

1 MR. SCHLICHTMANN: It is not necessary
2 to do it now with this witness present?

3 MR. KEATING: It is fine for us to do it
4 afterwards.

5 THE COURT: Unless you have a disagreement.

6 MR. KEATING: That is fine with us.

7 MR. SCHLICHTMANN: Very good, your Honor.

8 (Pause.)

9 MR. SCHLICHTMANN: No more questions,
10 your Honor.

11 THE COURT: I think this is probably,
12 since we are beginning cross-examination on Monday
13 morning --

14 MR. FACHER: Would you give me seven minutes?

15 THE COURT: You want to start your
16 cross-examination now?

17 MR. FACHER: Yes.

18 Cross-Examination by Mr. Facher

19 Q Dr. Pinder, one thing that has been clear, since
20 you have been hired as an expert, is that it was to give
21 an opinion as to the travel time, is that right, of these
22 contaminants?

23 A I would say yes.

24 Q And you were hired almost two years ago to give an
25 opinion as to travel time, right?

1 A No.

2 Q You were hired several months -- you were hired in
3 1984, is that what you stated?

4 A Yes.

5 Q And you have been prepared extensively for your
6 testimony in this trial, have you not, not only by
7 lawyers but on your own?

8 A Yes.

9 Q And you have reviewed all the documents or one-third
10 of the documents in there?

11 A Yes.

12 Q You have been doing computer computations for months?

13 A Yes.

14 Q Are you telling this jury that you came in yesterday
15 when you gave the opinion as a Ph.D. and as a chairman
16 a department that you made a little mistake in an opinion
17 that you have been preparing for the last year and a half?

18 A No.

19 Q You made a mistake, though, didn't you, in these
20 travel times?

21 A Yes.

22 Q That is the very opinion you knew you were going to
23 give in this courtroom, right?

24 A No.

25 Q You knew you were going to be asked for travel times

1 of these contaminants, weren't you?

2 A No.

3 Q You didn't know that?

4 A No.

5 Q You made that up yesterday? You mean, that is the
6 first time --

7 A I don't understand the question.

8 Q Well, Dr. Pinder, you were engaged, were you not,
9 to testify as to how long it would take for these
10 contaminants to travel from one site to another?

11 A No.

12 Q That is the opinion you were preparing, wasn't it?

13 A No.

14 Q That is the computations you did on your computer,
15 isn't it?

16 A No.

17 Q Well, yesterday when you gave these computations,
18 one of them worked out for dichloroethylene, which was
19 three-eighths of a month. Do you remember that?

20 A Yes.

21 Q And you remember that the judge asked you how long
22 was the pump test?

23 A I don't remember that.

24 Q You remember it was 30 days, that is the figure you can
25 remember?

1 A Yes.

2 Q And three-eighths of a month is less than 30 days,
3 you will agree with that?

4 A Yes.

5 Q And the judge asked you if any of these contaminants,
6 as a result of the pump test, reached Wells G and H,
7 do you remember that?

8 A Yes.

9 Q And you said no, right?

10 A It seems that is perfectly reasonable that I might
11 have said that.

12 Q And that is when you discovered that you had made
13 the mistake, right?

14 A No.

15 Q Well, that is the contaminants you increased the
16 time for, isn't it? It went up from three-eighths of a
17 month to over a month, didn't it?

18 A Yes.

19 Q And the reason it went up is that you discovered
20 a hole in your opinion that you wanted to remedy, right?

21 A No.

22 Q You are telling us as a professor of geology that
23 you forgot to take into account porosity about which
24 you were lectured for almost an hour in front of the jury
25 making these calculations as travel time?

1 A Yes.

2 Q That is what you want the jury to believe?

3 A Yes.

4 Q If your first opinion was correct, the three-eighths
5 of a month, then you would have expected that chemical
6 to show up at the well, wouldn't you, in ten days of
7 pumping?

8 A Yes.

9 Q But it didn't, did it, Doctor?

10 A Well, yes.

11 Q And that is why you had to change your opinion?

12 A I'm sorry, I misunderstood your question. I said
13 yes to a question where I should have said no. I think
14 you made the question a negative. Could we go back and
15 try that once again?

16 Q Are you saying, sir, and I want the record to be
17 very clear for next week, that the first time you ever
18 figured out these travel times was while you were sitting
19 there on the stand in response to a question by Mr.

20 Schlichtmann?

21 A No.

22 Q So you had figured them out before?

23 A Yes.

24 Q And you had used your computer?

25 A Yes.

1 Q And you had notes to help you? And you have this note
2 and you have a whole bunch of others?

3 A I didn't use a note, that was the problem.

4 Q You have the computer. You told me you forgot something
5 and had to recompute it; is that what you said?

6 A Not in that sense, no.

7 Q Your note wouldn't have helped you?

8 A Yes, they would.

9 Q Well, sir, when was the first time you figured this out,
10 these travel times that you testified to yesterday?

11 A The calculations that I presented yesterday, I
12 made while I was sitting on the stand.

13 Q When was the first time you did other calculations?

14 A Many months ago.

15 Q You testified at your deposition you had other time
16 periods, didn't you, sir?

17 A No, sir.

18 Q You told us at the deposition that it was an 18-month
19 time period for these contaminants. Do you remember that?

20 A Yes, sir.

21 Q And then yesterday, you said -- it was Tuesday maybe.
22 I can't remember which. You said it was within a 12-month
23 period. Do you remember that?

24 A No, I don't remember what the question was, sir.

25 Q Was your deposition testimony truthful and accurate

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1 when you said it was in 18 months?

2 A I don't recall the details of the question, so I
3 can't tell you whether I answered the same question.

4 But if you would like to give me the deposition, I will
5 be happy to respond.

6 Q Are you telling me, sir, you have not read your own
7 deposition in this case?

8 A I have read not all of my depositions in this case.

9 Q You certainly read the part where you were giving
10 opinions about travel time, didn't you, sir?

11 A No, sir, I don't believe I did.

12 Q You didn't prior to coming to this courtroom, you
13 didn't even bother to read your own deposition; is that
14 what you are saying?

15 A No, sir, I am not saying that.

16 Q Well, when you were asked the same question on
17 deposition about the time frame for these contaminants,
18 you had a different answer then what you had given in the
19 courtroom, didn't you?

20 A Yes, sir.

21 Q And today, you have still a different answer, don't you?

22 A Different than yesterday, sir.

23 Q Today is true and yesterday was not?

24 A That is correct.

25 Q Would you reach into the 12,000 documents, sir, and

1 get me, if you can, one piece of chemical analysis
2 concerning these wells in the period that you have opined
3 about concerning these complaint chemicals? Could you
4 do that?

5 A I imagine I could.

6 Q Do you think there is one piece of chemical
7 information between 1964 and 1979 about these complaint
8 chemicals in there, the analysis of the well?

9 A Yes, sir.

10 Q You think there is?

11 A Yes, sir.

12 Q What well is that?

13 A I know at least Wells -- Well G, chemistry association.

14 Q I didn't ask about chemistry association. I asked
15 about chemicals involved in this case. I asked about
16 the detection of the chemicals involved in this case,
17 sir, in any well, in your well field or your aquifer in
18 the period of 1964 to 1979 that you have opined about today.
19 Is there one piece of information that detects these
20 chemicals in any well between 1964 and 1969?

21 THE COURT: You mean 1979?

22 MR. FACHER: I'm sorry, 1979.

23 A I believe that there is.

24 Q And what well is that?

25 A I believe that Well G has recorded values of --

1 Q May of 1979?

2 A I thought that is what you were asking.

3 Q Between 1964 and -- do you know the circumstances
4 under which Well G's recorded values were recorded?

5 Do you know whether it was deliberate or accidental?

6 A I have read and heard what appears to be the
7 reasons of that.

8 Q Stopping at May 24, 1979, between that date and
9 any time prior thereto, do you have one piece of chemical
10 data concerning these contaminants in any well detecting
11 them in parts per billion or in parts per million?

12 A I am not aware of any prior to 1979.

13 Q So everything that you -- when you talk about the
14 chemistry in the area and the chemical data, there is
15 absolutely no chemical data prior to May of 1979 that
16 detects these chemicals in the wells in parts per billion,
17 is that right?

18 A That seems like a reasonable statement.

19 Q Now, you are not a chemist; is that right?

20 A No, sir.

21 Q Nor a chemical engineer?

22 A No, sir.

23 Q Nor have you specialized in soil chemistry?

24 A That was a little nebulous.

25 MR. FACHER: I don't want to be accused of

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nebulism.

Q Are you a specialist -- that is a relative of
nepotism.

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1 MR. FACHER: I think perhaps I will
2 suspend, with your Honor's permission, at this point.

3 THE COURT: Enthusiastic permission on a
4 Friday afternoon.

5 I will see you Monday morning at 9:00.
6 Have in mind what I have said. Over the weekend, be careful
7 about talking about the case. Keep away from any outside
8 influences on the case.

9 (Whereupon the jury trial was adjourned,
10 to be reconvened on Monday, May 12, 1986, at 9:00 a. m.)
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WITNESS

DIRECT

CROSS

George Pinder, resumed

Mr. Schlichtmann, resumed

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Mr. Facher

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