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Item ID Number 05341

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Author

Corporate Author

Report/Article Title United States Of America, Before the Environmental Protection Agency (EPA), In the Matter of the Hearing of: 2,4,5-T and Silvex, The Dow Chemical Company, et al., Docket Nos. 415, et al, September 24, 1980

Journal/Book Title

Year 0000

Month/Day

Color

Number of Images 0

Description Notes Pages 11688-11690, 11810-11812.

1 UNITED STATES OF AMERICA

2 - - -

3 BEFORE THE

4 ENVIRONMENTAL PROTECTION AGENCY

5 - - -

6 - - - - - X

7 In the Matter of the Hearing of::

8 2,4,5-T and SILVEX : Docket Nos. 415, et al

9 The Dow Chemical Company, et al :

10 - - - - - X

11 (This volume contains pages 11687 through 11,813)

12
13 Room 2409
14 Environmental Protection Agency
15 Headquarters
16 401 M Street, Southwest
17 Washington, D. C.

18 Wednesday, September 24, 1980

19 - - -

20 The hearing was convened pursuant to adjournment
21 at 9:30 a.m. before Administrative Law Judge Edward B.
22 Finch, when were present the following:

23 ON BEHALF OF THE ENVIRONMENTAL PROTECTION AGENCY:

- 24 DOROTHY PATTON, ESQ. Office of General Counsel
- 25 KEVIN LEE, ESQ. Office of General Counsel
- RICHARD BOZOF, ESQ. Office of General Counsel
- TIMOTHY BACKSTROM, ESQ. Office of General Counsel

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1330 VERMONT AVENUE, NW
WASHINGTON, D.C. 20005

1 ON BEHALF OF DOW CHEMICAL COMPANY:

2 EDWARD W. WARREN, ESQ. Kirkland & Ellis

3 MARK TUCKER, ESQ. Kirkland & Ellis

4 RUDOLF SCHROETER, ESQ.

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25WITNESSDIRECTCROSSROY E. ALBERT
(Resumed)

- -

11692 (resumed)

CROSS-EXAMINATION EXHIBITS

EXHIBIT NO.FOR IDENTIFICATIONIN EVIDENCE

1283

previously marked

11768

1284

previously marked

11768

1285

11702

11768

1286

11711

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1287

11735

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C O N T E N T SWITNESSREDIRECTRE CROSS

Roy E. Albert

11,790

11,798

EXHIBITIDENTIFIEDRECEIVED

Cross-Examination:

No. 1289

11,802

11,809

Agency's:

Nos. 32-A, 33-A, 34, 35

36, 37, 70, 564, 575,

576, 577, and 578

11, 812

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WASHINGTON, D. C. 20005

1 MR. BOZOF: No, I have no further questions.

2 JUDGE FINCH: All right, we have a few exhibits
3 here. I think I have the numbers right on them, you may
4 check this Mr. Bozof, on the exhibit number starting with
5 Dr. Albert's testimony, 32A, 33A and 34, 35, 36, 37,
6 I'll wait until you --

7 MR. BOZOF: 32A, 33A, 34 through 7 yes --

8 JUDGE FINCH: Then 574 --

9 MR. BOZOF: Yes.

10 JUDGE FINCH: Through 78?

11 MR. BOZOF: Through 78, you say?

12 THE WITNESS: Am I excused?

13 JUDGE FINCH: In a minute.

14 THE WITNESS: Oh.

15 JUDGE FINCH: There may be some questions in
16 these exhibits --

17 THE WITNESS: All right.

18 JUDGE FINCH: Those are all the exhibits that
19 were attached to --

20 MR. BOZOF: Yes, I understand, somehow my
21 recollection was that there was a 579, but perhaps I'm
22 wrong. Just let me check. I'm sorry, 578, yes.

23 JUDGE FINCH: All right, Mr. Warren, any objection
24 to this?

25 MR. WARREN: I have an objection to only one

1 small part of the CAG report and that is the part of the
2 CAG report which mentions the Van Miller rat study,
3 and I believe --

4 JUDGE FINCH: What exhibit was that? 33 --

5 MR. BOZOF: Oh, yes, I had meant to indicate
6 at the start of Dr. Albert's testimony that those parts
7 of the CAG report which referred to the Van Miller study,
8 and which were given to the hearing clerk, were Xed out
9 and we will agree to delete those portions from the record
10 which --

11 JUDGE FINCH: The copies of 22A that were given
12 to the hearing clerk, those portions are already deleted?

13 MR. BOZOF: Well, they have been Xed out.

14 JUDGE FINCH: Is it difficult to state those
15 for the record here or --

16 MR. WARREN: Your Honor, I was going to suggest
17 that we do that because my copy and presumably yours
18 either had the mark out pages -- it appears to me the Van
19 Miller study appears on pages 63, 64, 65 and 66 of the CAG
20 report and apparently also somewhere else, and there is
21 also mention of it on page 86 in table 36.

22 MR. BOZOF: That's correct, so --

23 MR. WARREN: And one more page apparently, page 4
24 it is mentioned on page 4 and if those have been marked
25 out, I'm satisfied.

1 MR. BOZOF: Yes, all those references have been
2 marked out , on page 4 on the third line, and also in the
3 first paragraph, and also in the second paragraph beginning
4 on page 4 down to the middle of the sentence, it begins,
5 "the Van Miller et al study also showed," that sentence
6 has been Xed out and pages 63 through 66 have been Xed
7 out and page 86 in the table --

8 JUDGE FINCH: Were those the only objections,
9 Mr. Warren?

10 MR. WARREN: That's all, Your Honor.

11 JUDGE FINCH: All right then, 33 -- 32A, 33A,
12 34, 35, 36, 37 and 40 are admitted. 574, 75, 576, 577 and
13 578 are admitted. With regard to 33A, all reference
14 to the Van Miller study have been deleted. Pages 4, 63,
15 64, 65, 66 and on page 86, table 36.

16 They are all admitted with that one exception.

17 (Whereupon, Exhibits Nos. 32A, 33A, 34

18 35, 36, 37, 40, 574, 575, 576, 577 and 578

19 received into evidence.)

20 JUDGE FINCH: Now, you are excused sir.

21 THE WITNESS: Right.

22 JUDGE FINCH: Thank you very much, Doctor.

23 With that, we will adjourn until 9:30 tomorrow
24 morning.

25 (Whereupon, at 2:48 p.m. the above-entitled
proceedings were adjourned.)

NEAL R. GROSS

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