Q. Who was?  
 18 A. I'm not sure.  
 19 Q. Now, continuing on on that  
 20 sentence, sir, let's take it from the top. It  
 21 says that "The PCBs are believed to have come  
 22 from the autoclave operations in Plant 3,  
 23 which previously testing suggests experienced  
 24 occasional leaks or discharges that were  
 25 captured by floor drain systems routing them

1 Cofman  
 2 investigation, you knew that the floor drain  
 3 in Plant 3 led directly to the dry well?  
 4 A. I knew that the floor drain had  
 5 led to the dry well. The floor drain had been  
 6 removed by the time I was involved in the  
 7 investigation.  
 8 Q. Did you investigate whether PCBs  
 9 got into the dry well from any source other  
 10 than Plant 3?  
 11 A. No.  
 12 Q. Was there any other conduit to  
 13 the dry well other than the drain from the  
 14 floor at Plant 3?  
 15 A. I don't think so. I need to  
 16 explain that a little bit.  
 17 Q. Please.  
 18 A. The dry well was connected to the  
 19 drain, and then that dry well discharged to  
 20 the storm water system, so it was connected to  
 21 a conduit, but the flow would have been from  
 22 the dry well to the storm water collection  
 23 system.  
 24 Q. From the dry well to the storm  
 25 water collection system?

1 Cofman  
 2 to the storm water system." Do you see that,  
 3 sir?  
 4 A. Um-hum.  
 5 Q. Was there any direct route from  
 6 the floor drain system in Plant 3 to the storm  
 7 water system?  
 8 A. Well, via this dry well. That  
 9 was a direct connection.  
 10 Q. Was there ever a time where the  
 11 drain on the floor in Plant 3 went directly  
 12 into the storm water system and bypassed the  
 13 dry well?  
 14 A. I don't think so.  
 15 Q. The next sentence says, "The  
 16 storm water was directed to the NWIRP recharge  
 17 basins." Do you see that, sir?  
 18 A. Yes.  
 19 Q. NWIRP refers to Navy property?  
 20 A. Naval Weapons Industrial Reserve  
 21 Plant.  
 22 Q. Were there recharge basins on the  
 23 Navy property?  
 24 A. Yes.  
 25 Q. How many?

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1 Cofman  
 2 A. Three.  
 3 Q. Where were they located?  
 4 A. They were located to the east of  
 5 the Plant 3 building and north of the roads  
 6 and grounds building.  
 7 Q. How far from Plant 3 were they?  
 8 A. 700 feet, 800 feet.  
 9 Q. How big were the recharge basins?  
 10 A. I don't have a measurement of  
 11 them. They were big.  
 12 Q. Approximately.  
 13 A. Maybe something a football field  
 14 each.  
 15 Q. A football field in length?  
 16 A. Yes.  
 17 Q. And width?  
 18 A. Yes.  
 19 Q. And how deep?  
 20 A. 20, 30 feet.  
 21 Q. The next sentence says that "The  
 22 recharge basins were periodically scraped to  
 23 restore percolation capability." Did you  
 24 report that to Mr. Leskovjan in preparation of  
 25 this letter?

74

1 Cofman  
 2 A. I very well could have.  
 3 Q. To your best recollection, did  
 4 you do so, sir?  
 5 A. I know that I discussed the  
 6 operation of recharge basins with  
 7 Mr. Leskovjan, and this would have fallen  
 8 under that category.  
 9 Q. How were the recharge basins  
 10 periodically scraped?  
 11 A. With a -- I think it was a  
 12 bulldozer.  
 13 Q. How often was it done?  
 14 A. I don't have an exact number on  
 15 that, but a few times a year perhaps. It  
 16 really was a function of when it needed to be  
 17 done, and I don't know that that was constant,  
 18 but it was not unusual.  
 19 Q. How many bulldozers were used to  
 20 scrape the recharge basins?  
 21 A. That I don't know.  
 22 Q. Who determined when the recharge  
 23 basins had to be scraped?  
 24 A. Roads and grounds, the roads and  
 25 grounds department of Grumman.

75

1 Cofman  
 2 Q. Do you have any estimate as to  
 3 how much material was removed at any given  
 4 time when the recharge basins were scraped?  
 5 A. No.  
 6 Q. Continuing on it says, "and the  
 7 soils that were removed were allowed to dry on  
 8 land in the vicinity of the recharge basins."  
 9 Do you see that, sir?  
 10 A. Yes.  
 11 Q. So the scrapings, if you will,  
 12 from the recharge basins were placed in the  
 13 vicinity of the recharge basins?  
 14 A. Yes.  
 15 Q. And did you have occasion to view  
 16 those, the placement of those scrapings?  
 17 A. I don't think I ever saw those.  
 18 Q. Can you give me any estimate as  
 19 to the quantity of the scrapings that were  
 20 allowed to dry on land in the vicinity of the  
 21 recharge basins?  
 22 A. No.  
 23 Q. How did you come to an  
 24 understanding that there were these scrapings  
 25 that were allowed to dry in the vicinity of

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1 Cofman  
 2 the recharge basins?  
 3 A. Well, it was with discussions I  
 4 had with some of the operations people, but I  
 5 couldn't -- I wouldn't be able to relate  
 6 specifics on that.  
 7 Q. What period of time did this  
 8 scraping take place?  
 9 A. By that you mean --  
 10 Q. Over what period of time, sir? I  
 11 just want to fix a time period here, what  
 12 we're talking about.  
 13 A. I don't really know when it  
 14 started.  
 15 Q. Do you know when it ended?  
 16 A. When we turned the property over  
 17 to the Navy.  
 18 Q. When was that?  
 19 A. Somewhere in the mid to late  
 20 '90s.  
 21 Q. But to your understanding the  
 22 scraping took place until the mid to late  
 23 '90s?  
 24 A. Yes.  
 25 Q. The next sentence says, "These



1 Cofman  
2 soils were considered to be clean fill at the  
3 time." Did you report that to Mr. Leskovjan?

4 A. Yes.

5 Q. How did you come to an  
6 understanding that the soils were considered  
7 to be clean fill at the time?

8 A. By participating in discussions  
9 with environmental operations department  
10 personnel and my former boss.

11 Q. Who was your former boss?

12 A. John Ohlmann.

13 Q. What operations personnel did you  
14 discuss this with?

15 A. Well, Barry Andres was the lead  
16 person that I can recall having discussions on  
17 this with.

18 Q. When were PCBs considered to be  
19 dangerous?

20 A. I don't know. The first I heard  
21 about it was in the late '80s. Late '70s, I'm  
22 sorry.

23 Q. This scraping took place through  
24 the mid to late '90s?

25 A. Yes.

1 Cofman  
2 Q. Now, continuing on in that  
3 sentence, sir, it says, "These soils were  
4 considered to be clean fill at that time and  
5 may have been placed at various locations on  
6 the NWIRP Grumman property, including shallow  
7 areas of the property upon which the Park is  
8 presently located and the adjacent Northrop  
9 Grumman property." Did you discuss that with  
10 Mr. Leskovjan?

11 A. Yes.

12 Q. How did you come to the  
13 understanding that this material was placed  
14 upon Park property?

15 A. Well, I never really came to that  
16 understanding, other than it's a possibility.

17 Q. Did you have any discussions with  
18 anyone else concerning the placement of this  
19 material onto Park property?

20 A. Yes.

21 Q. Who was that?

22 A. A gentleman by the name of Robert  
23 Jasinkonis.

24 Q. When did you have that discussion  
25 with Mr. Jasinkonis?

1 Cofman  
2 A. I don't know the exact date,  
3 perhaps late -- I don't know the exact date.

4 Q. Approximately.

5 A. 2002, 2001.

6 Q. Who else participated in that  
7 discussion with Mr. Jasinkonis?

8 A. There was counsel, Frank Amoroso  
9 and John Ohlmann, my former boss.

10 Q. At the time that you participated  
11 in the discussion with Mr. Jasinkonis, was he  
12 employed by Grumman?

13 A. No.

14 Q. Did Mr. Jasinkonis discuss the  
15 placement of material on Park property?

16 DI MR. TOPOL: Objection. Counsel,  
17 that's obviously part of a privileged  
18 discussion with counsel. The question  
19 is improper, and I instruct the witness  
20 not to answer.

21 MR. SMIRTI: Well, I'm not  
22 interested in any privileged part, if  
23 any, of that discussion. I'm not  
24 interested in Mr. Amoroso's comments,  
25 I'm not interested in his advice to

1 Cofman  
2 Grumman, if any. I'm interested in the  
3 observations that a non-Grumman employee  
4 related.

5 MR. TOPOL: If the discussions  
6 were had in the context of the meeting  
7 with Mr. Amoroso, then it's not  
8 appropriate for questioning, which is  
9 the same rule that your counsel has  
10 employed with Mr. Russo and other  
11 witnesses.

12 If on the other hand the witness  
13 has had conversations with  
14 Mr. Jasinkonis at which counsel was not  
15 present, you can ask him about that.  
16 And if he had such discussions, he can  
17 answer, but he can't answer as to what  
18 Mr. Jasinkonis said at a meeting at  
19 which Mr. Amoroso was present.

20 MR. SMIRTI: I'm only interested  
21 in facts that Mr. Jasinkonis related.  
22 Those facts don't take on a privilege  
23 simply because they're in the presence  
24 of counsel. I'm not asking for  
25 strategy. I'm not asking for opinion.

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1 Cofman  
 2 I am not asking for any type of  
 3 reflections or observations made by  
 4 Northrop Grumman with respect to the  
 5 import of those facts. What I'm  
 6 asking --

7 MR. TOPOL: Counsel.

8 MR. SMIRTI: I haven't finished.

9 What I'm asking is the  
 10 observations that Mr. Jasinkonis  
 11 articulated at that meeting. And if  
 12 you're going to direct and if you are  
 13 going to object and direct the witness  
 14 not to answer, then I would like a  
 15 specification of the privilege and the  
 16 rule under New York law upon which  
 17 you're relying.

18 MR. TOPOL: Counsel, I'm implying  
 19 exactly the same approach, which is an  
 20 objection which your counsel has  
 21 employed consistently, most recently in  
 22 the Russo deposition when I asked for  
 23 facts that were disclosed in discussions  
 24 at which counsel was present, I believe  
 25 the counsel was Mr. Firetog, and I was

1 Cofman  
 2 in the facts that were related.

3 MR. TOPOL: And I would also add  
 4 that when I asked in connection with  
 5 Mr. Russo, there were other individuals  
 6 there who were not employees at the  
 7 Town. I was interested in what they  
 8 said at the meeting, and I was told it  
 9 was improper questioning because counsel  
 10 was present at the meeting, and I'm  
 11 asserting precisely the same objection  
 12 here.

13 MR. SMIRTI: Okay, I understand.

14 Q. Aside from your discussions with  
 15 Mr. Jasinkonis do you have any other basis for  
 16 an understanding that these materials were  
 17 deposited on Park property?

18 A. Well, my understanding is not  
 19 that they were deposited on Park property, but  
 20 that they may have been deposited on Park  
 21 property, and that's based on the fact that  
 22 scrapings were routinely produced in the  
 23 maintenance of the recharge basins, and the  
 24 material that was produced had to be deposited  
 25 somewhere, and it would be deposited in

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1 Cofman  
 2 told that counsel was present at the  
 3 meeting, it was not appropriate for  
 4 examining at the deposition, and I'm  
 5 applying precisely the same objection  
 6 here.

7 MR. SMIRTI: You're directing the  
 8 witness not to answer?

9 DI MR. TOPOL: I am, that is  
 10 correct.

11 MS. GREENBERG: If I can add  
 12 something on to the record. I would add  
 13 on that the discussions that we asserted  
 14 the privilege on were Matt Russo was a  
 15 current employee at the time. We're  
 16 talking about retired employees, and  
 17 Mr. Russo was also involved as an  
 18 employee of the Town and was involved in  
 19 the strategy.

20 Regarding the discussions that  
 21 occurred here, we would take the  
 22 position that Mr. Jasinkonis was there  
 23 simply to provide facts, which however  
 24 Mr. Amoroso used them or took them we're  
 25 not interested. We're just interested

1 Cofman  
 2 areas -- if there was a low area or area that  
 3 needed filling, that material was clean fill,  
 4 or that's what we believed it to be, and  
 5 that's what it was used for. So regarding the  
 6 Park, it's just a possibility.

7 Q. Let's go to the next sentence.

8 It says, "Indeed the PCB aroclors found in  
 9 both the Park and the adjacent Northrop  
 10 Grumman property are consistent with the  
 11 isomers found in the dry wells adjacent to  
 12 Plant 3 that conveyed storm water to the  
 13 recharge basins."

14 First let me ask you, what's an  
 15 aroclor?

16 A. PCBs are a class of compounds,  
 17 and that class is made up of a variety of  
 18 specific chemical compounds, and they're known  
 19 as aroclors.

20 Q. What's an isomer?

21 A. An isomer is a chemical compound  
 22 that has the same atomic composition as  
 23 another chemical compound, but the location of  
 24 the atoms on the compound are not identical.

25 Q. Did you report this to

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1 Cofman  
 2 Mr. Leskovjan, that the PCB aroclors found in  
 3 the Park are consistent with the isomers found  
 4 in the dry well adjacent to Plant 3?  
 5 A. I don't think I did.  
 6 Q. Do you know how he got this  
 7 information?  
 8 A. I know how I got the information,  
 9 which was from our consultant, and I assume he  
 10 did the same.  
 11 Q. Which consultant?  
 12 A. Dvirka & Bartilucci.  
 13 Q. When did you get this information  
 14 from Dvirka & Bartilucci?  
 15 A. I don't recall.  
 16 Q. Can we call them D&B?  
 17 A. D&B.  
 18 Q. Who at D&B gave you this  
 19 information?  
 20 A. Well, they've had a fair number  
 21 of personnel changes. I don't recall who was  
 22 specifically working on this project at that  
 23 time. Could be Mike Hofgren, who is currently  
 24 working on the project, but I don't know if  
 25 somebody preceded him on that.

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1 Cofman  
 2 Q. Now let's go to paragraph 6 if we  
 3 could, Mr. Cofman. The first sentence says  
 4 that "The drying of metal-bearing sludges from  
 5 the NWIRP operation on what is now the Park  
 6 property presumably continued until this  
 7 property was transferred to the Town of Oyster  
 8 Bay in 1962, after which sludge-drying beds  
 9 were constructed in the vicinity of the  
 10 recharge basins on the NWIRP." Did you  
 11 discuss this with Mr. Leskovjan?  
 12 A. Yes.  
 13 Q. What did you tell him about that?  
 14 A. That it was my understanding that  
 15 metal-bearing sludges may have been deposited  
 16 at the property in question.  
 17 Q. On the Park property?  
 18 A. Yes.  
 19 Q. Where did the metal-bearing  
 20 sludges come from?  
 21 A. Again, my understanding was that  
 22 metal-bearing sludges were generated at the  
 23 Bethpage facility from a industrial waste  
 24 treatment operation which took industrial  
 25 waste from the facility and treated it to make

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1 Cofman  
 2 it less hazardous, if you will.  
 3 Q. What plant in the facility?  
 4 A. Plants 2 and plants -- Plants 2  
 5 and 3 had industrial waste treatment  
 6 facilities that generated sludges that would  
 7 have had metals in them.  
 8 Q. Plant 2 was on the Grumman-owned  
 9 property?  
 10 A. Yes.  
 11 Q. Plant 3 was the Navy-owned  
 12 property?  
 13 A. Yes.  
 14 Q. What types of metals were  
 15 contained in these sludges?  
 16 A. Primary concern was with cadmium  
 17 and chromium.  
 18 Q. Before treatment what type of  
 19 chromium was in the sludge?  
 20 A. There was none before treatment.  
 21 The sludge was the result of treatment.  
 22 Q. I apologize. Before treatment it  
 23 was wastewater that was treated?  
 24 A. Yes.  
 25 Q. To your understanding, was there

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1 Cofman  
 2 chromium in the wastewater?  
 3 A. Yes.  
 4 Q. What type of chromium?  
 5 A. It would have been a mix of  
 6 different valences, but the one we were  
 7 concerned with was chromium 6.  
 8 Q. Is that hexavalent chromium?  
 9 A. Yes.  
 10 Q. How about cadmium?  
 11 A. What about cadmium?  
 12 Q. Was that in the wastewater?  
 13 A. That could have been in the  
 14 wastewater, yes. It was in some of the  
 15 wastewaters. The wastewater was not unique --  
 16 I mean not one wastewater. A large facility,  
 17 there was a lot of operations going on.  
 18 Q. Was there hexavalent chromium or  
 19 chromium 6 in the wastewater from Plant 3?  
 20 A. Yes.  
 21 Q. And from Plant 2?  
 22 A. Yes. Now, I am talking about my  
 23 knowledge of what was going on when I was  
 24 there.  
 25 Q. Yes, I understand, sir.

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1 Cofman

2 Over what period of time did you  
3 have an understanding from your knowledge  
4 being there?

5 A. From my direct experience was  
6 since I worked there, since 1977.

7 Q. From 1977.

8 The wastewater that contained  
9 hexavalent chromium, do you know how it was  
10 treated?

11 A. I know how it was treated when I  
12 was involved, yes.

13 Q. When you were there, sure. How  
14 was it treated?

15 A. It would basically be reduced to  
16 the chromium 3 state by -- I think there were  
17 a couple of operations that were used at  
18 different times, but in one case it was  
19 hydrogen peroxide was added to the mix to  
20 reduce the valence state, I think ferrous  
21 sulfate was sometimes used, various chemicals  
22 were used, but the end product was always to  
23 take the chromium 6 to chromium 3, and that's  
24 how it was changed in state. And then the  
25 solution would be -- the PH would be

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1 Cofman

2 manipulated, would be increased by the  
3 addition of caustic or lyme to cause the  
4 metal, which is in the solution, to come out  
5 of the solution, to precipitate, and it was  
6 this precipitate which is called the sludge.

7 Q. Was there testing done following  
8 the wastewater treatment process to determine  
9 whether or not there remained any hexavalent  
10 chromium?

11 A. Yes.

12 Q. What type of testing was done?

13 A. The operations at least in Plant  
14 2 were done in a batch operation. I think  
15 Plant 3 had a continuous flow system, but the  
16 discharge waters were tested periodically to  
17 verify in the continuous batch operation -- I  
18 mean continuous mode operation it would be  
19 periodic. In the batch mode operation before  
20 discharging the contents of the -- the  
21 supernatant contents of the tank they would be  
22 tested to determine whether there was chromium  
23 in the hexavalent form.

24 Q. To your knowledge, was there ever  
25 hexavalent chromium found after the treatment

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1 Cofman

2 process?

3 A. In the supernatant?

4 Q. Yes.

5 A. To my understanding, there was  
6 never any chromium found above levels that  
7 were allowed for discharge.

8 Q. There was never any hexavalent  
9 chromium found; is that correct?

10 A. Yes.

11 Q. But there was hexavalent chromium  
12 detected following the treatment process?

13 A. I don't have recollection of the  
14 analytical results. Whenever a test is done  
15 there's always a certain level to which the  
16 test is sensitive. I don't know what that  
17 level was. It was certainly sufficient to  
18 determine that we were below the discharge  
19 criteria, so it could have been nondetect,  
20 that the result for chromium 6 could have been  
21 nondetect to that specific -- to the specific  
22 level that that test would discriminate to.  
23 That's not to say that if a more sensitive  
24 test were done that some level of chromium  
25 wouldn't be found. I'm sure if your body is

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1 Cofman

2 tested to a right degree you'll find all sorts  
3 of chemicals there that are not of concern at,  
4 at a level of concern.

5 So to answer your question, which  
6 was was there ever any chromium detected, I  
7 don't really know the answer to that.

8 Q. The treatment process took place  
9 at both Plant 2 and Plant 3?

10 A. Yes.

11 Q. What happened to the sludge that  
12 was produced after the treatment process at  
13 Plant 3?

14 A. At Plant 3?

15 Q. Yes, sir.

16 A. The sludge was pumped to a --  
17 something known as a -- well, a vacuum filter  
18 operation, which would take the water out of  
19 the sludge, and the sludge was then -- it was  
20 dropped into typically a 20-yard, roll-off  
21 Dumpster, and that sludge would be taken off  
22 site for disposal as a hazardous waste.

23 Q. Where off site was it taken?

24 A. I don't know.

25 Q. Do you have an understanding as

1 Cofman  
 2 to whether or not that was the process with  
 3 the metal-bearing sludge at Plant 3 before you  
 4 became employed at Grumman?  
 5 A. Yes.  
 6 Q. What's that understanding?  
 7 A. There was no industrial waste  
 8 treatment facility at Plant 3 before I became  
 9 employed at Grumman.  
 10 Q. So there were no metal-bearing  
 11 sludges to your understanding before 1977 that  
 12 were produced at Plant 3?  
 13 A. Yes, that's correct.  
 14 Q. With respect to Plant 2, what  
 15 happened to the metal-bearing sludges at Plant  
 16 2?  
 17 A. When?  
 18 Q. Well, from the time of your  
 19 employment.  
 20 A. Well, I don't know exactly what  
 21 happened. I don't know what happened to them  
 22 during the first year or two that I was  
 23 employed by Grumman. I was not involved in  
 24 any sense in that operation. But 1978, 1979 a  
 25 system was placed -- I engineered a system to

1 Cofman  
 2 take the sludge and dewater it. And once that  
 3 was in place, the sludge was handled pretty  
 4 much the way it was handled later on at Plant  
 5 3. The sludge was dewatered, it fell into  
 6 containers, and the containers were removed  
 7 from the site by a licensed hazardous waste  
 8 hauler.  
 9 Q. Do you have any understanding as  
 10 to the drying of metal-bearing sludges on Park  
 11 property before the property was turned over  
 12 to the Town of Oyster Bay?  
 13 A. Yes, I do.  
 14 Q. What's that understanding?  
 15 A. Well, my understanding in that  
 16 comes from two sources. One is from review of  
 17 real estate documents or correspondence  
 18 between the Town and the company prior to the  
 19 turnover of the property or the dedication,  
 20 and also from the discussions with John  
 21 Ohlmann, Frank Amoroso and Robert Jasinkonis.  
 22 MR. TOPOL: Counsel, you may ask  
 23 him about his understanding from the  
 24 real estate documents but not about his  
 25 understanding derived from the meeting.

1 Cofman  
 2 MR. SMIRTI: I understand your  
 3 objection and your direction.  
 4 Q. What documents did you review  
 5 from the -- was it the real estate department,  
 6 the Grumman real estate department, sir?  
 7 A. Yes.  
 8 Q. What documents did you review?  
 9 A. There was correspondence between  
 10 I think our attorneys and the Town's  
 11 attorney's regarding conditions, preparations  
 12 for the transfer, and so there were I think  
 13 several documents. I couldn't tell you which  
 14 specific documents.  
 15 Q. When did you have occasion to  
 16 review them?  
 17 A. I think around 2001, 2002.  
 18 Q. Did you speak to Mr. Leskovjan  
 19 about that?  
 20 A. Yes. He's the one that gave them  
 21 to me, as a matter of fact.  
 22 Q. Is it your understanding that  
 23 there was treatment of wastewater before your  
 24 employment in 1977?  
 25 A. Yes.

1 Cofman  
 2 Q. And again, what is your source of  
 3 that understanding; is it the real estate  
 4 documents?  
 5 A. No.  
 6 Q. What's the source of that  
 7 understanding?  
 8 A. Discussions with any number of  
 9 plant personnel regarding the history of the  
 10 operations.  
 11 Q. What's your understanding as to  
 12 where the treatment of wastewater took place?  
 13 A. Before I was employed?  
 14 Q. Yes.  
 15 A. At Plant 2.  
 16 Q. Was there any treatment of  
 17 wastewater at Plant 3?  
 18 A. No, not to my understanding.  
 19 Q. So now at Plant 2, who did you  
 20 speak to to get the understanding first that  
 21 there was wastewater produced from Plant 2?  
 22 A. I've discussed this with John  
 23 Ohlmann, John Wichmann, Barry Andres, George  
 24 Kerrigan. I really couldn't put a finite list  
 25 together, but at least those people, probably

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1 Cofman  
 2 several others that were operators.  
 3 Q. When did you have these  
 4 discussions?  
 5 A. Probably starting in '77 on  
 6 through.  
 7 Q. Over what period of time did you  
 8 have an understanding that there was  
 9 wastewater produced at Plant 2?  
 10 A. If you're asking when I think it  
 11 started?  
 12 Q. Yes, sir.  
 13 A. The treatment facility was built,  
 14 to my understanding, in 1950, plus or minus a  
 15 year.  
 16 Q. Is it your understanding that  
 17 wastewater was produced consistently from 1950  
 18 thereafter at Plant 2?  
 19 A. No, no, I never said that  
 20 wastewater was produced at Plant 2. I didn't  
 21 mean to say that if that's what I said.  
 22 Q. I may have misunderstood. I  
 23 apologize.  
 24 What's your understanding as to  
 25 either the treatment of wastewater at Plant 2

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1 Cofman  
 2 or the production of wastewater at Plant 2?  
 3 A. My understanding is that  
 4 treatment started at Plant 2 with the  
 5 construction of the industrial waste treatment  
 6 facility, otherwise referred to as the acid  
 7 house, around 1950, and the wastewater that  
 8 was treated there came from wherever there was  
 9 wastewater produced on site, not just from  
 10 Plant 2, but that would have included Plant 1,  
 11 Plant 3, wherever it was produced.  
 12 Q. Either on the Grumman site or the  
 13 Navy-owned property?  
 14 A. Yes, yes.  
 15 Q. Let me just confirm what I'm  
 16 talking about now is the period from 1950 to  
 17 the time that you became employed in 1977.  
 18 A. Yes.  
 19 Q. So from that period of time, for  
 20 that 27-year period of time, did you have an  
 21 understanding as to the contents of the  
 22 wastewater before treatment?  
 23 A. Not a complete understanding, but  
 24 an understanding of certain constituents that  
 25 I'm sure were in the water.

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1 Cofman  
 2 Q. What's that understanding?  
 3 A. Well, chromium is the primary  
 4 one.  
 5 Q. That's the hexavalent chromium  
 6 that we spoke about?  
 7 A. Yes.  
 8 Q. And cadmium?  
 9 A. I don't know about cadmium, but I  
 10 would guess that yes.  
 11 Q. What happened to that wastewater?  
 12 A. The wastewater was generated, and  
 13 it would be brought to the industrial waste  
 14 treatment facility at Plant 2 for treatment.  
 15 Q. And then can you walk me through  
 16 the treatment process? Again, as it existed  
 17 from 1950 to 1977.  
 18 A. No. I don't have that complete a  
 19 detail. I do know that the chromium was  
 20 reduced to trivalent state and precipitated  
 21 out. The supernatant was discharged with  
 22 state regulatory approval. I think that's how  
 23 it was treated.  
 24 Q. I would like to focus on the  
 25 period from 1950 to 1962.

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1 Cofman  
 2 Do you have an understanding as  
 3 to whether the treatment process at Plant 2  
 4 produced sludge?  
 5 A. Yes.  
 6 Q. What's that understanding?  
 7 A. That it did.  
 8 Q. Do you have an understanding as  
 9 to what happened to that sludge?  
 10 A. Yes.  
 11 Q. What's that understanding?  
 12 A. My understanding is based on both  
 13 my review of the real estate documents and my  
 14 discussions with Frank Amoroso and John  
 15 Ohlmann and Robert Jasinkonis.  
 16 Q. I am not asking about those  
 17 discussions given the direction of your  
 18 counsel. Just from your understanding of the  
 19 real estate documents, what happened to that  
 20 sludge that was produced at Plant 2 for the  
 21 years 1950 to 1962?  
 22 A. Well, I only know or I only -- my  
 23 understanding is for a time prior to the  
 24 turnover of the Park, but that's not  
 25 open-ended. I don't know that -- how long a

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1 Cofman  
 2 period that occurred for, but at least based  
 3 upon the review of the real estate documents I  
 4 concluded that sludge was deposited on the  
 5 Park property.  
 6 Q. Was the sludge from Plant 2, to  
 7 your understanding, dried at all on Grumman  
 8 property and then deposited on Park property?  
 9 A. No.  
 10 Q. It was --  
 11 A. It was a fluid.  
 12 Q. The sludge was a fluid?  
 13 A. Yes.  
 14 Q. And your understanding is that it  
 15 was placed on Park property?  
 16 A. Yes.  
 17 Q. How often would the sludge have  
 18 been dumped on Park property?  
 19 A. I don't know that.  
 20 Q. Do you know how much was dumped  
 21 on Park property?  
 22 A. No.  
 23 Q. Aside from your discussions with  
 24 Mr. Jasinkonis and the conversation with  
 25 Mr. Amoroso and aside from the real estate

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1 Cofman  
 2 documents, did you come to that understanding  
 3 about the disposition of those sludges from  
 4 conversations with anyone else --  
 5 A. No.  
 6 Q. -- or from your own observations?  
 7 A. No.  
 8 Q. Do you have an understanding as  
 9 to whether the depositing of those sludges on  
 10 Park property continued after 1962?  
 11 A. The real estate documents  
 12 requested permission to continue the  
 13 operations after the transfer of the property  
 14 to the Town and until such time as it impeded  
 15 the development of the Park.  
 16 Q. Aside from the real estate  
 17 documents do you have any independent  
 18 knowledge as to whether or not the depositing  
 19 of those sludges continued on Park property  
 20 after 1962?  
 21 A. No.  
 22 Q. Do you have an understanding as  
 23 to whether sludge-drying beds were constructed  
 24 in the vicinity of the recharge basins on the  
 25 Navy property in or after 1962?

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1 Cofman  
 2 A. Yes.  
 3 Q. What's that understanding?  
 4 A. That there were.  
 5 Q. When were they constructed?  
 6 A. I don't know the dates, but my  
 7 understanding is it was after 1962.  
 8 Q. How many were constructed?  
 9 A. I think there were a total of  
 10 three, although I don't know if they were all  
 11 constructed at the same time.  
 12 Q. How big were they?  
 13 A. I don't really know.  
 14 Q. Do you have an understanding as  
 15 to whether or not the sludge then was placed  
 16 in these sludge-drying beds on Navy property?  
 17 A. I would surmise that.  
 18 Q. What's the basis for that?  
 19 A. I've seen -- I think I've seen a  
 20 picture of them in an aerial.  
 21 Q. The sludge-drying beds on Navy  
 22 property?  
 23 A. Yes.  
 24 Q. When did you see the picture?  
 25 A. I don't recall exactly.

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1 Cofman  
 2 Q. What's the date of the picture?  
 3 A. I don't know exactly, but it was  
 4 certainly after '62. My guess is it was in  
 5 the late '60s, but I don't know.  
 6 Q. What did the picture show?  
 7 A. Well, it primarily showed the  
 8 recharge basin, but off to the side I could  
 9 see an area that looked like sludge-drying  
 10 beds, and there was a crane that looked like  
 11 it was removing dried sludge.  
 12 Q. Who else viewed this photo to  
 13 your understanding?  
 14 A. I think my boss would have seen  
 15 it.  
 16 Q. Mr. Leskovjan?  
 17 A. I think so. I'm not sure.  
 18 MR. SMIRTI: Let's take five  
 19 while I find this document.  
 20 (Recess taken at 11:48 a.m.)  
 21 (Examination resumed at 11:54  
 22 a.m.)  
 23 (Cofman Exhibit 2, Document Bates  
 24 stamped NGSC-TOB 1786 through NGSC-TOB  
 25 1791, marked for identification.)

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1 Cofman

2 Q. Mr. Cofman, we've placed Cofman

3 Exhibit 2 in front of you. Would you take a

4 moment to look through it, sir.

5 A. Yes.

6 (Witness perusing document.)

7 Q. Have you had an opportunity to

8 review Exhibit 2, Mr. Cofman?

9 A. Yes, I have.

10 Q. You are shown as a blind copy on

11 Exhibit 2.

12 A. Okay.

13 Q. When did you first see this

14 letter?

15 A. I'm not sure. It would have been

16 about the time it was issued.

17 Q. Did you participate in the

18 drafting of the letter?

19 A. I think I did.

20 Q. What was your participation in

21 the drafting of the letter?

22 A. I think I discussed some of the

23 statements that are in here with John Ohlmann.

24 I didn't draft it myself. Wait, with Larry

25 Leskovjan, excuse me. And I may have reviewed

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1 Cofman

2 the final product before it was released for

3 accuracy, editorial comments, whatever.

4 Q. Now, Exhibit 2 discusses some of

5 the topics that are also discussed in Exhibit

6 1; is that correct, sir?

7 A. Yes.

8 Q. What's your understanding as to

9 the reason why Cofman Exhibit 2 was prepared?

10 A. Well, I think it was in response

11 to questions raised by the State. That's my

12 understanding.

13 Q. How did you get that

14 understanding?

15 A. I don't recall.

16 Q. Did you talk to Mr. Leskovjan

17 about that?

18 A. Oh, yes.

19 Q. Do you recall those discussions?

20 A. Not specifically.

21 Q. Between the time that Exhibit 1

22 was sent on or about May 24, 2002 and Exhibit

23 2 was sent on or about July 25, 2002, did you

24 personally participate in any discussions with

25 New York State representatives?

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1 Cofman

2 A. No.

3 Q. With DEC representatives?

4 A. Not to my recollection.

5 Q. How many discussions with

6 Mr. Leskovjan did you have about the

7 preparation of Exhibit 2?

8 A. I don't know.

9 Q. Do you know whether anybody else

10 assisted Mr. Leskovjan in the preparation of

11 Exhibit 2?

12 A. I think John DeBois did.

13 Q. Anybody else?

14 A. I don't know.

15 Q. Did you participate in

16 discussions with Mr. DeBois and Mr. Leskovjan?

17 A. No.

18 Q. Did you speak to Mr. DeBois

19 before the preparation of Exhibit 2?

20 A. Not about Exhibit 2.

21 Q. About what?

22 A. He works on the same floor I do,

23 and we run into each other in the bathroom

24 occasionally.

25 Q. Is Mr. DeBois still employed by

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1 Cofman

2 Northrop Grumman?

3 A. Yes.

4 Q. Mr. Jasinkonis is not employed by

5 Northrop Grumman; is that correct?

6 A. That's my understanding.

7 Q. Do you know whether he's alive?

8 A. I don't know.

9 Q. Let's look at page 3 of Exhibit 2

10 if we can, please. The first full paragraph

11 I'd like to focus on if we could. The first

12 full paragraph states, "It should be noted

13 that in the year following the donation of the

14 Park property to the Town construction of

15 sludge-drying beds on the NWIRP property

16 adjacent to the recharge basin began."

17 Did you supply Mr. Leskovjan with

18 that information?

19 A. No.

20 Q. The next sentence says, "Enclosed

21 are copies of aerial photographs taken in

22 April of 1962 and November, 1963 showing the

23 Park property and the Navy's recharge basins.

24 The 1963 photograph shows the beginning of

25 construction of what is known to be the



1 Cofman  
 2 sludge-drying beds adjacent to the recharge  
 3 basins. This construction would have been  
 4 necessary if Grumman could no longer use the  
 5 Park property for sludge drying." Do you see  
 6 that, sir?  
 7 A. Yes.  
 8 Q. Did you discuss that with  
 9 Mr. Leskovjan?  
 10 A. Yes.  
 11 Q. What were those discussions that  
 12 you had with Mr. Leskovjan about that?  
 13 A. Nothing other than what is said  
 14 here.  
 15 Q. Did you have an understanding  
 16 that the sludge-drying beds adjacent to the  
 17 recharge basins on the Navy property was  
 18 necessitated because Grumman could no longer  
 19 use the Park property for sludge drying?  
 20 A. Yes.  
 21 Q. How did you come to that  
 22 understanding?  
 23 A. By deduction.  
 24 Q. Did you talk to Mr. DeBois about  
 25 that?

1 Cofman  
 2 valves, were items that often required  
 3 maintenance due to leakage of the pumped  
 4 fluid." Do you see that, sir?  
 5 A. Yes.  
 6 Q. Did you talk to Mr. Leskovjan  
 7 about the statement here that these "were  
 8 items that often required maintenance due to  
 9 leakage"?  
 10 A. I think that subject came under  
 11 discussion, yes.  
 12 Q. What was that discussion that you  
 13 had with him about that?  
 14 A. Just that, that the equipment  
 15 that's discussed here was operating under very  
 16 severe conditions and that this kind of  
 17 occurrence was likely to happen. That's that.  
 18 Q. And it was routine?  
 19 A. It was -- yes, it was routine.  
 20 Q. The leakage was routine?  
 21 A. Well, I'm not sure what you mean  
 22 by "routine." I would be hard-pressed to say  
 23 it was routine. All I could say is you could  
 24 expect things like this happening and that  
 25 maintenance would have to be done to control

1 Cofman  
 2 A. I don't think I did.  
 3 Q. You talked to Mr. Leskovjan about  
 4 that?  
 5 A. Yes.  
 6 Q. Did Mr. Leskovjan concur with  
 7 that?  
 8 A. Yes.  
 9 Q. Now, if you go to page 4, please,  
 10 Mr. Cofman, of Exhibit 2, the heading at the  
 11 top, it says "Autoclave Use and Operation."  
 12 Do you see that, sir?  
 13 A. Yes.  
 14 Q. Between the time of preparation  
 15 of Exhibit 1 in May of 2002 and the time of  
 16 preparation of Exhibit 2 in July of 2002 do  
 17 you recall any discussions that you had with  
 18 Mr. Leskovjan that added to the description of  
 19 the "Autoclave Use and Operation" that was set  
 20 forth in Exhibit 1?  
 21 A. Not specifically, no.  
 22 Q. Look at the second full paragraph  
 23 of page 4, please. It says, "The packing  
 24 glands on the positive displacement pumps, and  
 25 to a lesser extent those on the control

1 Cofman  
 2 it.  
 3 Q. Go to page 5 if you would,  
 4 please, Mr. Cofman. The second sentence on  
 5 page 5 starting with the words "Anecdotal  
 6 evidence," do you see that, sir?  
 7 A. Um-hum.  
 8 Q. It says, "Anecdotal evidence  
 9 suggests that an effort was made by either  
 10 Grumman or the Town to remove and dispose of  
 11 any sludges off site." Do you see that, sir?  
 12 A. Yes.  
 13 Q. Did you discuss any such  
 14 anecdotal evidence with Mr. Leskovjan?  
 15 A. Yes.  
 16 Q. What were those discussions that  
 17 you had with him about it?  
 18 A. Well, this relates back to the  
 19 discussions I had with Frank Amoroso, John  
 20 Ohlmann and Robert Jasinkonis.  
 21 Q. So when this letter uses the term  
 22 "anecdotal evidence," it is referring to the  
 23 discussion that you participated in with  
 24 Mr. Jasinkonis and Mr. Amoroso?  
 25 A. I believe that's true.

1 Cofman  
 2 Q. What was the anecdotal evidence?  
 3 MR. TOPOL: Objection. The  
 4 witness has answered the question. He  
 5 said it came from the discussion.  
 6 You've established that. What's the  
 7 anecdotal evidence, he said it comes  
 8 from the discussion, and you can't ask  
 9 about the discussion.  
 10 MR. SMIRTI: The letter is  
 11 referring to anecdotal evidence that  
 12 takes place in a conversation. It's  
 13 anecdotal evidence that Grumman is  
 14 representing to the DEC, and I can't ask  
 15 about the anecdotal evidence on the  
 16 basis of privilege?  
 17 MR. TOPOL: Correct.  
 18 MR. SMIRTI: You're directing him  
 19 not to answer?  
 20 DI MR. TOPOL: I am, Counsel.  
 21 MR. SMIRTI: Okay, fine.  
 22 Q. Do you have an understanding,  
 23 Mr. Cofman, as to whether Grumman continued to  
 24 discharge sludge onto the Park property after  
 25 the Park was transferred to the Town of Oyster

1 Cofman  
 2 line, that the boundary would be the northern  
 3 edge of the Navy recharge basins. There was a  
 4 drainage ditch that ran along that property  
 5 heading toward the east and I think terminated  
 6 at the Park, in the Park.  
 7 Q. Just north of the Navy recharge  
 8 basins?  
 9 A. That's my recollection, yes.  
 10 Q. Was the O'Brien Canal on any part  
 11 of the Grumman property?  
 12 A. Yes.  
 13 Q. What part of the Grumman property  
 14 was it?  
 15 A. Well, the part that as it leaves  
 16 the Navy property and heads east, from that  
 17 point on it would have been on Grumman  
 18 property.  
 19 Q. And as it continued east, would  
 20 it be then on Park property?  
 21 A. I think so, yes. I'm calling  
 22 that Grumman property at the time.  
 23 Q. Understood, understood.  
 24 How big was the O'Brien Canal?  
 25 A. 2 to 3 feet in diameter perhaps.

1 Cofman  
 2 Bay?  
 3 A. I don't know if they did or not.  
 4 (Cofman Exhibit 3, Document Bates  
 5 stamped NGSC-TOB 1738, marked for  
 6 identification.)  
 7 (Cofman Exhibit 4, Document Bates  
 8 stamped NGSC-TOB 1749, marked for  
 9 identification.)  
 10 Q. Mr. Cofman, have you had an  
 11 opportunity to look at both Exhibits 3 and 4?  
 12 A. Yes.  
 13 Q. Is either Exhibit 3 or 4 some of  
 14 the real estate documents that you referred to  
 15 earlier?  
 16 A. I don't recall seeing them.  
 17 Q. Have you ever seen Exhibit 3 or 4  
 18 before?  
 19 A. I don't recall seeing them.  
 20 Q. Are you familiar with the term  
 21 O'Brien Canal?  
 22 A. Yes.  
 23 Q. What's the O'Brien Canal?  
 24 A. It's a ditch that ran in an  
 25 east/west direction north of -- an east/west

1 Cofman  
 2 It was like a drainage ditch.  
 3 Q. And it was 2 to 3 feet deep?  
 4 A. Yes, I think so.  
 5 Q. How wide?  
 6 A. Oh, that's what I'm saying, 2 to  
 7 3 feet wide.  
 8 Q. How deep was it?  
 9 A. About the same.  
 10 Q. About 2 to 3 feet deep also?  
 11 A. That's my guess.  
 12 Q. How long was it?  
 13 A. I don't really know.  
 14 Q. Have you viewed it?  
 15 A. I've seen aerials that show it.  
 16 Q. What was it used for?  
 17 A. Storm water, it would just convey  
 18 storm water.  
 19 Q. From where?  
 20 A. I'm not sure. I mean, from the  
 21 area that it's in, but I'm not sure what  
 22 specific areas drained to that.  
 23 Q. During what period of time was it  
 24 used for storm water?  
 25 A. I don't know when it was first

1 Cofman  
2 put into place. I know that it was in place  
at this time.

4 Q. In 1962?

5 A. Yes.

6 Q. How do you know that?

7 A. From aerials.

8 Q. The aerials that you just  
9 referred to, is that the same aerial  
10 photographs that are referred to in Cofman  
11 Exhibit 2?

12 A. Let me see. Do you recall where  
13 they mention it in Exhibit 2?

14 Q. Sure. If you look at page 3, the  
15 first full paragraph.

16 A. I don't know.

17 (Cofman Exhibit 5, Document Bates  
18 stamped NGSC-TOB 2840, marked for  
19 identification.)

20 Q. Mr. Cofman, we've handed you  
21 Exhibit 5, which I'd just like to use for  
22 illustrative purposes if we can. Can you  
23 point out the area on Exhibit 5 where the  
24 O'Brien Canal would have been?

25 A. Not exactly.

1 Cofman

2 Q. What I'm trying to drive at is as  
3 it went east, did the canal go through  
4 Grumman-owned property, not Park property, but  
5 Grumman-owned property?

6 A. Yes.

7 Q. So it went from Navy property  
8 going east to Grumman property, again going  
9 east to Park property?

10 A. Yes.

11 Q. Do you know whether the materials  
12 or the contents of the O'Brien Canal were ever  
13 tested?

14 A. Yes. I think the -- not the  
15 material conveyed in the canal, but I think  
16 the material that comprises the bottom of the  
17 canal or maybe even the side walls were  
18 tested.

19 Q. When was it tested?

20 A. I don't recall.

21 Q. Were you involved in the testing?

22 A. Not directly, no.

23 Q. Approximately when was it tested?

24 A. 1999, 2000. I'm not sure.

25 Q. What's your best recollection as

1 Cofman

2 Q. Just approximately.

3 A. I can show it to you. I would  
4 say it came along somewhere like this  
5 (indicating).

6 Q. Can you mark it with the red pen  
7 that I've just given you, Mr. Cofman?

8 A. Yes.

9 (Witness complying.)

10 Q. So at its westernmost boundary  
11 the O'Brien Canal would have been on Navy  
12 property?

13 A. I think so, but the reason I'm  
14 hedging is the Navy property is very close to  
15 the borderline of the Grumman property at that  
16 location. My understanding is it was on Navy  
17 property, but it was very close to the  
18 borderline between the two properties.

19 Q. The borderline was north of the  
20 Navy property?

21 A. Yes.

22 Q. And as the canal ran east, did it  
23 go from Navy property to Park property?

24 A. Water would have flowed to the  
25 east, yes.

1 Cofman

2 to your role in the testing?

3 A. I think I saw the results of the  
4 testing.

5 Q. What were the results?

6 A. Nothing significant.

7 Q. What were the results,  
8 significant or not?

9 A. Well, I don't recall. If there  
10 was nothing significant, I would not recall  
11 any particular constituents, if that's what  
12 you're asking.

13 Q. Why was it tested?

14 A. Just as a routine, because of  
15 contamination that was located at various  
16 areas on Navy property and the possibility  
17 that there was storm water runoff that would  
18 have contained some materials, contamination  
19 materials, and that some of those materials  
20 may have been deposited on the bottom of the  
21 canal.

22 Q. Are you aware of any  
23 investigation as to whether a substance other  
24 than storm water runoff was placed in the  
25 O'Brien Canal?

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1 Cofman

2 A. No.

3 Q. Who else participated in the

4 investigation?

5 A. I think it was conducted by

6 Dvirka & Bartilucci.

7 Q. Are you aware as to whether the

8 contents of the canal were ever tested, not

9 the sides, not the floor of the canal, but the

10 contents?

11 A. No, I don't think so.

12 Q. Do you know how it got its name?

13 A. Well, O'Brien was a president of

14 the company. I don't know why it was named

15 after him. It was probably somebody's joke.

16 It caught on.

17 Q. What was the purpose?

18 A. The purpose of what?

19 Q. The O'Brien Canal. Was it to

20 move storm water off the property?

21 A. Just to convey storm water, yes.

22 Q. Where did it discharge to?

23 A. I think the discharge was to a

24 low but flat area in the Park.

25 Q. How was the storm water directed

122

1 Cofman

2 to the O'Brien Canal at its western end?

3 A. I don't know.

4 Q. Did you ever have a discussion

5 with anyone as to whether any substance other

6 than storm water was deposited in the O'Brien

7 Canal?

8 A. None other than speculation, that

9 the possibility existed that there was

10 carryover, as I mentioned before.

11 Q. Speculation that there was what?

12 A. Carryover.

13 Q. What do you mean by "carryover"?

14 A. Well, we knew that portions of

15 the Navy facility had contamination. We knew

16 that there was sludge-drying beds in the

17 general vicinity, so the possibility exists I

18 guess that rainwater would have picked up some

19 contaminated material and routed it to the

20 canal. Testing was done to determine whether

21 or not there was anything like that.

22 Q. Testing was done on the bottom of

23 the canal and the sides?

24 A. Yes. The canal does not normally

25 contain water.

123

1 Cofman

2 Q. It doesn't?

3 A. No.

4 Q. When you say it does not normally

5 contain water, what period of time are you

6 talking about?

7 A. What period of time? My

8 understanding, as long as it existed. It's

9 not a water body. It's a drainage ditch.

10 Q. So even before you were employed

11 by Grumman your understanding is that the

12 O'Brien Canal normally did not contain water?

13 A. Yes.

14 Q. How did you come to that

15 understanding?

16 A. Because in discussions it was

17 always referred to as a drainage swell, a

18 drainage ditch. It's not something like the

19 Erie Canal where the purpose is to maintain a

20 water body for whatever reason. This is a

21 drainage item.

22 Q. Did you ever have a discussion

23 with anyone or did you ever hear that sludge

24 was deposited in the canal?

25 A. No.

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1 Cofman

2 MR. SMIRTI: Do you want to

3 break?

4 MR. TOPOL: Sure.

5 (Luncheon recess taken at 12:25

6 p.m.)

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1 Cofman  
 2 AFTERNOON SESSION  
 (Time noted: 1:24 p.m.)  
 4 JEAN-PIERRE COFMAN, resumed  
 5 as a witness and testified further as  
 6 follows:  
 7 CONTINUED EXAMINATION  
 8 BY MR. SMIRTI:  
 9 Q. Mr. Cofman, do you know in what  
 10 concentration PCBs were contained in the fluid  
 11 known as Therminol?  
 12 A. Yes. Approximately 97, 98  
 13 percent.  
 14 Q. 97, 98 percent of the fluid was  
 15 PCBs?  
 16 A. PCBs, yes.  
 17 Q. Are there fluids other than  
 18 Therminol that contain PCBs?  
 19 A. Yes.  
 20 Q. When I say are there fluids, I  
 21 also mean were there fluids other than  
 22 Therminol that contain PCBs?  
 23 A. Where specifically are you  
 24 referring to?  
 25 Q. I guess what I'm asking you is

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1 Cofman  
 2 Therminol was in use, to your understanding,  
 3 in Plant 3 during what years?  
 4 A. Well, I know it was in use while  
 5 I worked at the company. I'm not sure of the  
 6 history of it.  
 7 Q. So from 1977 somewhere until the  
 8 mid-'90s or so?  
 9 A. Yes. No, not the mid '90s. I  
 10 think we got rid of the autoclave operation in  
 11 the mid-'80s from the Bethpage facility. And  
 12 even before we got rid of that the Therminol  
 13 was removed, the PCBs were removed from the  
 14 autoclaves because of the regulation that I  
 15 think we spoke about this morning.  
 16 Q. Therminol was no longer used in  
 17 the autoclave operation at some point?  
 18 A. Yes. That's when we had to  
 19 retrofit all the equipment that was  
 20 contacting -- had been in contact with  
 21 Therminol or PCBs.  
 22 Q. And that was approximately what  
 23 year again?  
 24 A. Early to mid-'80s.  
 25 Q. Now, from your experience until

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1 Cofman  
 2 the mid-1980s, from any point up until the  
 3 mid-1980s, were there fluids other than  
 4 Therminol that contained PCBs?  
 5 A. In the autoclave area?  
 6 Q. No, just generally first I am  
 7 asking you.  
 8 A. Universally in the world?  
 9 Q. Exactly.  
 10 A. Yes.  
 11 Q. What types of fluids?  
 12 A. Well, I know that they were used  
 13 in fluorescent light ballasts. They often may  
 14 have been used in other pieces of equipment  
 15 that needed a heat transfer fluid that was  
 16 stable and would not degrade with temperature.  
 17 Therminol I think was a brand name, but PCBs  
 18 were used in a lot of heat transfer fluids  
 19 other than Therminol.  
 20 Q. And Therminol was the brand name  
 21 for heat transfer fluids, for a particular  
 22 brand of a heat transfer fluid?  
 23 A. Yes.  
 24 Q. Were there PCBs contained in oil  
 25 products?

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1 Cofman  
 2 A. In what?  
 3 Q. Certain oil products.  
 4 A. Oil products, I think so.  
 5 Q. What types of oil?  
 6 A. I think heat transfer oils.  
 7 That's what light ballasts -- that's why there  
 8 were PCBs in light ballasts. I don't know  
 9 other than that.  
 10 Q. Were there oil products other  
 11 than Therminol that were used at the Navy  
 12 site?  
 13 A. For heat transfer?  
 14 Q. Yes.  
 15 A. I don't -- not that I know of,  
 16 but I wouldn't know about that.  
 17 Q. For any other purpose?  
 18 A. Not that I know of.  
 19 Q. How about on the Grumman site?  
 20 A. Not that I know of, although I  
 21 have to hedge that with what we mentioned  
 22 earlier today about transformers, which is  
 23 that transformers typically contain heat  
 24 transfer fluid with PCBs in them, not always,  
 25 but typically.

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1 Cofman  
 2 Q. Do you have an understanding as  
 3 to the amount of PCBs that are contained in a  
 4 transformer?  
 5 A. No.  
 6 Q. Now, when you first became  
 7 employed at Grumman, I think you said that  
 8 your title was chemical engineer?  
 9 A. I think so, yes.  
 10 Q. Just generally again what were  
 11 your responsibilities?  
 12 A. To support design and operation  
 13 of -- and construction of process lines, metal  
 14 finishing processing lines or any other  
 15 processing lines or equipment that the company  
 16 may have needed, hydraulic piping. It was a  
 17 mixed bag, design tanks.  
 18 Q. Did your responsibilities later  
 19 change?  
 20 A. Yes.  
 21 Q. When?  
 22 A. Approximately in the early '80s  
 23 or so. My responsibilities stayed with  
 24 design, but more and more I was involved in  
 25 industrial waste treatment operations, in

1 Cofman  
 2 wouldn't be able to tell you exactly what it  
 3 was each time, but section chief at one point.  
 4 Eventually -- it was changed to senior  
 5 environmental engineer, which is what I am  
 6 currently.  
 7 Q. When did you become senior  
 8 environmental engineer?  
 9 A. I would guess about five years  
 10 ago, four or five years ago.  
 11 Q. Up until the time right before  
 12 you became senior environmental engineer did  
 13 you get involved with the investigation of  
 14 contamination?  
 15 A. Oh, yes.  
 16 Q. What was your involvement?  
 17 A. Primarily to support real estate  
 18 operations. The company downsized very  
 19 significantly starting in the late '80s and  
 20 early '90s, and so a lot of property that we  
 21 had was targeted for disposition, and I was  
 22 involved in doing evaluations -- doing  
 23 environmental assessments of those properties  
 24 and remediation if required.  
 25 Q. Was one of those properties on

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1 Cofman  
 2 water pollution control, groundwater  
 3 treatment, and gradually I had less and less  
 4 involvement in the industrial process  
 5 engineering kind of functions I had previously  
 6 been doing.  
 7 Q. And that started around the early  
 8 1980s?  
 9 A. Yes.  
 10 Q. What was the nature of your  
 11 responsibilities then?  
 12 A. I spent more time doing design  
 13 work for the industrial waste treatment  
 14 operations and being responsible for  
 15 permitting air -- some air permits,  
 16 groundwater permits, regulatory --  
 17 environmental regulatory compliance I guess  
 18 was the overall title.  
 19 Q. That was your title?  
 20 A. No, the overall title of the work  
 21 product that I was doing.  
 22 Q. What was your job title at that  
 23 point?  
 24 A. Well, at one point it was section  
 25 chief. It changed a number of times. I

1 Cofman  
 2 the Grumman site, the Grumman-owned site?  
 3 A. Yes.  
 4 Q. What did you do with respect to  
 5 that?  
 6 A. Well, you mentioned "was one of  
 7 those properties." There was many properties,  
 8 so do you want me to tell you about one of  
 9 them?  
 10 Q. You said there were many  
 11 properties you're involved in. I'm interested  
 12 as to whether or not you had any  
 13 responsibility with respect to the  
 14 Grumman-owned site, the Bethpage site?  
 15 A. Yes. What I was trying to  
 16 explain was that the Grumman Bethpage site,  
 17 that was originally one contiguous piece.  
 18 Well, Plant 12 was not contiguous, but  
 19 basically it was one parcel, and that was  
 20 broken up into sections and sold off as  
 21 parcels, and each of those parcels was  
 22 investigated independently.  
 23 Q. I should have been a little more  
 24 clear. I am interested in just the Bethpage  
 25 facility, recognizing that you may or may not

1 Cofman  
 2 have been involved with respect to properties  
 3 outside of Bethpage. Were you involved with  
 4 respect to properties outside of Bethpage?  
 5 A. Yes.  
 6 Q. Again, sticking, though, just  
 7 with respect to Bethpage, what was the nature  
 8 of your responsibilities with respect to  
 9 investigation concerning that parcel or  
 10 parcels on the Grumman-owned properties at  
 11 Bethpage?  
 12 A. Basically you could describe my  
 13 function as acting as the project engineer for  
 14 the company, overseeing consultant work,  
 15 consultants doing phase -- environmental  
 16 assessment work and subsequent remediation if  
 17 required.  
 18 Q. Grumman decided to sell a part of  
 19 the Grumman-owned property at Bethpage at one  
 20 point?  
 21 A. Yes, many parts.  
 22 Q. How big was the Grumman-owned  
 23 property at Bethpage?  
 24 A. Well, the whole complex was 650  
 25 acres approximately, of which a little over a

1 Cofman  
 2 good number.  
 3 Q. How many different parcels were  
 4 you involved in?  
 5 MR. TOPOL: Objection. This is  
 6 all very interesting, Counsel, but it  
 7 seems to be so far afield from  
 8 relevancy. I mean, I'll let the witness  
 9 answer. I assume you're getting into  
 10 something relevant here.  
 11 MR. SMIRTI: I assume.  
 12 MR. TOPOL: Do you need the  
 13 question read back now that your lawyer  
 14 interrupted?  
 15 THE WITNESS: No.  
 16 A. I am just trying to picture in my  
 17 mind how many of the parcels I was involved  
 18 in. A dozen perhaps.  
 19 Q. And with respect to these dozen  
 20 or so properties did you oversee consultants  
 21 in the investigation of whether there was  
 22 contamination on one or more of these parcels?  
 23 A. Yes.  
 24 Q. Again, these were Grumman owned  
 25 parcels?

1 Cofman  
 2 hundred or 110, 105 were Navy-owned property.  
 3 Q. How much was owned by Grumman,  
 4 550 acres?  
 5 A. Right, the difference between  
 6 those two would be about, yeah, about 520, 530  
 7 perhaps.  
 8 Q. Of the 520 or 530 acres, how many  
 9 acres did Grumman sell?  
 10 A. Approximately 400.  
 11 Q. Were you involved in the sale?  
 12 A. In the role of supporting the  
 13 real estate department. I wasn't directly  
 14 involved in the marketing.  
 15 Q. And you supported the real estate  
 16 department in connection with the sale of  
 17 those some 400 odd acres, and in that  
 18 connection did you --  
 19 A. I wasn't the only person, so the  
 20 400 acres were not what I necessarily worked  
 21 on. I worked on some portions of them.  
 22 Q. I understand. Approximately how  
 23 many acres were you involved in?  
 24 A. Was I involved in? That's hard  
 25 to say. I wouldn't be able to give you a very

1 Cofman  
 2 A. Yes.  
 3 Q. Which consultants did you  
 4 oversee?  
 5 A. Dvirka & Bartilucci, Arcadis,  
 6 Roux, and there may have been one or two  
 7 others that I can't recall the names of right  
 8 now.  
 9 Q. Did you direct the type of  
 10 investigation that was going to be conducted  
 11 by those consultants?  
 12 A. In a sense. I'm not sure what  
 13 you mean by that question, but maybe you could  
 14 explain.  
 15 Q. Well, tell me what your role was  
 16 with respect to the consultants and the  
 17 investigation of contamination.  
 18 A. Typical scenario of a parcel  
 19 would be that the company would decide it  
 20 wanted to sell a property. And so once that  
 21 happened, the real estate department would  
 22 authorize us to do an environmental  
 23 investigation of the property. We would then  
 24 hire a consultant to do what's known as a  
 25 phase 1 environmental assessment. I would

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1 Cofman  
 2 review the proposal, write up the purchase  
 3 documents to get a PO for that, and then the  
 4 consultant would do the investigation.  
 5 I would support them in terms of  
 6 giving them access, giving them people to  
 7 interview, documents, et cetera. Reports  
 8 would be produced, I would review them, and  
 9 they would be finalized.  
 10 Q. Would you discuss the results of  
 11 the reports with the consultants?  
 12 A. Oh, yes.  
 13 Q. Would you make recommendations to  
 14 others at Grumman with respect to remediation?  
 15 A. I'm sorry. Say that again,  
 16 please.  
 17 Q. In the course of your working  
 18 with consultants on the Grumman-owned  
 19 property, was any PCB contamination found?  
 20 A. Yes.  
 21 Q. Where was it found?  
 22 A. On Grumman property I can  
 23 recall -- my recollection is it was found in  
 24 Plant 12. I don't recall it being found on  
 25 other properties that we were looking at for

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1 Cofman  
 2 disposition, so Plant 12 would be the only one  
 3 I could recall.  
 4 Q. Found in Plant 12?  
 5 A. No. It was located outside of  
 6 Plant 12. When I say Plant 12, I am talking  
 7 about the property that included the buildings  
 8 and the property.  
 9 Q. Where outside of Plant 12?  
 10 A. It would be west of the metal  
 11 shop.  
 12 Q. Where was the metal shop with  
 13 respect to Plant 12?  
 14 A. It was north -- no, southwest of  
 15 the main Plant 12 building.  
 16 Q. The metal shop was?  
 17 A. Yes.  
 18 Q. How far southwest?  
 19 A. 200 feet.  
 20 Q. The PCBs were found did you say  
 21 north of the metal shop?  
 22 A. I think I said south, yeah.  
 23 Q. About how far south of the metal  
 24 shop?  
 25 A. A hundred feet, 150 feet.

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1 Cofman  
 2 Q. Was it near receiving basins?  
 3 A. It was near receiving basins,  
 4 yes.  
 5 Q. How many receiving basins were  
 6 there?  
 7 A. One.  
 8 Q. How big was it?  
 9 A. About a football field in size,  
 10 maybe a little bit bigger.  
 11 Q. Were PCBs found in the receiving  
 12 basins?  
 13 A. No.  
 14 Q. But near the receiving basins?  
 15 A. Yes.  
 16 Q. Was it found in soil?  
 17 A. Yes.  
 18 Q. Was it found in groundwater?  
 19 A. No.  
 20 Q. Did you have a discussion with  
 21 the consultants as to the source of the PCB  
 22 contamination in the soil near the receiving  
 23 basins?  
 24 A. Yes. There were several  
 25 discussions regarding where this might have

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1 Cofman  
 2 come from, because it was a surprise to  
 3 everybody. It wasn't picked up in the phase 1  
 4 assessment.  
 5 Q. Which consultant found it?  
 6 A. Dvirka & Bartilucci.  
 7 Q. And you had discussions with D&B  
 8 about that?  
 9 A. Sure.  
 10 Q. Who from D&B?  
 11 A. I don't recall.  
 12 Q. How many discussions did you  
 13 have?  
 14 A. I don't recall the specific  
 15 number. It was several.  
 16 Q. What were those discussions about  
 17 the source of the PCB contamination?  
 18 A. Well, the PCBs were found in a  
 19 field, in soil underneath -- essentially an  
 20 open field under which -- at which no  
 21 activities had ever occurred, and there were  
 22 no PCB-related processes that we knew of in  
 23 Plant 12, so it was quite a question of how  
 24 the PCBs got there. But an investigation of  
 25 historical aeriels, historical documents,



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Cofman

1 construction drawings showed that the area in  
2 question where the PCBs were found had  
3 previously been a recharge basin.

4 That recharge basin was, let's  
5 say, 10, 15 feet deep, and the contamination  
6 that we found in that area was all above that  
7 level, so it was pretty clear from that  
8 information that the PCBs got there in our  
9 estimation by contaminated fill that was used  
10 to fill in the recharge basin.

11 Q. When was the recharge basin  
12 filled in?

13 A. I think before 1980, but I'm not  
14 sure of the date.

15 Q. Just one recharge basin?

16 A. Yes, one recharge basin was  
17 filled in, yes.

18 Q. And it was in that area of that  
19 one recharge basin that you concluded that  
20 PCB-containing fill had been placed in the  
21 recharge basin?

22 A. Yes.

23 Q. And it was 15 feet the recharge  
24 basin?

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Cofman

1 A. Yes. That's a good estimate.

2 Q. How long was it?

3 A. I don't have a good grasp on the  
4 dimensions of the fill-in basin, but it was at  
5 least 40 by 50, 40 by 80, at least that  
6 dimension.

7 Q. How many cubic yards of fill was  
8 placed in the recharge basin?

9 A. I don't know.

10 Q. But you came to an understanding  
11 that the 30 by 40 and 15 foot deep recharge  
12 basin was filled with fill that contained  
13 PCBs?

14 A. Yes.

15 Q. Do you know where the fill came  
16 from?

17 A. No.

18 Q. How did you come to that  
19 understanding?

20 A. Which?

21 Q. That the recharge basin was  
22 filled with fill containing PCBs.

23 A. By knowledge of the fact that the  
24 basin existed originally, at one point, that  
25

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Cofman

1 subsequent to that it was filled in because we  
2 had excess capacity -- excess recharge basin  
3 capacity. It was filled with fill material,  
4 and the fill material contained PCBs, and  
5 there were no operations that we could see  
6 that would have led to a contamination of fill  
7 material if it had been clean. So based on  
8 those pieces of information we concluded that  
9 the fill material was contaminated as it was  
10 brought in to fill the recharge basin.

11 Q. Do you have any information as to  
12 whether the fill material was brought in from  
13 off the Grumman site?

14 A. I have no information regarding  
15 where it came from.

16 Q. Was PCB contamination found from  
17 the surface of that recharge basin down to  
18 approximately 15 feet?

19 A. The contamination was found  
20 strictly within the volume that would have  
21 comprised the fill material. It was pretty  
22 scattered as far as concentrations.

23 Q. But the volume of the fill  
24 material would have gone down 15 feet?  
25

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Cofman

1 A. Yes, and no contamination was  
2 found below the invert elevation of the basin.

3 Q. Below the what elevation?

4 A. Invert elevation, the bottom.

5 Q. No contamination found below 15  
6 feet?

7 A. Yes.

8 Q. Because 15 feet was the bottom?

9 A. Yes.

10 Q. Did D&B concur with that  
11 conclusion?

12 A. Yes.

13 Q. Did you have any discussions with  
14 anyone from D&B that supported that  
15 conclusion?

16 A. I can't recall.

17 Q. To your knowledge, did D&B do any  
18 type of comparison to ascertain whether the  
19 PCBs found in the recharge basin were similar  
20 to the PCBs that were on the Navy property?

21 A. Not to my knowledge.

22 Q. Were PCBs found at any other  
23 place on the Grumman site?

24 A. On the Grumman site? There were  
25

<p style="text-align: right;">145</p> <p>1 Cofman</p> <p>2 PCBs found -- yes, there were PCBs found at</p> <p>3 other locations on the Grumman site.</p> <p>4 Q. Where were they?</p> <p>5 A. I couldn't give you a complete</p> <p>6 listing, but I know some were listed on an</p> <p>7 area called the Plant 24 access road property.</p> <p>8 Q. Do you know whether the PCBs that</p> <p>9 were found in the area of Plant 12 were</p> <p>10 similar to the PCBs found at the Bethpage</p> <p>11 Park?</p> <p>12 A. I don't know.</p> <p>13 Q. Who found the PCBs in the access</p> <p>14 road you said, sir?</p> <p>15 A. In the access road, yes. I think</p> <p>16 the first time PCBs were found was the result</p> <p>17 of a Navy investigation. PCBs were found on</p> <p>18 Navy property, and this area is adjacent to</p> <p>19 residential property and the Navy property.</p> <p>20 And there was a question about -- I think it</p> <p>21 was a question raised by either the State</p> <p>22 officials or local officials regarding the</p> <p>23 possibility that gee, there's contamination of</p> <p>24 PCBs at the Navy property, what about in the</p> <p>25 areas around the Navy property, so the Navy</p>	<p style="text-align: right;">147</p> <p>1 Cofman</p> <p>2 A. Yes.</p> <p>3 Q. Who did you make those</p> <p>4 recommendations to?</p> <p>5 A. I think it was Larry Leskovjan.</p> <p>6 Q. What was your responsibility with</p> <p>7 respect to remediation?</p> <p>8 A. Well, when a decision was made to</p> <p>9 remediate the site, I was the project engineer</p> <p>10 overseeing the consultant and remediation</p> <p>11 contractor. I was overseeing the remediation</p> <p>12 contractor. We also had our consultant doing</p> <p>13 field observation of the remediation.</p> <p>14 Q. Did you make a recommendation as</p> <p>15 to the type of remediation that should be</p> <p>16 undertaken at Plant 12?</p> <p>17 A. Yes.</p> <p>18 Q. What was that recommendation?</p> <p>19 A. That we obtain approval from the</p> <p>20 State of a course of action so that we could</p> <p>21 get a no further action letter from the State,</p> <p>22 and that course of action was to remove from</p> <p>23 the site, from this area, any PCBs that the</p> <p>24 State considered to be above a threshold level</p> <p>25 that would cause it to be designated as</p>
<p style="text-align: right;">146</p> <p>1 Cofman</p> <p>2 did a sampling program to determine whether or</p> <p>3 not there were.</p> <p>4 Q. You were involved in the</p> <p>5 investigation of PCBs near the site access</p> <p>6 road?</p> <p>7 A. Not that investigation. I was</p> <p>8 involved subsequently.</p> <p>9 Q. When?</p> <p>10 A. I think starting in 1999 or 2000,</p> <p>11 about that time frame.</p> <p>12 Q. Who performed that investigation?</p> <p>13 A. Dvirka &amp; Bartilucci.</p> <p>14 Q. Were you involved in overseeing</p> <p>15 D&amp;B with respect to that?</p> <p>16 A. Yes. I was the project engineer</p> <p>17 for that operation.</p> <p>18 Q. D&amp;B reported to you with respect</p> <p>19 to their findings?</p> <p>20 A. Yes.</p> <p>21 Q. Now, going back to Plant 12 for a</p> <p>22 second and the PCBs that were found in the</p> <p>23 vicinity of Plant 12, were you involved in</p> <p>24 recommending to Grumman the remediation that</p> <p>25 should be employed for the PCBs?</p>	<p style="text-align: right;">148</p> <p>1 Cofman</p> <p>2 hazardous waste and to leave the remainder of</p> <p>3 the PCBs on site and under a cap to prevent</p> <p>4 any possibility of precipitation washing</p> <p>5 contamination into the groundwater and to</p> <p>6 provide monitoring wells to determine whether</p> <p>7 or not the cap was being effective in</p> <p>8 preventing any subsequent contamination of</p> <p>9 groundwater.</p> <p>10 Q. And in connection with that</p> <p>11 remediation did you recommend that there be</p> <p>12 deed restrictions on the property?</p> <p>13 A. I don't know if I can say I</p> <p>14 recommended it, but that was my understanding</p> <p>15 as to what would be required to satisfy the</p> <p>16 New York State DEC. So I don't know if I</p> <p>17 recommended it or we all understood it, but</p> <p>18 that was part of the solution.</p> <p>19 Q. Did you recommend the monitoring</p> <p>20 wells be put in place?</p> <p>21 A. Again, that was kind of standard</p> <p>22 practice when you come up with a solution like</p> <p>23 this. It wouldn't be so much my</p> <p>24 recommendation as implementing standard</p> <p>25 practice.</p>

1 Cofman  
 2 Q. And, in fact, was that  
 recommendation put in place?  
 4 A. Yes.  
 5 Q. That remediation plan?  
 6 A. Yes.  
 7 Q. There was a cap placed on the  
 8 site where the PCBs were found?  
 9 A. Yes.  
 10 Q. Was there any excavation?  
 11 A. Yes.  
 12 Q. How far down?  
 13 A. I don't think we went any deeper  
 14 than 10, 12 feet, maybe a little deeper, but I  
 15 think the design was in that area.  
 16 Q. Was the whole extent of the basin  
 17 excavated to 10 or 12 feet?  
 18 A. Only those areas that required  
 19 it, because they contained concentrations in  
 20 excess of 50 parts per million.  
 21 MR. TOPOL: I didn't hear the  
 22 last answer. In excess of what?  
 23 THE WITNESS: 50 parts per  
 24 million.  
 25 Q. Where was the cap placed?

1 Cofman  
 2 installed?  
 3 A. I don't recall.  
 4 Q. Do you know the cost of operating  
 5 the monitoring wells on a yearly basis or a  
 6 monthly basis, as the case may be?  
 7 A. No.  
 8 Q. Did you get involved in the  
 9 actual monitoring of the monitoring wells?  
 10 A. Yes.  
 11 Q. What was your role with respect  
 12 to the monitoring wells?  
 13 A. I would direct the consultant to  
 14 take samples, and then I would review the  
 15 results with the consultant.  
 16 Q. How often were samples taken?  
 17 A. We took samples shortly after the  
 18 remediation, and I think a year after that,  
 19 and I think the last sample we took was last  
 20 year.  
 21 Q. This is samples of the  
 22 groundwater?  
 23 A. Yes, downgradient of remediation.  
 24 Q. What were the findings?  
 25 A. Negative.

1 Cofman  
 2 A. Over the contaminated area.  
 3 Q. So there were caps at different  
 4 locations placed?  
 5 A. No. The area was backfilled with  
 6 clean fill, so that we'd have a level surface  
 7 again, and then the area was capped.  
 8 Q. So if there was PCB contamination  
 9 found at 10 feet, the excavation would be to  
 10 10 feet; is that correct?  
 11 A. If there was --  
 12 Q. Please go ahead.  
 13 MR. TOPOL: Object to the form.  
 14 MR. SMIRTI: Withdrawn.  
 15 Q. If there were PCB contamination  
 16 found above 50 parts per million at a level of  
 17 10 feet, at a depth of 10 feet, then there  
 18 would be excavation to 10 feet?  
 19 A. Yes, or slightly below that.  
 20 Q. And if there were only PCB  
 21 contamination found at levels below 50 parts  
 22 per million, then there would be no excavation  
 23 of those areas, correct?  
 24 A. Yes.  
 25 Q. How many monitoring wells were

1 Cofman  
 2 Q. Was there any PCB concentration  
 3 in the groundwater?  
 4 A. No, not within the limits of the  
 5 analytical procedures that we used.  
 6 Q. Again with respect to the PCB  
 7 contamination in Plant 12, do you have an  
 8 understanding as to whether a different  
 9 remediation alternative would have been  
 10 employed if there were no deed restrictions  
 11 that were placed on the property?  
 12 A. Would you explain that question  
 13 again?  
 14 MR. SMIRTI: Read it back.  
 15 (Record read.)  
 16 A. In order to get a no further  
 17 action letter from the State and to do the  
 18 remediation that we proposed, we had to couple  
 19 that with a deed restriction. If we were  
 20 interested in not having a deed restriction on  
 21 the property, then we would have had to  
 22 remediate the PCB contaminated area to  
 23 different end points.  
 24 Q. What type of remediation would  
 25 Grumman have had to do if there were no deed

<p style="text-align: right;">153</p> <p>1 Cofman</p> <p>2 restrictions?</p> <p>3 A. The same remediation, the same</p> <p>4 type of remediation, would have been digging a</p> <p>5 hole.</p> <p>6 Q. Excavation?</p> <p>7 A. Yes, but we would have remediated</p> <p>8 instead of to 50 -- instead of removing</p> <p>9 anything above 50 parts per million, we would</p> <p>10 have removed everything that was above 10</p> <p>11 parts per million, as long as that</p> <p>12 contamination was at least 2 feet below</p> <p>13 surface, and it would have been, because we</p> <p>14 would have had to at least put in that much</p> <p>15 clean fill.</p> <p>16 Q. So if there were contamination at</p> <p>17 15 feet, 30 parts per million, that would have</p> <p>18 had to be removed if there was no deed</p> <p>19 restriction?</p> <p>20 A. Yes.</p> <p>21 Q. If there were contamination at 30</p> <p>22 parts per million at 20 feet, would that have</p> <p>23 had to be removed?</p> <p>24 A. Yes.</p> <p>25 Q. How far down would PCB</p>	<p style="text-align: right;">155</p> <p>1 Cofman</p> <p>2 understanding that there was Freon</p> <p>3 contamination found at the Grumman site?</p> <p>4 A. There is some Freon contamination</p> <p>5 that is in groundwater on the southern portion</p> <p>6 of the Grumman site.</p> <p>7 Q. How did you come to find that</p> <p>8 out?</p> <p>9 A. Testing of groundwater from</p> <p>10 groundwater monitoring wells.</p> <p>11 Q. How did you come to test those</p> <p>12 groundwater monitoring wells?</p> <p>13 A. Well, the site is a super fund</p> <p>14 site. We have a very extensive network of</p> <p>15 monitoring wells throughout the site and off</p> <p>16 site that are tested on a routine basis for a</p> <p>17 number of parameters, including the category</p> <p>18 that would be picked up by Freon, if there</p> <p>19 were Freon in the groundwater.</p> <p>20 Q. What are your responsibilities in</p> <p>21 connection with that type of testing that's</p> <p>22 done?</p> <p>23 A. It's reported to the State on a</p> <p>24 quarterly basis.</p> <p>25 Q. Are you responsible to do that?</p>
<p style="text-align: right;">154</p> <p>1 Cofman</p> <p>2 contamination above 10 parts per million have</p> <p>3 had to be removed?</p> <p>4 A. There's no limit that I know of.</p> <p>5 Q. To your understanding, are there</p> <p>6 different types of deed restrictions that are</p> <p>7 employed in the course of certain remediation</p> <p>8 projects?</p> <p>9 A. I don't know. I'm not sure what</p> <p>10 types there are, that's what I mean by I don't</p> <p>11 know.</p> <p>12 Q. Aside from the Plant 12 location</p> <p>13 and the site access road that we've talked</p> <p>14 about, did you find any other PCB</p> <p>15 contamination on the Grumman-owned property?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Did you find any Freon</p> <p>18 contamination on the Grumman-owned property?</p> <p>19 A. I can't recall of any Freon</p> <p>20 contamination that I found in the</p> <p>21 investigation I did for property transfer, if</p> <p>22 that's what you're referring to.</p> <p>23 Q. Yes, sir.</p> <p>24 A. No.</p> <p>25 Q. Do you have any other</p>	<p style="text-align: right;">156</p> <p>1 Cofman</p> <p>2 A. Yes.</p> <p>3 Q. Where were the groundwater</p> <p>4 monitoring wells located that detected the</p> <p>5 Freon?</p> <p>6 A. I would have to review some</p> <p>7 documents to be specific about that.</p> <p>8 Q. Do you know the approximate area?</p> <p>9 A. Yes.</p> <p>10 Q. Where, approximately?</p> <p>11 A. In the area of Plant 2, which is</p> <p>12 on the southwestern end of the facility,</p> <p>13 southwestern, yes.</p> <p>14 Q. Of the Grumman-owned facility?</p> <p>15 A. Of the Grumman-owned facility.</p> <p>16 Q. At how many monitoring wells did</p> <p>17 you detect Freon?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know the type of Freon</p> <p>20 that was detected?</p> <p>21 A. I'm fairly certain that it's a</p> <p>22 type of Freon called Freon 113.</p> <p>23 Q. Any other types of Freon?</p> <p>24 A. Not that I can recall.</p> <p>25 Q. What's Freon 113 used for?</p>

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1 Cofman  
 2 A. Cleaning.  
 3 Q. Was Freon 113 used on the Grumman  
 4 site?  
 5 A. Yes.  
 6 Q. Was Freon 113 used on the Navy  
 7 site?  
 8 A. Not to my knowledge.  
 9 Q. Where was Freon 113 used on the  
 10 Grumman site?  
 11 A. Well, I don't know everywhere it  
 12 was used, but I personally know that it was  
 13 used in Plants 2 and 5.  
 14 Q. And it was used for cleaning in  
 15 Plants 2 and 5?  
 16 A. Yes.  
 17 Q. Did you cause an investigation to  
 18 determine where Freon 113 was used?  
 19 A. No.  
 20 Q. Did you cause an investigation to  
 21 determine the source of Freon 113?  
 22 A. No.  
 23 Q. What type of cleaning was Freon  
 24 113 used for?  
 A. It was used for degreasing metal

1 Cofman  
 2 groundwater?  
 3 A. I don't think so, but I'm not  
 4 sure.  
 5 Q. Was Freon TF found in the soil?  
 6 A. Not that I know of.  
 7 Q. How about Freon 113, was that  
 8 found in the soil at the Grumman site?  
 9 A. I'm not aware of any.  
 10 Q. Was Freon 12 used at the Grumman  
 11 site?  
 12 A. I don't know specifically whether  
 13 it was, but my understanding is it's a common  
 14 refrigerant, and certainly there was air  
 15 conditioners in the facility.  
 16 Q. So it wouldn't surprise you if  
 17 Freon 12 was used at the Grumman site?  
 18 A. No, it wouldn't surprise me.  
 19 Q. And you don't recall whether  
 20 Freon 12 was detected in these monitoring  
 21 wells?  
 22 A. I never said that, I don't think,  
 23 and my understanding is that it was not  
 24 detected in any of those monitoring wells.  
 25 Q. How much Freon 12 was used in

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1 Cofman  
 2 parts. Certain metal parts could not be  
 3 degreased with other degreasing solvents  
 4 because of the -- it has something to do with  
 5 metallurgy of the parts, if some parts had  
 6 oxygen exposed to them -- I'm not sure of the  
 7 details, but from a metallurgic standpoint,  
 8 Freon was the material choice.  
 9 Q. How much Freon was used in those  
 10 plants?  
 11 A. I wouldn't know that.  
 12 Q. To your understanding, is Freon  
 13 used in the production of aircraft?  
 14 A. What I just mentioned was in the  
 15 production of aircraft, aircraft parts.  
 16 Q. Any other types of Freon used in  
 17 the production of aircraft to your  
 18 understanding?  
 19 A. There was another Freon that's  
 20 designated as Freon TF, and that also was used  
 21 for degreasing components of aircraft.  
 22 Q. Is Freon TF also known as Freon  
 23 12?  
 24 A. No.  
 25 Q. Was any Freon TF found in the

1 Cofman  
 2 refrigerants on the Grumman site?  
 3 A. I don't know that.  
 4 Q. Are you aware whether Freon 12  
 5 was used on the Navy site?  
 6 A. I don't know if it was or wasn't.  
 7 Q. Were you responsible for any  
 8 remediation efforts on the Navy site?  
 9 A. No.  
 10 Q. Or investigation of contamination  
 11 on the Navy site?  
 12 A. Yes.  
 13 Q. What was your responsibility with  
 14 respect to investigation of contamination on  
 15 the Navy site?  
 16 A. I was responsible for  
 17 investigating two dry wells that had PCB  
 18 contamination in them.  
 19 Q. Is one of those dry wells what we  
 20 talked about earlier, by Plant 3?  
 21 A. Yes.  
 22 Q. Was there another dry well that  
 23 you were responsible for?  
 24 A. Yes.  
 25 Q. Where was that?

<p style="text-align: right;">161</p> <p>1 Cofman</p> <p>2 A. That was also at Plant 3 located</p> <p>3 downstream of the connection point between the</p> <p>4 dry well -- of the dry well that we were</p> <p>5 talking about earlier, so it was located -- it</p> <p>6 was in the line, in the path, of the storm</p> <p>7 water collection system but further</p> <p>8 downgradient from the one that was by the</p> <p>9 autoclave and about halfway between the</p> <p>10 autoclave dry well and the recharge basins.</p> <p>11 Q. So working downgradient it would</p> <p>12 have been the autoclave drains or the drains</p> <p>13 in Plant 3 of the autoclave operation, the dry</p> <p>14 well, the first dry well that we talked about</p> <p>15 earlier today, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And then this second dry well</p> <p>18 that we're talking about now, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And that second dry well was in</p> <p>21 the path of the storm water system?</p> <p>22 A. Yes. It was a dry well that was</p> <p>23 part of the storm water collection.</p> <p>24 Q. Then working downgradient, the</p> <p>25 recharge basins?</p>	<p style="text-align: right;">163</p> <p>1 Cofman</p> <p>2 remove contaminated soil. We asked the State</p> <p>3 if that was sufficient, and they came back and</p> <p>4 said no, that was not sufficient. So at that</p> <p>5 point we need to investigate further what was</p> <p>6 in the dry wells below 30 feet, and that's</p> <p>7 where I got involved.</p> <p>8 Q. I understand. Did you come to a</p> <p>9 determination as to the source of the PCB</p> <p>10 contamination in the second dry well?</p> <p>11 A. No, not specifically.</p> <p>12 Q. Do you have an understanding that</p> <p>13 it was from Plant 3?</p> <p>14 A. Yes.</p> <p>15 Q. From the same source as the PCB</p> <p>16 contamination in the first dry well?</p> <p>17 A. Yes, yes.</p> <p>18 Q. Now, both dry wells were</p> <p>19 excavated to 30 feet?</p> <p>20 A. Yes.</p> <p>21 Q. What were the outside dimensions</p> <p>22 of the dry well again?</p> <p>23 A. 10 feet perhaps.</p> <p>24 Q. 10 feet by how much?</p> <p>25 A. The depth?</p>
<p style="text-align: right;">162</p> <p>1 Cofman</p> <p>2 A. Yes.</p> <p>3 Q. When did you work on the</p> <p>4 investigation of this second dry well that</p> <p>5 we're talking about now?</p> <p>6 A. At the same time as the first.</p> <p>7 Q. Did you find contamination in the</p> <p>8 second dry well?</p> <p>9 A. Yes.</p> <p>10 Q. What kind of contamination?</p> <p>11 A. You mean the concentration?</p> <p>12 Q. Well, first of all, let me ask</p> <p>13 you this. Did you find PCB contamination in</p> <p>14 the second dry well?</p> <p>15 A. Yes.</p> <p>16 Q. What other types of</p> <p>17 contamination?</p> <p>18 A. That's the only kind of</p> <p>19 contamination.</p> <p>20 Q. Where did you find the PCB</p> <p>21 contamination?</p> <p>22 A. The two dry wells in question had</p> <p>23 been determined to have PCB contamination</p> <p>24 before I got involved in the project. They</p> <p>25 were remediated down to a depth of 30 feet to</p>	<p style="text-align: right;">164</p> <p>1 Cofman</p> <p>2 MR. SMIRTI: Withdrawn. Let me</p> <p>3 start over.</p> <p>4 Q. I'd like to know the length and</p> <p>5 width of the dry wells.</p> <p>6 A. The width, 8 to 10 feet. I'm not</p> <p>7 sure of the exact dimension, but 10 feet is a</p> <p>8 good estimate of the width or the diameter of</p> <p>9 these rings that are the dry wells, and</p> <p>10 perhaps 15 feet in depth.</p> <p>11 Q. PCB contamination was found in</p> <p>12 the dry wells at what depths?</p> <p>13 A. Well, I have to correct the way</p> <p>14 I've been speaking. They were found below the</p> <p>15 dry wells, but they're always referred to as</p> <p>16 the dry wells.</p> <p>17 Q. So they were found below 15 foot</p> <p>18 from surface?</p> <p>19 A. Yes.</p> <p>20 Q. How far down were they found?</p> <p>21 A. About 55 to 60 feet.</p> <p>22 Q. In both dry wells?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall the concentrations?</p> <p>25 A. Of course it varied with depth,</p>

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1 Cofman  
 2 but I think the highest concentrations were on  
 the order of 5 percent.  
 4 Q. 5 parts per million?  
 5 A. 5 percent.  
 6 Q. 5 percent, so that would be --  
 7 A. 50,000 parts per million.  
 8 Q. Both dry wells were excavated to  
 9 30 feet did you say?  
 10 A. Yes.  
 11 Q. Was clean fill placed in?  
 12 A. Yes.  
 13 Q. What, if any, PCB contamination  
 14 was below 30 feet?  
 15 A. That's the contamination that  
 16 I've been discussing.  
 17 Q. 5 percent?  
 18 A. That's when I got involved in the  
 19 project.  
 20 Q. And that's 50,000 parts per  
 21 million that you found below 30 feet?  
 22 A. Yes.  
 23 Q. Did you have discussions with the  
 24 DEC about that?  
 25 A. Yes.

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1 Cofman  
 2 Q. Who at the DEC did you discuss  
 3 this with?  
 4 A. Maybe discussions is the wrong  
 5 term. It was correspondence, and I don't  
 6 recall who that was.  
 7 Q. Communications with the DEC?  
 8 A. Yes, communications.  
 9 Q. That you participated in?  
 10 A. I participated in submitting  
 11 reports to them of the findings.  
 12 Q. What did the DEC say about the  
 13 PCB contamination below 30 feet?  
 14 A. That they were satisfied with our  
 15 delineation, and they wanted something done  
 16 about that.  
 17 Q. What did they want done?  
 18 A. Remediation.  
 19 Q. Specifically what did they want  
 20 done with --  
 21 A. The DEC doesn't usually get very  
 22 specific about things like that. They ask you  
 23 to propose something.  
 24 Q. Did Grumman propose something?  
 25 A. No.

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1 Cofman  
 2 Q. Are you in the process of doing  
 3 that?  
 4 A. No.  
 5 Q. What was your response to the  
 6 DEC?  
 7 A. That this was an area that the  
 8 Navy was going to be responsible for and that  
 9 they were taking over the project.  
 10 Q. And is it your understanding that  
 11 the Navy took over the project?  
 12 A. Yes.  
 13 Q. And is it your understanding that  
 14 the Navy is performing further remediation  
 15 below 30 feet in the dry wells?  
 16 A. I'm not aware of any remediation  
 17 they're doing, but I know they've been  
 18 studying what to do about it.  
 19 Q. Do you know whether Grumman came  
 20 to a resolution with the Navy concerning  
 21 excavation below 30 feet?  
 22 MR. TOPOL: Object to the form of  
 23 the question.  
 24 You can answer, if you  
 25 understand.

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1 Cofman  
 2 A. I don't think that a resolution  
 3 was reached with the Navy regarding  
 4 remediation, excavation below 30 feet. I  
 5 think the understanding was that this is an  
 6 area that the Navy said that they would assume  
 7 responsibility for, and that was the extent of  
 8 the discussion.  
 9 Q. To your understanding, there's no  
 10 dispute between the Navy and Grumman as to who  
 11 has the responsibility to excavate below 30  
 12 feet?  
 13 A. Correct.  
 14 Q. How far below the 30 foot level  
 15 is the PCB contamination in the dry wells?  
 16 A. About 20 to 30 feet below that  
 17 point.  
 18 Q. So approximately 60 feet below  
 19 surface?  
 20 A. That's the extent of it, 55, 60  
 21 feet.  
 22 Q. Did the DEC ever suggest that it  
 23 wanted excavation down to 60 feet?  
 24 A. No.  
 25 Q. Did the DEC ever suggest that it

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1 Cofman  
 2 would be satisfied with a cap?  
 3 A. No.  
 4 Q. Or that it would be satisfied  
 5 with deed restrictions?  
 6 A. No.  
 7 Q. Do you have an understanding as  
 8 to why the Navy assumed responsibility for  
 9 remediation below 30 feet?  
 10 A. Not really.  
 11 Q. Who would you go to to find out  
 12 the answer to that question?  
 13 A. Jim Coulter was the person I  
 14 interfaced with. That was the Navy  
 15 representative or the Nav Fac representative.  
 16 Q. You had discussions with  
 17 Mr. Coulter?  
 18 A. I've had many discussions with  
 19 Mr. Coulter, yes.  
 20 Q. Were some of those discussions  
 21 about excavation below 30 feet?  
 22 A. No.  
 23 Q. About remediation below 30 feet?  
 24 A. No.  
 25 Q. What discussions did you have

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1 Cofman  
 2 with Mr. Coulter about remediation at the two  
 3 dry wells?  
 4 A. None.  
 5 Q. What were the nature of your  
 6 discussions with Mr. Coulter?  
 7 A. Well, Mr. Coulter was responsible  
 8 for overseeing any remediations we did do on  
 9 the Navy facility, and also he was the  
 10 cognizant person for the Navy regarding the  
 11 groundwater contamination super fund site, so  
 12 we would discuss those items.  
 13 Q. Do you have an understanding as  
 14 to what concentrations of PCB contamination  
 15 the DEC wants remediated in the groundwater,  
 16 in the two dry wells?  
 17 A. In general, yes.  
 18 Q. What's that understanding?  
 19 A. That anything above 10 parts per  
 20 million should be removed unless there are  
 21 some institutional controls, such as a cap and  
 22 monitoring installed, that's number one.  
 23 Number two, that anything that is over 50  
 24 parts per million should be removed.  
 25 Q. Anything over 10 parts per

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1 Cofman  
 2 million?  
 3 A. Anything over 10 parts per  
 4 million should be removed if you don't have a  
 5 deed restriction or an institutional control,  
 6 and an institutional control.  
 7 Q. No matter what depth?  
 8 A. That's my understanding.  
 9 Q. And anything over 50 parts per  
 10 million if you don't have a deed restriction  
 11 has to be removed no matter what depth?  
 12 A. Anything over 50 parts per  
 13 million, whether or not you have a deed  
 14 restriction, has to be removed.  
 15 Q. Understood.  
 16 Mr. Cofman, do you have an  
 17 understanding as to whether there was a fire  
 18 training area on the Park property?  
 19 A. That's my understanding.  
 20 Q. Tell me what that understanding  
 21 is.  
 22 MR. TOPOL: Counsel, I suggest  
 23 you ask him what the basis of his  
 24 understanding is.  
 25 Q. What's the basis of your

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1 Cofman  
 2 understanding?  
 3 A. It's a discussion that I've had  
 4 with Frank Amoroso, John Ohlmann and Robert  
 5 Jasinkonis.  
 6 Q. Do you have information with  
 7 respect to the fire training area from any  
 8 other source other than that discussion with  
 9 Mr. Amoroso and Mr. Jasinkonis?  
 10 A. No.  
 11 Q. Were you provided any documents  
 12 with respect to the fire training area?  
 13 A. No.  
 14 Q. Was a topic of discussion - I'm  
 15 not asking for the content - was a topic of  
 16 discussion in the meeting that you had with  
 17 Mr. Amoroso and Mr. Jasinkonis the fire  
 18 training area?  
 19 A. Yes.  
 20 MR. SMIRTI: Take five.  
 21 (Recess taken at 2:17 p.m.)  
 22 (Examination resumed at 2:26  
 23 p.m.)  
 24 Q. Mr. Cofman, we talked about your  
 25 understanding that fill was brought in to the



1 Cofman  
2 receiving basin on the Grumman property. Do  
3 you recall that, sir?

4 A. That was a possibility that we  
5 suspected.

6 Q. Did you come to an understanding  
7 that fill was brought in to any other portion  
8 of the Grumman property?

9 MR. TOPOL: Objection to the form  
10 of the question. Are we talking about  
11 ever, I mean in the history of the  
12 world? I mean --

13 MR. SMIRTI: I want to know his  
14 understanding as to whether fill was  
15 brought in to the Grumman property.

16 A. Fill was brought in to the  
17 Grumman property?

18 Q. Yes.

19 A. I don't have direct experience  
20 with fill being brought in to the Grumman  
21 property.

22 Q. Being brought onto the Grumman  
23 property?

24 A. Being brought onto the Grumman  
25 property from off site, no.

1 Cofman

2 basin to one or more of the recharge basins?

3 A. Right. In those days we had two  
4 receiving basins and five regular recharge  
5 basins. They were all recharge basins, but  
6 because of their functions these were called  
7 the receiving basins. One of those receiving  
8 basins it was decided that we no longer  
9 needed, and that was filled in.

10 Q. That's where you found the PCB  
11 contamination, in one of the receiving basins?

12 A. No. This is south -- on the  
13 south side of the Bethpage facility, not Plant  
14 12.

15 Q. Okay. I apologize. Please  
16 continue.

17 A. So that's the other location that  
18 I'm familiar with, or that's the location that  
19 I'm familiar with fill being used on site.

20 Q. Now, was any PCB contamination  
21 found in either of these two receiving basins  
22 that you just mentioned?

23 A. No.

24 Q. Was any contamination, PCB  
25 contamination, found in any of the five or so

1 Cofman

2 Q. Did you have any understanding  
3 that fill was brought from the Navy property  
4 to the Grumman property?

5 A. That was a recharge basin on the  
6 southern end of the Grumman property, and that  
7 recharge basin was filled at one point because  
8 it was no longer needed, so fill was brought  
9 to that recharge basin and it was leveled, and  
10 that fill came from on site.

11 Q. Was that the fill that we were  
12 talking about earlier, or am I getting the  
13 receiving basin and the recharge basin mixed  
14 up?

15 A. I use the terms in this case  
16 interchangeably because the -- on the south  
17 end of plant, of the Bethpage facility, there  
18 were a string of recharge basins, and two of  
19 those recharge basins were connected to the  
20 influent storm water connection, and those  
21 were called receiving basins, because all the  
22 flow would go to those two basins before being  
23 directed to one or several of the other basins  
24 through piping.

25 Q. So it would go from the receiving

1 Cofman

2 recharge basins that you've just mentioned?

3 A. No.

4 Q. Was any contamination found in  
5 these basins at all?

6 A. We found some metals  
7 contamination in the receiving basin.

8 Q. Was that the receiving basin that  
9 contained fill?

10 A. Yes.

11 Q. Did you come to an understanding  
12 as to where that fill came from?

13 A. Yes.

14 Q. Where did it come from?

15 A. It came from scrapings of other  
16 basins.

17 Q. On Grumman property or the Navy  
18 property?

19 A. Both.

20 Q. On both properties?

21 A. Yes.

22 Q. In how many of the basins did you  
23 find contamination?

24 A. We found metals contamination in  
25 both receiving basins, one which had been

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1 Cofman  
 2 filled in and the other which had not.  
 3 Q. And none in the recharge basins?  
 4 A. No.  
 5 Q. Was there just soil contamination  
 6 or both soil and groundwater contamination?  
 7 A. We noticed some low levels of  
 8 metals contamination just downgradient of the  
 9 recharge basins, of the receiving basins.  
 10 Q. Were you involved in the  
 11 remediation of the receiving basins?  
 12 A. No.  
 13 Q. Who was?  
 14 A. Fred Weber.  
 15 Q. Did remediation of the receiving  
 16 basins take place?  
 17 A. There was some removal, but it  
 18 was basically to prepare for capping those  
 19 areas, paving them over. This was done in  
 20 conjunction with approval from the State.  
 21 Q. So there was some excavation that  
 22 was done?  
 23 A. Yes.  
 24 Q. And a capping?  
 25 A. Yes.

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1 Cofman  
 2 Q. Were there deed restrictions  
 3 placed on that area?  
 4 A. Well, deed restrictions are  
 5 normally placed on an area when there's a sale  
 6 of the property. So the only thing that was  
 7 done was that it was made clear to the State  
 8 that if that property were to be sold, it  
 9 would be sold under the conditions of a deed  
 10 restriction, the wording of which was  
 11 submitted to the State.  
 12 Q. Do you know what that deed  
 13 restriction is?  
 14 A. Not specifically, no.  
 15 Q. Generally do you know what it is?  
 16 A. I think it calls out what the  
 17 contamination is, where it is and that if that  
 18 area is disturbed, if the cap is disturbed, it  
 19 can only be done in conjunction with approval  
 20 from the State, and I think there may be some  
 21 limitation on the uses of the property. In  
 22 other words, it can't be used for residential  
 23 purposes or a school, that kind of thing. I'm  
 24 not sure of the details of that, but that's  
 25 generally the idea.

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1 Cofman  
 2 Q. Or a place where children  
 3 inhabit?  
 4 A. Certainly. It's primarily  
 5 reserved for commercial and industrial  
 6 properties.  
 7 Q. To your understanding, are you  
 8 aware of any other fill being brought in to  
 9 the Grumman site in any other area of the  
 10 Grumman site?  
 11 A. No. This wasn't being brought in  
 12 to the Grumman site. This was from the  
 13 Grumman site.  
 14 Q. I believe you indicated you  
 15 believe also it was from the Navy site?  
 16 A. It was from the scrapings of  
 17 basins from both the Navy and the Grumman  
 18 site.  
 19 Q. Both the Grumman-owned property  
 20 and the Navy-owned property?  
 21 A. Yes.  
 22 Q. Aside from your conversations,  
 23 discussions that you participated in, with  
 24 Mr. Amoroso and Mr. Jasinkonis, did you speak  
 25 with anyone about the fire training area on

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1 Cofman  
 2 the Park property?  
 3 MR. TOPOL: Objection.  
 4 A. Yes.  
 5 MR. TOPOL: Objection to form.  
 6 You can answer.  
 7 Q. Yes?  
 8 A. Yes.  
 9 Q. Who did you speak with?  
 10 A. Larry Leskovjan, personnel from  
 11 Dvirka & Bartilucci and personnel from  
 12 Arcadis.  
 13 Q. When did you speak to  
 14 Mr. Leskovjan about the fire training area?  
 15 A. 2001 I guess.  
 16 Q. Why did you speak to him about  
 17 that?  
 18 A. We were trying to determine the  
 19 nature of contamination of the Park, and this  
 20 was important information to help in  
 21 determining whether there was or where there  
 22 might be contamination.  
 23 Q. Who was present when you spoke to  
 24 him about that?  
 25 A. Larry Leskovjan?

1 Cofman  
 2 Q. Yes.  
 3 A. I don't know that anyone was  
 4 besides the two of us.  
 5 Q. What prompted you to speak to  
 6 Mr. Leskovjan about the fire training area?  
 7 A. When I came by that information,  
 8 I felt that it was important to let Larry know  
 9 about it because it was going to be important  
 10 in our investigation of the Park property.  
 11 Q. At the time that you spoke to  
 12 Mr. Leskovjan about the fire training area was  
 13 Grumman performing any investigation of  
 14 contamination at the Park site?  
 15 A. Yes.  
 16 Q. Did you have this discussion with  
 17 Mr. Leskovjan for the purpose of determining  
 18 what type of investigation should be done at  
 19 the site?  
 20 A. I wouldn't put it quite that way,  
 21 but I would put it that it was important for  
 22 Larry Leskovjan to know about this in order to  
 23 understand why the consultants were  
 24 recommending what they were recommending,  
 25 which was investigation.

1 Cofman  
 2 was performing investigations in the Park?  
 3 A. The State knew, but there was no  
 4 agreement between us and the State at the  
 5 time.  
 6 Q. Did Grumman propose to the State  
 7 the areas on the Park property where it  
 8 conduct the investigation?  
 9 A. At some point in time we did,  
 10 yes, but I don't think we did at that point in  
 11 time.  
 12 Q. And did you have that discussion  
 13 with Mr. Leskovjan for purposes of Grumman's  
 14 suggesting to the State the locations on the  
 15 Park property where Grumman conduct the  
 16 investigation?  
 17 A. I don't think so.  
 18 Q. As a result of your discussions  
 19 with Mr. Leskovjan, was a recommendation made  
 20 to the consultant as to the location of the  
 21 investigation on the site?  
 22 A. I don't think it would be -- I  
 23 would classify it as a result of that.  
 24 Q. Is that one of the factors?  
 25 A. That information led to -- would

1 Cofman  
 2 Q. Of certain areas of the Park  
 3 property?  
 4 A. And groundwater.  
 5 Q. And this was under an agreement  
 6 of sorts with the DEC to do investigation at  
 7 the site?  
 8 A. I don't think that was the case  
 9 at that point in time, no.  
 10 Q. At the time that you had the  
 11 discussion with Mr. Leskovjan was Grumman  
 12 performing investigation on the Park property?  
 13 A. Yes.  
 14 Q. Why were they doing that?  
 15 A. Because we had found  
 16 contamination adjacent to the Park property,  
 17 and subsequently determined that some of the  
 18 testing we'd done was on the Park property  
 19 because the fence separating the two  
 20 properties was located several feet into the  
 21 Park property. So once we found that there  
 22 was contamination on the Park, we notified the  
 23 Town, we notified the State and requested  
 24 their cooperation in doing investigations.  
 25 Q. So the State knew that Grumman

1 Cofman  
 2 have led to Larry understanding what the  
 3 recommendations were to the consultant.  
 4 Q. It was important in the  
 5 formulation of the recommendation to the  
 6 consultant?  
 7 A. Yes.  
 8 Q. As to the areas the consultants  
 9 should investigate on the site?  
 10 A. Further investigation.  
 11 Q. Did you have any direct  
 12 discussions with the consultants about the  
 13 fire training area?  
 14 A. Yes.  
 15 Q. Who from the consultants?  
 16 A. Mike Hofgren and Dave Stern, Mike  
 17 Hofgren from Dvirka & Bartilucci, Dave Stern  
 18 from Arcadis, although it might have been  
 19 called Gerrightly & Miller at that time.  
 20 Q. Did the consultants perform an  
 21 investigation of the fire training area?  
 22 A. They performed an investigation  
 23 which attempted to determine where the fire  
 24 training area was and where contamination from  
 25 a fire training operation may have ended up.

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1 Cofman  
 2 It was never clear exactly where the fire  
 3 training area was.  
 4 Q. How do you know that?  
 5 A. Well, let me rephrase that. It  
 6 was never clear to me or anybody I spoke to  
 7 exactly where the fire training area was.  
 8 Q. Did you relate that to the  
 9 consultants?  
 10 A. Yes.  
 11 Q. Did the consultants, to your  
 12 understanding, perform an investigation at or  
 13 around the area of the fire training area?  
 14 A. In the area where we thought it  
 15 might be, yes.  
 16 Q. Did they report results to you?  
 17 A. Yes.  
 18 Q. What were your responsibilities  
 19 with respect to the consultants' investigation  
 20 of the fire training area?  
 21 A. I would review the documents and  
 22 reports that they would prepare and discuss  
 23 their findings periodically.  
 24 Q. What was your responsibility with  
 25 respect to reviewing those reports?

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1 Cofman  
 2 A. I and a team of others would  
 3 determine whether or not they were  
 4 satisfactory or not.  
 5 Q. Was part of that responsibility  
 6 to make a recommendation as to remediation if  
 7 necessary?  
 8 A. We never got to the point of  
 9 recommendations and remediations. We were  
 10 still in a mode of investigation. I mean,  
 11 there was some conceptual ideas, like maybe if  
 12 it's like this or like that, these are  
 13 possible avenues of exploring in terms of  
 14 remediation, but that was not the thrust of  
 15 the effort.  
 16 Q. Did you have any discussions with  
 17 the DEC about the fire training area?  
 18 A. I don't recall.  
 19 Q. Do you know whether Mr. Leskovjan  
 20 did?  
 21 A. I don't know.  
 22 Q. Do you know whether the  
 23 information that Mr. Jasinkonis disclosed at  
 24 the meeting with Mr. Amoroso was transmitted  
 25 to the DEC?

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1 Cofman  
 2 A. No, I don't know.  
 3 Q. Was the Navy involved in any  
 4 waste disposal practices on the Navy site?  
 5 A. Yes.  
 6 Q. What was the extent of the Navy's  
 7 involvement?  
 8 A. Well, they had inspections  
 9 carried on on a periodic basis, that would  
 10 include an inspection of all their facilities,  
 11 and I think even facilities that were not  
 12 theirs but were used for contracts to support  
 13 them. Their involvement was in funding the  
 14 construction and operation of waste disposal  
 15 facilities or anything that was in support of  
 16 waste disposal facilities on their property.  
 17 I think that's basically it.  
 18 Q. Did Grumman obtain approval or  
 19 authorization of the Navy for any waste  
 20 disposal practices on the Navy site?  
 21 A. Yes, I think so.  
 22 Q. Tell me how that process worked.  
 23 A. Well, as an example, the drum  
 24 marshalling area was really central to our  
 25 waste disposal procedures, and that would have

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1 Cofman  
 2 been proposed to the Navy as a construction  
 3 project for that purpose. The Navy would have  
 4 approved the funding and would have had  
 5 somebody supervise construction to some  
 6 degree.  
 7 Q. Tell me if I understand this  
 8 correctly. When we talked about the drum  
 9 marshalling area earlier, you stated that  
 10 there were drums that were placed on the drum  
 11 marshalling area, correct?  
 12 A. Yes.  
 13 Q. That you saw.  
 14 A. Yes.  
 15 Q. And is it your understanding that  
 16 the Navy authorized the placement of those  
 17 drums in the drum marshalling area?  
 18 A. Yes. As a matter of fact, they  
 19 were co-owners with the permit that was given  
 20 by the State to operate that facility.  
 21 Q. To operate what facility?  
 22 A. The drum marshalling area.  
 23 Q. Do you have an understanding as  
 24 to whether the Navy knew of the contents of  
 25 the barrels in the drum marshalling area?

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1 Cofman  
 2 A. I don't know the answer to that.  
 3 Q. Do you know whether the Navy paid  
 4 for any part of the waste disposal on the Navy  
 5 site?  
 6 A. I think they paid for all of it,  
 7 but I think it was through indirect funds,  
 8 overhead funds.  
 9 Q. Through?  
 10 A. Overhead funds. It wasn't --  
 11 that function, waste disposal, was not  
 12 directly connected to individual programs. It  
 13 was part of an overhead function for operation  
 14 of the total facility, and the Navy would have  
 15 funded those costs.  
 16 Q. Was it built into Grumman's  
 17 contracts with the Navy?  
 18 A. I think so, yes.  
 19 Q. Was it a separate line item?  
 20 A. I don't know about that.  
 21 Q. Is it your understanding that the  
 22 Navy had responsibilities with respect to  
 23 waste disposal practices before you were  
 24 employed by Grumman?  
 A. As far as I know, the contractual

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1 Cofman  
 2 relations between Grumman and the Navy were  
 3 pretty much the same before I was -- in terms  
 4 of funding and approval of funding and  
 5 reviewing drawings and signing off on  
 6 drawings, that kind of thing, was not new to  
 7 my starting at the company.  
 8 Q. How did you come to that  
 9 understanding?  
 10 A. Based on documents I'd seen in  
 11 the file, the facilities engineering  
 12 department files. Any construction effort  
 13 that was Navy related there would be -- or  
 14 even non-Navy related, but there would be  
 15 plans and specs on file. I'd have to review  
 16 those periodically if I was going to make an  
 17 adjustment or change to something, and those  
 18 are all signed off by the Navy.  
 19 Q. It's your understanding that the  
 20 Navy would have approved the scraping  
 21 operations that took place in the recharge  
 basin by Plant 3?  
 23 A. That's my understanding, yes.  
 24 Q. And that the Navy would have had  
 25 responsibility in authorizing the disposal of

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1 Cofman  
 2 the scrapings from that basin?  
 3 A. I really have no information  
 4 regarding that.  
 5 Q. We talked earlier about  
 6 sludge-drying beds being constructed on the  
 7 Navy site after the Town of Oyster Bay took  
 8 title to the Park. Do you recall that, sir?  
 9 A. Yes.  
 10 Q. Is it your understanding that the  
 11 Navy would have had to approve the  
 12 construction of those sludge-drying beds?  
 13 A. Yes.  
 14 (Cofman Exhibit 6, Document Bates  
 15 stamped NGSC-TOB 18949 through NGSC-TOB  
 16 18958, marked for identification.)  
 17 Q. Mr. Cofman, do you recall  
 18 receiving Exhibit 6?  
 19 A. Yes.  
 20 Q. It is a report to you from D&B  
 21 regarding certain soil samplings taken at the  
 22 Park property?  
 23 A. Yes.  
 24 Q. Were you the point person with  
 25 D&B with respect to this sampling?

192

1 Cofman  
 2 A. Yes.  
 3 Q. Look at the top of page 2,  
 4 please. The first sentence on page 2 says,  
 5 "Based on NYS DEC's and NYS DOH's review of  
 6 the analytical data and subsequent site  
 7 visits, NGC, Northrop Grumman, received a  
 8 letter from the NYS DEC dated May 7, 2002 in  
 9 which the NYS DEC and NYS DOH requested  
 10 additional soil sampling be performed in the  
 11 Park." Do you see that, sir?  
 12 A. Yes.  
 13 Q. Did you have discussions with  
 14 anyone from the DEC or the DOH regarding these  
 15 additional soil samplings?  
 16 A. Not that I recall.  
 17 Q. Do you know who did?  
 18 A. No.  
 19 Q. The next sentence talks about a  
 20 request that additional soil samples be  
 21 collected in the bocce court area. Do you see  
 22 that?  
 23 A. Yes.  
 24 Q. Do you know why soil samples were  
 25 requested to be collected in the bocce court

<p style="text-align: right;">193</p> <p>1 Cofman</p> <p>2 area?</p> <p>3 A. My recollection is that the State</p> <p>4 was concerned about locations within the Park</p> <p>5 where people might come into direct contact</p> <p>6 with soil, and they wanted to make sure that</p> <p>7 that soil was not part of the contamination.</p> <p>8 Q. There was an initial sampling</p> <p>9 that was done in March of 2002?</p> <p>10 A. Um-hum.</p> <p>11 Q. And then a follow-up sampling</p> <p>12 that was done I guess it would have been after</p> <p>13 May of 2002?</p> <p>14 A. I'm not sure if it's after or</p> <p>15 during, but in that time frame.</p> <p>16 Q. Was there a recommendation that</p> <p>17 soil samples be taken at the bocce court area</p> <p>18 because there was contamination found in or</p> <p>19 about that area during the March sampling?</p> <p>20 A. I don't recall the specifics of</p> <p>21 that. My recollection would be that there was</p> <p>22 contamination found, and the Health Department</p> <p>23 was concerned about certain possible contact</p> <p>24 areas. The bocce court was one of them.</p> <p>25 Q. Did you participate in those</p>	<p style="text-align: right;">195</p> <p>1 Cofman</p> <p>2 whether they did or not.</p> <p>3 Q. Did you recommend any of these</p> <p>4 locations listed on page 2?</p> <p>5 A. No.</p> <p>6 Q. You weren't at this May 9th</p> <p>7 meeting that's mentioned in the second</p> <p>8 paragraph of page 2?</p> <p>9 A. Not to my recollection.</p> <p>10 (Cofman Exhibit 7, Document Bates</p> <p>11 stamped BETPARK 1033 through BETPARK</p> <p>12 1040, marked for identification.)</p> <p>13 Q. Mr. Cofman, have you seen Exhibit</p> <p>14 7 before?</p> <p>15 A. I think so.</p> <p>16 Q. When did you first see it?</p> <p>17 A. I don't know.</p> <p>18 Q. Did you help prepare it?</p> <p>19 A. No.</p> <p>20 Q. Did you attend a meeting on or</p> <p>21 about May 15, 2002 where the Bethpage property</p> <p>22 disposition and Park closure was discussed?</p> <p>23 A. Yes.</p> <p>24 Q. Who was present at the meeting?</p> <p>25 A. I'm not sure. It was management.</p>
<p style="text-align: right;">194</p> <p>1 Cofman</p> <p>2 conversations with the Health Department</p> <p>3 following the investigation that took place in</p> <p>4 March, 2002?</p> <p>5 A. Not to my recollection.</p> <p>6 Q. Who would have done that,</p> <p>7 Mr. Leskovjan?</p> <p>8 A. Yes.</p> <p>9 Q. Anybody else from Northrop</p> <p>10 Grumman?</p> <p>11 A. I don't think so.</p> <p>12 Q. On the third full paragraph on</p> <p>13 page 2 there are a listing of bullets that</p> <p>14 talk about the scope of the additional soil</p> <p>15 sampling program. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know the basis for the</p> <p>18 determination of the locations of that</p> <p>19 additional soil sampling program?</p> <p>20 A. As far as I can tell, all these</p> <p>21 locations have to do with Health Department</p> <p>22 concerns that these areas are potential areas</p> <p>23 of contact by users of the Park with soil at</p> <p>24 or near the surface that may or may not</p> <p>25 contain PCBs. They wanted to determine</p>	<p style="text-align: right;">196</p> <p>1 Cofman</p> <p>2 This was -- this looks like a presentation to</p> <p>3 management, but I don't have in my mind a</p> <p>4 recollection of the individuals that were</p> <p>5 there.</p> <p>6 Q. Did you participate in making the</p> <p>7 presentation?</p> <p>8 A. I was in attendance, but I did</p> <p>9 not participate in the presentation, other</p> <p>10 than maybe commenting.</p> <p>11 Q. Who made the presentation?</p> <p>12 MR. TOPOL: Why don't you ask him</p> <p>13 first, Counsel, if there were any</p> <p>14 lawyers present at the meeting, since he</p> <p>15 told you it was a management</p> <p>16 presentation.</p> <p>17 MR. SMIRTI: I'll get there. I'm</p> <p>18 not asking about any content until I get</p> <p>19 there. Don't worry about it.</p> <p>20 DI MR. TOPOL: I'm instructing the</p> <p>21 witness not to disclose content until</p> <p>22 you're asking whether there were any</p> <p>23 lawyers present.</p> <p>24 Q. Who gave the presentation?</p> <p>25 A. Larry Leskovjan.</p>

1 Cofman  
 2 Q. Anybody else?  
 3 A. Not that I can recall.  
 4 Q. Aside from Grumman management,  
 5 who was there?  
 6 A. I don't recall.  
 7 Q. Do you recall whether anybody  
 8 from the Navy was there?  
 9 A. No.  
 10 Q. Look at page 2 of the exhibit,  
 11 please. See the last bullet says, "The Town  
 12 undertook extensive earthwork following  
 13 donation of the property;" do you see that?  
 14 A. Yes.  
 15 Q. Did Mr. Leskovjan make that  
 16 statement at the meeting?  
 17 MR. TOPOL: Objection, Counsel.  
 18 You haven't asked him whether within  
 19 Grumman management there were any  
 20 lawyers.  
 21 MR. SMIRTI: I said who else was  
 22 present. Fair enough.  
 23 Q. Within Grumman management, were  
 24 there any lawyers present?  
 25 A. I think so.

1 Cofman  
 2 respect to the last bullet on page 2?  
 3 DI MR. TOPOL: Objection, instruct  
 4 the witness not to answer. He said I  
 5 believe there was counsel present.  
 6 MR. SMIRTI: It's a yes or no as  
 7 to whether or not this was a topic of  
 8 discussion, and I'm entitled to  
 9 understand, even if you make a privilege  
 10 objection, as to the topics discussed.  
 11 MR. TOPOL: Fair enough.  
 12 You may answer that question  
 13 without disclosing the content of what  
 14 was discussed.  
 15 THE WITNESS: What was the  
 16 question?  
 17 MR. SMIRTI: Read it back.  
 18 (Record read.)  
 19 A. Yes.  
 20 Q. Were there any documents produced  
 21 at the meeting that addressed the topic on the  
 22 last bullet?  
 23 MR. TOPOL: Counsel, for the  
 24 record, when you say the second page, do  
 25 you mean the one with the Bates number

1 Cofman  
 2 Q. Who?  
 3 A. I'm not sure.  
 4 Q. What was the purpose of the  
 5 meeting?  
 6 A. To brief management.  
 7 Q. On what?  
 8 A. On what we'd found at the Park.  
 9 Q. Do you recall whether anybody  
 10 from the Navy was present?  
 11 A. I don't recall if anybody from  
 12 the Navy was present.  
 13 MR. TOPOL: Asked and answered,  
 14 Counsel.  
 15 Q. Exhibit 7 appears to be a  
 16 Navy-produced document, and it appears to me  
 17 that the Navy was present at this meeting.  
 18 Which people from Grumman were present?  
 19 A. I don't recall who was present.  
 20 Q. Mr. Leskovjan was the presenter?  
 21 A. Yes.  
 22 Q. Other than perhaps the Navy, was  
 23 anyone outside of Grumman present?  
 24 A. Not to my recollection.  
 25 Q. Was there a discussion with

1 Cofman  
 2 01034?  
 3 MR. SMIRTI: Yes, I do.  
 4 A. I don't recall.  
 5 (Discussion off the record.)  
 6 (Cofman Exhibit 8, Document Bates  
 7 stamped NGSC-TOB 2798 through NGSC-TOB  
 8 2928, marked for identification.)  
 9 (Cofman Exhibit 9, Document Bates  
 10 stamped NGSC-TOB 20828 through NGSC-TOB  
 11 20844, marked for identification.)  
 12 Q. I won't ask you to look through  
 13 the whole document on Exhibit 8, Mr. Cofman,  
 14 but if you would like to take a few moments  
 15 just to generally glance through it, please be  
 16 my guest, and then certainly if I ask you  
 17 questions with respect to the document, feel  
 18 free to take as much time as you like to  
 19 review the document to the extent you deem  
 20 necessary.  
 21 (Witness perusing document.)  
 22 A. Okay.  
 23 Q. First of all, have you seen  
 24 Exhibit 8 before, Mr. Cofman?  
 25 A. Yes.

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<p>1 Cofman</p> <p>2 Q. Is Exhibit 8 a report from D&amp;B of</p> <p>3 the results of the soil investigation that D&amp;B</p> <p>4 did in or about March of 2002 at the Park</p> <p>5 site?</p> <p>6 A. Yes.</p> <p>7 Q. Exhibit 8 was sent to you by D&amp;B?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have a recollection having</p> <p>10 reviewed Exhibit 8 at or about the time it was</p> <p>11 sent to you?</p> <p>12 A. Yes.</p> <p>13 Q. Which would have been around June</p> <p>14 of 2002?</p> <p>15 A. Probably in May.</p> <p>16 Q. May of 2002.</p> <p>17 Let me direct your attention if I</p> <p>18 could, please, to page 2-3. It's about eight</p> <p>19 pages in. See the paragraph starting 2.2,</p> <p>20 Site History?</p> <p>21 A. Yes.</p> <p>22 Q. The next to the last paragraph on</p> <p>23 that page says, "Aerial photographs of the</p> <p>24 Grumman Aircraft Engineering Corporation</p> <p>25 Bethpage facility dated from before the</p>	<p>1 Cofman</p> <p>2 that was subsequently transferred to the Town.</p> <p>3 Q. Any other place?</p> <p>4 A. There were -- if I recall, there</p> <p>5 were areas -- no. I think that was about it,</p> <p>6 southwestern area, say the southwestern</p> <p>7 quadrant or so.</p> <p>8 Q. The next paragraph on 2.3 says,</p> <p>9 "Northrop Grumman Corporation does not have</p> <p>10 any information regarding the operations</p> <p>11 conducted by the Town of Oyster Bay subsequent</p> <p>12 to property transfer." Do you see that, sir?</p> <p>13 A. Yes, I do.</p> <p>14 Q. Do you know the basis for that</p> <p>15 statement?</p> <p>16 A. An investigation of our files did</p> <p>17 not disclose anything that would indicate that</p> <p>18 we knew anything about the Town of Oyster</p> <p>19 Bay's work. That's all I can surmise that is</p> <p>20 the basis for that statement.</p> <p>21 Q. Did you have that discussion with</p> <p>22 D&amp;B?</p> <p>23 A. Yes.</p> <p>24 Q. Prior to preparation of this</p> <p>25 report?</p>
<p>1 Cofman</p> <p>2 transfer of the property show the site as</p> <p>3 undeveloped and indicates some earthwork</p> <p>4 operations in areas that appear to contain</p> <p>5 surface water." Do you see that, sir?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have an understanding as</p> <p>8 to the basis for that statement in this</p> <p>9 report?</p> <p>10 A. Yes.</p> <p>11 Q. Is it the aerial photographs?</p> <p>12 A. Yes.</p> <p>13 Q. And only the aerial photographs?</p> <p>14 A. That's my understanding.</p> <p>15 Q. Do you recall discussing with D&amp;B</p> <p>16 the content of the aerial photographs?</p> <p>17 A. Yes.</p> <p>18 Q. Did your discussions involve the</p> <p>19 conclusion that there were earthwork</p> <p>20 operations at the Park before the transfer of</p> <p>21 the property to the Town of Oyster Bay?</p> <p>22 A. Yes.</p> <p>23 Q. Where were those operations?</p> <p>24 A. There were operations in the</p> <p>25 southwestern portion primarily of the property</p>	<p>1 Cofman</p> <p>2 A. Yes.</p> <p>3 Q. Let's take a look at Exhibit 9.</p> <p>4 We're done with number 8, Mr. Cofman.</p> <p>5 Just take a moment to glance</p> <p>6 through that, Mr. Cofman. And again, when I</p> <p>7 ask you questions about the letter, you'd like</p> <p>8 to take some more time, please be my guest.</p> <p>9 (Witness perusing document.)</p> <p>10 A. Okay.</p> <p>11 Q. Have you seen Exhibit 9 before,</p> <p>12 Mr. Cofman?</p> <p>13 A. Yes, I have.</p> <p>14 Q. You received a copy of Exhibit 9</p> <p>15 when it was sent by Mr. Leskovjan to</p> <p>16 Mr. Scharf?</p> <p>17 A. Yes.</p> <p>18 Q. Did you ever speak to Mr. Scharf?</p> <p>19 A. Have I ever spoken to Mr. Scharf?</p> <p>20 Q. Yes.</p> <p>21 A. Yes.</p> <p>22 Q. How many times?</p> <p>23 A. I don't know, 50 times.</p> <p>24 Q. Did you speak to Mr. Scharf about</p> <p>25 the remediation at the Park property site?</p>



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1 Cofman  
 2 A. What remediation are you talking  
 about?  
 4 MR. SMIRTI: Withdrawn.  
 5 Q. Did you speak with Mr. Scharf  
 6 about the Park property?  
 7 A. Yes.  
 8 Q. Did you speak with him about the  
 9 investigation undertaken by Grumman at the  
 10 Park property?  
 11 A. Yes.  
 12 Q. Did you speak with Mr. Scharf  
 13 about any of the investigation or remediation  
 14 undertaken by the Town at the Park property?  
 15 A. Yes.  
 16 Q. How many discussions with  
 17 Mr. Scharf did you have concerning the  
 18 investigation or remediation conducted by the  
 19 Town at the Park property?  
 20 A. I would estimate half a dozen.  
 21 Q. Over the course of what time  
 22 period did you have those discussions?  
 23 A. I'd be hard-pressed to give you  
 24 dates, but it was at or about the time the  
 Town submitted a proposal to the State to

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1 Cofman  
 2 undertake an investigation and conduct an IRM.  
 3 Q. That would have been sometime in  
 4 2005?  
 5 A. I think so.  
 6 Q. Through what time period?  
 7 A. Through last week.  
 8 Q. And discussions are ongoing?  
 9 A. Yes.  
 10 Q. What is your role with respect to  
 11 the investigation and remediation conducted by  
 12 the Town at the Park property?  
 13 A. I have no direct role regarding  
 14 that.  
 15 Q. You have no responsibility with  
 16 respect to that?  
 17 A. Not to the Town's work, only  
 18 inasmuch as it may affect the work that we're  
 19 doing.  
 20 Q. So your responsibility involves  
 21 how, if at all, that investigation or  
 remediation conducted by the Town affects  
 23 Grumman?  
 24 A. Affects the investigation we're  
 25 doing.

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1 Cofman  
 2 Q. Affects the investigation that  
 3 Grumman is doing at the site?  
 4 A. Yes.  
 5 Q. I understand.  
 6 Were these communications that  
 7 you had with Mr. Scharf oral or in writing or  
 8 both?  
 9 A. My communications were oral.  
 10 Q. Over the telephone?  
 11 A. Yes.  
 12 Q. And in meetings?  
 13 A. I don't recall a meeting with him  
 14 that I spoke regarding the Town's  
 15 investigation.  
 16 Q. And you spoke with Mr. Scharf I  
 17 think you said about a dozen times concerning  
 18 that?  
 19 A. That's a good number.  
 20 Q. What were those conversations?  
 21 A. Normally my discussions would be  
 22 regarding the investigation we were doing or  
 23 work that we were doing relative to the super  
 24 fund project, not related to the Park, but it  
 25 would not be uncommon for me to ask him what

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1 Cofman  
 2 his understanding was of the status of the  
 3 work being conducted by the Town or  
 4 discussions regarding the -- no. That's my  
 5 answer.  
 6 Q. Did you make notes of those  
 7 conversations with Mr. Scharf?  
 8 A. I may have made notes on some  
 9 occasions, but I can't recall specifically  
 10 which occasions that would be.  
 11 Q. Where are those notes kept?  
 12 A. Those normally would be kept as  
 13 E-mail report to my supervisor.  
 14 Q. Did you make any notes other than  
 15 E-mail notes to your supervisor?  
 16 A. There might have been some rough  
 17 hand notes that would have been thrown away  
 18 once it was transferred to the PC.  
 19 Q. Were any handwritten notes kept?  
 20 A. No.  
 21 Q. And your supervisor, when you had  
 22 those discussions with Mr. Scharf, was  
 23 Mr. Leskovjan?  
 24 A. Yes.  
 25 Q. Did you speak with Mr. Scharf

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1 Cofman  
 2 about the remediation that was employed, that  
 3 was being employed by the Town?  
 4 A. I may have, but there was nothing  
 5 really at depth regarding that.  
 6 Q. Do you recall what you said to  
 7 him about that?  
 8 A. Not really, no.  
 9 Q. Do you recall what he said to you  
 10 about that?  
 11 A. Not specifically. There was a  
 12 discussion regarding the extent of the  
 13 remediation, and I can recall him saying that  
 14 he was surprised that the extent of the work  
 15 that the Town felt was required.  
 16 Q. When did he say that?  
 17 A. I think after the IRM work plan  
 18 was submitted.  
 19 Q. What did he say about that?  
 20 A. Other than what I just mentioned,  
 21 I can't recall anything other than that.  
 22 Q. Did you comment on that response?  
 23 A. Yes.  
 24 Q. What did you say?  
 25 A. I agreed.

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1 Cofman  
 2 Q. What did he say about the extent  
 3 of the remediation?  
 4 A. That it was excessive.  
 5 Q. Did he say what about it was  
 6 excessive?  
 7 A. The degree of earthwork and  
 8 removal that was planned.  
 9 Q. How did that topic come up?  
 10 A. I don't recall.  
 11 Q. Did you raise it?  
 12 A. I don't recall.  
 13 Q. Did Mr. Scharf state that the DEC  
 14 objected to the remediation that was being  
 15 employed by the Town?  
 16 A. No.  
 17 Q. Did Mr. Scharf state that the DEC  
 18 had a better alternative to the remediation  
 19 that was employed by the Town?  
 20 A. Other than to say that it was in  
 21 excess of what would be required to meet TAGM  
 22 or the end point concentrations that the Town  
 23 normally requires, no.  
 24 Q. Did Mr. Scharf say that the  
 25 remediation proposed, that remediation being

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1 Cofman  
 2 conducted by the Town, violated any rule or  
 3 regulation of the DEC?  
 4 A. No, he did not.  
 5 Q. During the course of any of your  
 6 conversations with Mr. Scharf concerning the  
 7 Town's remediation did you suggest that the  
 8 Town be prevented from going forward with its  
 9 remediation?  
 10 A. No.  
 11 Q. To your knowledge, has anyone at  
 12 Grumman made that suggestion?  
 13 A. To Mr. Scharf?  
 14 Q. Yes, sir.  
 15 A. I think Larry Leskovjan may have.  
 16 I know that somewhere along the line there was  
 17 a discussion regarding our concern regarding  
 18 the potential for the Town's work interfering  
 19 with our investigation and potential  
 20 remediation, and so we were concerned only  
 21 inasmuch as the potential for interference may  
 22 occur and that it was important that we  
 23 coordinate.  
 24 Q. Did you participate in those  
 25 discussions?

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1 Cofman  
 2 A. Yes.  
 3 Q. And they were with Mr. Scharf?  
 4 A. Yes.  
 5 Q. Who else participated in those  
 6 discussions?  
 7 A. I think it was just Larry, myself  
 8 and Mr. Scharf.  
 9 Q. How many occasions did you have  
 10 those discussions?  
 11 A. Once or twice.  
 12 Q. When did they take place?  
 13 A. I think it was after we reviewed  
 14 the IRM work plan.  
 15 Q. When you say "interference," you  
 16 mentioned interference a couple of answers  
 17 ago, what do you mean by interference?  
 18 A. Well, it could be a number of  
 19 sources or a number of areas, but in one case  
 20 I know we were prevented from gaining access  
 21 to the Park for an extended period of time  
 22 when we wanted to go in and do some  
 23 investigation, because the process of  
 24 obtaining an access agreement from the Town to  
 25 enter the Park just dragged and dragged, I

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1 Cofman  
 2 don't know, for six months, but it was a long  
 3 time, so that's one case of interference.  
 4 Another potential that we saw was  
 5 that if the Town were to build their facility,  
 6 the ice rink I am talking about, over an area  
 7 that we had not had a chance to investigate  
 8 and may contain potentially a source of  
 9 contamination to groundwater, it would -- we  
 10 would not be in a position to investigate  
 11 that, and it would make remediation of that  
 12 area that much more difficult.  
 13 Q. And you had those discussions  
 14 with Mr. Scharf?  
 15 A. Yes.  
 16 Q. Ultimately was a site access  
 17 agreement signed?  
 18 A. Yes.  
 19 Q. And put in place?  
 20 A. Yes.  
 21 Q. And Grumman given access to the  
 22 site?  
 23 A. Yes.  
 24 Q. What were the discussions with  
 25 Mr. Scharf about the ice rink?

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1 Cofman  
 2 A. I don't recall a specific  
 3 discussion regarding the ice rink itself.  
 4 Q. You mentioned that that was a  
 5 topic with respect to interference?  
 6 A. Yes.  
 7 Q. What did Mr. Scharf say about  
 8 that?  
 9 A. I don't recall.  
 10 Q. But you voiced this concern about  
 11 the ice rink?  
 12 A. Yes.  
 13 Q. Did Mr. Leskovjan?  
 14 A. Yes.  
 15 Q. And you don't recall whether  
 16 Mr. Scharf responded to that?  
 17 A. I can't recall that he responded  
 18 in any kind of specific way that would imply  
 19 that an action be taken by State. He just  
 20 acknowledged our concern.  
 21 Q. When you spoke to Mr. Scharf  
 22 about the ice rink, did you suggest that the  
 23 Town be prevented from conducting the  
 24 remediation at the ice rink?  
 25 A. The remediation? No.

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1 Cofman  
 2 Q. Or any activities at the ice  
 3 rink?  
 4 A. I suggested that if it was  
 5 possible for the State to request that the  
 6 Town delay their work until we were -- we had  
 7 completed our work, that would be useful.  
 8 Q. And Mr. Scharf's response was?  
 9 A. I think he said something to the  
 10 effect that it's the Town's property, and they  
 11 can pretty much do with it what they like.  
 12 Q. Now referring to Exhibit 9, did  
 13 you participate in the drafting to any extent  
 14 of Exhibit 9?  
 15 A. I think I reviewed it before it  
 16 went out.  
 17 Q. And you reviewed it at  
 18 Mr. Leskovjan's request?  
 19 A. Yes.  
 20 Q. Do you know who prepared Exhibit  
 21 9?  
 22 A. Personnel from Arcadis.  
 23 Q. Anybody else?  
 24 A. I don't think so.  
 25 Q. Did anybody else have a hand in

216

1 Cofman  
 2 the drafting of Exhibit 9?  
 3 A. I think Larry may have edited the  
 4 work product that Arcadis presented to us, as  
 5 I may have.  
 6 Q. Primarily it was an Arcadis  
 7 product?  
 8 A. Yes.  
 9 Q. Did you give comments to  
 10 Mr. Leskovjan about Exhibit 9?  
 11 A. Yes.  
 12 Q. How many drafts of Exhibit 9 were  
 13 prepared?  
 14 A. I don't know.  
 15 Q. Did you retain those drafts?  
 16 A. No.  
 17 Q. Do you know if anyone did?  
 18 A. I don't know.  
 19 Q. What were the comments you gave  
 20 to Mr. Leskovjan?  
 21 A. I can't recall specific comments.  
 22 This document was pretty much satisfactory, as  
 23 far as I was concerned. There may have been a  
 24 comma here or a misspelled word or some  
 25 editorial comment.

217

219

1 Cofman  
 2 Q. Do you recall suggesting any  
 3 additions or deletions from what turned out to  
 4 be Exhibit 9?  
 5 MR. TOPOL: Objection. You're  
 6 being repetitious, Counsel. The witness  
 7 told you what his role was in connection  
 8 with the document. I'll let him answer  
 9 this question, but I would hope you  
 10 wouldn't repeat it a third time.  
 11 A. No.  
 12 Q. Look at page 2 of Exhibit 9,  
 13 please.  
 14 A. Yes.  
 15 Q. The first sentence at the top, do  
 16 you see that, Mr. Cofman?  
 17 A. It starts with "The Town's"?  
 18 Q. Yes, sir. "The Town's proposed  
 19 remedial action, however, departs  
 20 significantly from the requirements of the NYS  
 21 DEC and proposes actions that are unnecessary  
 22 to protect human health and the environment."  
 23 Do you agree with that?  
 24 A. Yes.  
 25 Q. Did you agree with it at the

1 Cofman  
 2 requirements of the NYS DEC?  
 3 A. Yes. I'm familiar with some  
 4 requirements, yes.  
 5 Q. What requirements are you  
 6 familiar with?  
 7 A. There are levels of remediation  
 8 that they require for unrestricted and  
 9 restricted usage of property under RCRA and  
 10 under the super fund guideline, regulations.  
 11 Q. Are you familiar with a DEC  
 12 regulation regarding remedy selection?  
 13 A. Yes.  
 14 Q. And are you familiar with that  
 15 portion of the regulation that states that the  
 16 goal of the program for a specific site is to  
 17 restore that site to predisposal conditions to  
 18 the extent feasible and authorized by law?  
 19 DI MR. TOPOL: I'm instructing the  
 20 witness not to answer this question and  
 21 any other questions that have to do with  
 22 the New York State regulations. We did  
 23 this at length in Mr. Leskovjan's  
 24 deposition. He's not here as an expert  
 25 lawyer, nor is he here to express legal

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220

1 Cofman  
 2 time?  
 3 A. Yes.  
 4 Q. How does the Town's proposed  
 5 remedial action depart significantly from the  
 6 requirements of the NYS DEC?  
 7 MR. TOPOL: Objection to the form  
 8 of the question. He's not here as a  
 9 legal expert, Counsel.  
 10 MR. SMIRTI: He said he came to  
 11 an understanding. He said he agreed --  
 12 MR. TOPOL: You may answer.  
 13 A. Well, I think it's pretty laid  
 14 out in here. My understanding is a reflection  
 15 of this.  
 16 Q. You don't have any other  
 17 understanding, other than what's laid out in  
 18 here --  
 19 A. Yes.  
 20 Q. -- as to the basis of the  
 21 statement "The Town's proposed remedial action  
 22 departs significantly from the requirements of  
 23 the NYS DEC"?  
 24 A. Yes, correct.  
 25 Q. Are you familiar with the

1 Cofman  
 2 opinions. He's here as a fact witness.  
 3 He's testified at length about  
 4 facts in connection with his role in  
 5 drafting or preparing Cofman Exhibit 9,  
 6 and I instruct him not to answer any  
 7 more legal questions.  
 8 MR. SMIRTI: Are you objecting on  
 9 the basis of privilege?  
 10 MR. TOPOL: No. I'm objecting on  
 11 the basis that he's here as a fact  
 12 witness, and it's entirely  
 13 inappropriate.  
 14 MR. SMIRTI: I just want to  
 15 understand. You're directing him not to  
 16 answer on the basis other than a  
 17 privilege objection?  
 18 MR. TOPOL: Yes.  
 19 MR. SMIRTI: And you do  
 20 understand, Mr. Topol, that I am not  
 21 asking the witness for any expert  
 22 opinion or legal conclusion. I just  
 23 simply asked him, and we can go back and  
 24 have the question reread, I simply asked  
 25 him as to whether he was aware of the

221

223

1 Cofman  
2 NYS DEC regulation that provided as I  
3 stated.

4 MR. TOPOL: You were asking him  
5 for legal conclusions. If you want to  
6 ask that question, you can ask whether  
7 he's aware, but I'm not going to permit  
8 him to sit here and have to answer  
9 questions about interpretation of the  
10 New York regulations. If you want to  
11 ask what he's aware of, you can ask him  
12 what he's aware of.

13 Q. Are you aware of it?

14 A. Am I aware of that wording?

15 Q. Yes, sir.

16 A. Yes.

17 Q. Were you aware of it at the time  
18 that Exhibit 9 was written?

19 A. Yes.

20 Q. And did you agree with the  
21 conclusions or the objections raised in  
22 Exhibit 9 in light of your understanding of  
23 the regulation?

24 A. Yes.

25 Q. Why; why did you agree?

222

1 Cofman  
2 A. Because the comments made here  
3 seemed to be supported by my understanding of  
4 the regulations.

5 Q. Does the proposed remedial action  
6 plan that's proposed in Exhibit 9, does it  
7 remedy the site to predisposal conditions?

8 A. Yes, in my opinion.

9 Q. The plan proposed by Grumman in  
10 this Exhibit 9.

11 A. I'm sorry. I misunderstood the  
12 question.

13 Q. Let me restate it.  
14 In Exhibit 9 does Grumman suggest  
15 an alternate remediation?

16 A. I would have to read this  
17 document again to answer that question.

18 MR. SMIRTI: Okay, please do.  
19 (Witness perusing document.)

20 THE WITNESS: Can I hear the  
21 question again, please.  
22 (Record read.)

23 A. Well, I guess you could say that  
24 on page 7 there is an alternative presented.

25 Q. Do you agree with that

1 Cofman  
2 alternative?

3 A. Yes.

4 Q. Does the alternative proposed at  
5 page 7 restore the site to predisposal  
6 conditions to the extent feasible and  
7 authorized by law to your understanding?

8 A. I think it does.

9 Q. Does the proposed remediation at  
10 page 7 leave intact some contamination at the  
11 site?

12 A. It leaves some contamination at  
13 the site.

14 Q. At what depths?

15 A. I couldn't tell you offhand.

16 Q. Below 2 feet?

17 A. Below 2 feet, yes.

18 Q. And if contamination at the site  
19 is left intact below 2 feet, is it your  
20 understanding that that's a predisposal  
21 condition?

22 A. No.

23 Q. What's a demarcation barrier?

24 A. Well, when a area of

25 contamination is capped or otherwise left in

224

1 Cofman  
2 place with or without a cap, there will  
3 typically be a deed restriction in which it  
4 will denote where that is. And in addition,  
5 there will be something placed over the area  
6 that's contaminated so that subsequently if  
7 any excavation is done in the area there will  
8 be an indication of where that contamination  
9 starts, in conjunction with the documents and  
10 the deed.

11 Q. The proposal here is that there  
12 be a demarcation barrier at 2 feet?

13 A. That's what it says.

14 Q. And if in the future there were  
15 excavation below 2 feet, that DEC approval  
16 would be required at that time?

17 A. Yes.

18 Q. For what type of projects would  
19 there be a requirement that there be  
20 excavation below 2 feet?

21 A. I imagine any kind of  
22 redevelopment might have that, putting in  
23 utilities, water lines, electrical lines.

24 Q. Building a building?

25 A. Building a building.

225

1 Cofman  
2 Q. How far down do you have to go to  
3 build a building?  
4 A. It depends on the nature of the  
5 building.  
6 Q. Suppose you wanted to build a  
7 two-story senior center.  
8 A. I don't know exactly, but I would  
9 imagine you would have to have a significant  
10 enough foundation for a two-story building to  
11 extend 5, 10 feet below ground. I'm not sure.  
12 Q. Generally with your civil  
13 engineering background for buildings with  
14 basements you would have to excavate how far?  
15 MR. TOPOL: Objection to the form  
16 of the question. You're asking him as  
17 an expert. You're giving him expert  
18 questions. You know that's improper,  
19 Counsel.  
20 MR. SMIRTI: I'm asking his  
21 background.  
22 MR. TOPOL: You're asking an  
23 expert question. It's precisely the  
24 kind of question that your counsel  
25 instructed the witness not to answer.

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1 Cofman  
2 You know it's highly inappropriate.  
3 Go ahead and answer the question  
4 if you'd like.  
5 A. Well, my civil engineering  
6 background is limited to water resources and  
7 sanitary engineering, not construction.  
8 Q. When you gave comments to  
9 Mr. Leskovjan about Exhibit 9, did you discuss  
10 with him whether the Town had plans to build  
11 any building at the site of the ice skating  
12 rink in the future?  
13 A. You mean including the ice rink  
14 or not including the ice rink?  
15 Q. In the future, if the Town wished  
16 to do something at that site other than having  
17 an ice rink.  
18 A. No, I did not.  
19 Q. If there were a demarcation  
20 barrier, as you mentioned, and excavation were  
21 required below the demarcation barrier, DEC  
22 approval would have to be obtained?  
23 A. That's my understanding.  
24 Q. Who would have to obtain that  
25 approval?

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1 Cofman  
2 A. The owner of the property.  
3 Q. If the DEC required that there be  
4 additional remediation below 2 feet in order  
5 to perform either building at the site or  
6 whatever the case may be, who, to your  
7 understanding, would pay for that?  
8 A. I don't know.  
9 Q. Did you have an understanding at  
10 the time that Exhibit 9 was written that it  
11 would be Grumman's responsibility to pay for  
12 any remediation that was required below the  
13 demarcation barrier?  
14 A. No.  
15 Q. Did you expect that Grumman would  
16 not be paying for that?  
17 A. I really don't know.  
18 Q. Did you discuss that with  
19 Mr. Leskovjan?  
20 A. No.  
21 Q. Did you have an expectation that  
22 what was being proposed here was that if in  
23 the future remediation below the demarcation  
24 barrier would have to be undertaken, that that  
25 would be the Town's responsibility?

228

1 Cofman  
2 MR. TOPOL: Objection. You asked  
3 the witness that question, and he  
4 answered you specifically that the Town  
5 would have to pay. You're just  
6 harassing him for no reason, Counsel.  
7 Q. Is that your response, that the  
8 Town would have to pay?  
9 A. I'm sorry. I'm not sure where we  
10 are here.  
11 Q. Is that your response, that the  
12 Town would have to pay, if it had to go below  
13 the demarcation barrier?  
14 A. No, that's not my response.  
15 Q. I didn't think so. What's your  
16 response?  
17 A. I don't know.  
18 Q. Did you have an understanding as  
19 to the type of deed restrictions that were  
20 being proposed on page 7?  
21 A. Not specifically.  
22 Q. Did you have a general  
23 understanding of the deed restrictions?  
24 A. Yes.  
25 Q. What was that understanding?

1 Cofman  
2 A. That there would be a  
3 documentation of where contamination was  
4 remaining on the site and some stipulation  
5 regarding approval required if those areas  
6 were to be disturbed.

7 Q. Did you have an understanding as  
8 to restrictions on the use of that area of  
9 remediation under Grumman's proposal?

10 A. My understanding, that there  
11 would be no restriction on the use of that  
12 area.

13 Q. No restriction on the use?

14 A. Right.

15 Q. Or future use of the area?

16 A. Well, as long as these provisions  
17 were complied with, yes.

18 Q. As long as there was a deed  
19 restriction?

20 A. Deed restriction and if work were  
21 required in areas of contamination, that  
22 appropriate measures be taken.

23 Q. And the deed restriction, to your  
24 understanding, would restrict future use in  
25 one form or another?

1 Cofman  
2 A. It would either restrict further  
3 use -- no, I don't see it as restrict further  
4 use. My understanding would be that it would  
5 require if something were to be done that  
6 would require a use that wasn't being done at  
7 the time, such as putting in a building, that  
8 appropriate measures be taken to assure that  
9 any contamination that was encountered or  
10 expected to be encountered would not be --  
11 would be dealt with in such a way that the  
12 safety of the workers would be protected and  
13 that the site would be left in such a state  
14 that that contamination would not be of  
15 concern to occupants or the environment.

16 Q. Did you make a determination as  
17 to what the remediation proposed by Grumman  
18 would cost?

19 A. When you say "the remediation  
20 proposed by Grumman," you're talking about  
21 these alternatives (indicating)?

22 Q. I am specifically talking about  
23 page 7 of Exhibit 9 where at the top the  
24 exhibit says "A better remedial approach for  
25 the Town would be as follows." This was

1 Cofman  
2 Grumman's proposed remediation plan?

3 A. I wouldn't call this a proposed  
4 remediation plan. I would say this is an  
5 alternative that could be followed by the Town  
6 in lieu of their proposal.

7 Q. Grumman was not proposing what's  
8 outlined on page 7?

9 A. Yes. We were proposing what is  
10 outlined on page 7.

11 Q. So that was Grumman's proposed  
12 remediation plan?

13 A. Well, that was a proposed  
14 remediation plan for the Town's work, yes.

15 Q. Grumman was proposing the  
16 remediation plan outlined at page 7 in the  
17 place instead of the remediation plan being  
18 implemented by the Town?

19 A. Yes.

20 Q. Did you make an assessment as to  
21 the cost of the remediation plan proposed by  
22 Grumman at page 7?

23 A. Not to my recollection.

24 Q. Did you consider the effect of  
25 the proposed remediation plan on page 7, the

1 Cofman  
2 effect that that plan would have on area  
3 residents?

4 A. Yes.

5 Q. What did you consider about that?

6 A. That this was fully protective of  
7 area residents.

8 Q. Did you consider whether the  
9 residential values would decrease as a result  
10 of employment of this proposed plan on 7?

11 A. No.

12 Q. Did you have an understanding  
13 that the residential areas, that the value of  
14 the residential homes adjacent to the Park  
15 would be decreased because if this remediation  
16 plan were employed contamination would remain  
17 in place?

18 A. No.

19 Q. At the time that you gave your  
20 comments to Exhibit 9, did you believe that if  
21 this plan were put in place there would be no  
22 effect on the value of the residences?

23 A. I really had no opinion on that.

24 Q. Did you consider it?

25 A. Yes.

233

235

1 Cofman  
 2 Q. What did you consider about it?  
 3 A. That it was impossible for me to  
 4 make a determination regarding it, because  
 5 the -- if the site were remediated to New York  
 6 State requirements, it's hard to -- that would  
 7 be satisfactory in my opinion to some people.  
 8 Other people might consider that not  
 9 satisfactory. I couldn't tell what the effect  
 10 on property values was on that, but it seemed  
 11 hard to determine.

12 Q. So you didn't know one way or the  
 13 other whether it would affect property values?

14 A. Yes, exactly.

15 Q. Did you have an understanding as  
 16 to the type of cap that Grumman was proposing  
 17 on page 7 here?

18 A. Not specifically.

19 Q. Generally?

20 A. Well, there are many kinds of  
 21 caps available, and nothing specific was  
 22 proposed that I can see here. It was just a  
 23 general recommendation of whatever is  
 24 suitable.

25 Q. Take a look at page 8, if you

234

1 Cofman  
 2 would, please, Mr. Cofman. At the top,  
 3 subheading E, "Develop an appropriate set of  
 4 deed restrictions." Do you see that?

5 A. Yes.

6 Q. Number 3 in that subparagraph E  
 7 says, "Installation of a passive soil vapor  
 8 venting system for all new on-site buildings  
 9 where appropriate." Do you see that?

10 A. Yes.

11 Q. What's a soil vapor venting  
 12 system?

13 A. That's a series of perforated  
 14 pipes that would be placed below a plastic  
 15 barrier that would be underneath the  
 16 foundation of the building, and these plastic  
 17 pipes would be situated such that any vapors  
 18 coming from below the foundation would be  
 19 vented and not driven into the building.

20 Q. Where was it proposed here that  
 21 the soil vapor venting system be placed?

22 A. Any new on-site building.

23 Q. So only if there was a new  
 24 on-site building. Was it proposed here that a  
 25 soil vapor venting system be placed?

1 Cofman  
 2 A. Yes, a passive soil vapor venting  
 3 system, yes.

4 Q. Did you understand Exhibit 9 to  
 5 be suggesting here that a soil vapor venting  
 6 system be placed underneath the ice rink?

7 A. Yes, a passive soil venting  
 8 system.

9 Q. Underneath the ice rink?

10 A. My understanding, though, is  
 11 based on my understanding of the ice rink  
 12 being an enclosed ice rink as opposed to the  
 13 ice rink that was demolished.

14 Q. A new ice rink?

15 A. A new ice rink, but enclosed,  
 16 inside a building, not an ice rink as an open  
 17 air ice rink.

18 Q. I understand.

19 Did you have an understanding as  
 20 to the depth at which the passive soil vapor  
 21 venting system would be placed?

22 A. My understanding is, and I  
 23 haven't designed one, but from what I  
 24 understand, it's directly below the  
 25 impermeable membrane, a plastic sheet, that's

236

1 Cofman  
 2 placed underneath the foundation.

3 Q. Did you have an understanding as  
 4 to the depth of this plastic sheet underneath  
 5 the ice rink?

6 A. Yes, immediately underneath the  
 7 foundation.

8 Q. What depth was that?

9 A. Whatever the foundation is, I  
 10 don't know.

11 Q. You didn't know what the  
 12 foundation is for the ice rink?

13 A. No.

14 Q. Do you have any idea as to the  
 15 cost of operating this soil vapor venting  
 16 system?

17 A. Yes.

18 Q. What's the cost?

19 A. None.

20 Q. No cost?

21 A. The passive soil vapor venting  
 22 system, yes, that's what's recommended here  
 23 (indicating), as opposed to some other kind of  
 24 system.

25 Q. How much would it cost to put



1 Cofman  
 2 that in place?  
 3 A. I don't know, but from what I  
 4 understand from a discussion with the  
 5 construction people, at the time of  
 6 installation of the building it's a trivial  
 7 cost.  
 8 MR. SMIRTI: Let's take five. I  
 9 think I just have one or two clean up  
 10 questions.  
 11 (Recess taken at 3:57 p.m.)  
 12 (Examination resumed at 4:04  
 13 p.m.)  
 14 Q. Mr. Cofman, do you have an  
 15 understanding as to whether Grumman  
 16 transported or caused the transportation of  
 17 waste from any other Grumman site to be  
 18 disposed on the Park property, any site other  
 19 than the Grumman 550 acre site that we've  
 20 talked about or the Navy 110 acre site that  
 21 we've talked about?  
 22 A. No.  
 23 MR. SMIRTI: Off the record.  
 24 (Discussion off the record.)  
 25 MR. SMIRTI: I have no further

1 Cofman  
 2 respect to the line of testimony that  
 3 counsel directed Mr. Cofman not to  
 4 answer concerning the meeting between  
 5 and among Mr. Amoroso and  
 6 Mr. Jasinkonis, because the Town does  
 7 not believe that counsel's objection and  
 8 direction not to answer on the basis of  
 9 privilege is appropriate.  
 10 MR. TOPOL: And I am reserving  
 11 all of my rights to object to any effort  
 12 to recall Mr. Cofman in either area.  
 13 MR. KAMBIC: I don't have any  
 14 questions.  
 15 MR. SMIRTI: Thank you,  
 16 Mr. Cofman.  
 17 (Time noted: 4:06 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 Cofman  
 2 questions of the witness at this time,  
 3 but the Town is reserving its right to  
 4 recall Mr. Cofman to inquire about,  
 5 number one, the meeting that Mr. Cofman  
 6 testified about where the power point  
 7 presentation was made and apparently  
 8 internal counsel for Grumman was  
 9 present. The exhibit that Mr. Cofman  
 10 testified about was produced not by  
 11 Grumman, but by the Navy, and it is the  
 12 Town's belief that the Navy may have  
 13 been present at that meeting, in which  
 14 event there would be no privilege  
 15 objection that could attach to the  
 16 discussions that took place at that  
 17 meeting.  
 18 We intend to pursue whether or  
 19 not there is an appropriate privilege  
 20 objection that can be made with respect  
 21 to that meeting, and if there is not,  
 22 then we will reserve our right to recall  
 23 Mr. Cofman on that issue.  
 24 Number two, we're also reserving  
 25 our right to recall Mr. Cofman with

1 Cofman  
 2 A C K N O W L E D G M E N T  
 3  
 4 S T A T E O F N E W Y O R K )  
 5 : s s  
 6 C O U N T Y O F )  
 7  
 8 I, JEAN-PIERRE COFMAN, hereby certify  
 9 that I have read the transcript of my  
 10 testimony taken under oath in my deposition of  
 11 February 1, 2007; that the transcript is a  
 12 true, complete and correct record of my  
 13 testimony, and that the answers on the record  
 14 as given by me are true and correct.  
 15  
 16  
 17 \_\_\_\_\_  
 18 JEAN-PIERRE COFMAN  
 19  
 20 Signed and subscribed to before  
 21 me, this day  
 22 of , 2007.  
 23  
 24 \_\_\_\_\_  
 25 Notary Public, State of New York

1

2 -----I N D E X-----

3 WITNESS EXAMINATION BY PAGE

4 JEAN-PIERRE COFMAN MR. SMIRTI 4

5

6 DIRECTIONS: PAGE 79, 82, 113, 196, 199, 219

7

8 -----EXHIBITS-----

9 COFMAN FOR I.D.

10 1 Document Bates stamped BETPARK 200

11 through BETPARK 203 62

12 2 Document Bates stamped NGSC-TOB 1786

13 through NGSC-TOB 1791 104

14 3 Document Bates stamped NGSC-TOB 1738 114

15 4 Document Bates stamped NGSC-TOB 1749 114

16 5 Document Bates stamped NGSC-TOB 2840 117

17 6 Document Bates stamped NGSC-TOB 18949

18 through NGSC-TOB 18958 191

19 7 Document Bates stamped BETPARK 1033

20 through BETPARK 1040 195

21 8 Document Bates stamped NGSC-TOB 2798

22 through NGSC-TOB 2928 200

23 9 Document Bates stamped NGSC-TOB 20828

24 through NGSC-TOB 20844 200

25

1

2 C E R T I F I C A T E

3 STATE OF NEW YORK )

4 ) ss.: )

5 COUNTY OF MASSAU )

6

7 I, JENNIFER FUCHS, a Notary

8 Public within and for the State of New

9 York, do hereby certify:

10 That JEAN-PIERRE COFMAN, the

11 witness whose deposition is hereinbefore

12 set forth, was duly sworn by me and that

13 such deposition is a true record of the

14 testimony given by such witness.

15 I further certify that I am not

16 related to any of the parties to this

17 action by blood or marriage: and that I

18 am in no way interested in the outcome

19 of this matter.

20 IN WITNESS WHEREOF, I have

21 hereunto set my hand this 15th day of

22 February, 2007.

23

24 -----

25 JENNIFER FUCHS



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