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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
3 WINSTON-SALEM DIVISION  
4 CIVIL ACTION NUMBER: 6:91-CV-00034

4 ILCO-UNICAN CORPORATION )  
5 a North Carolina Corporation, )

6 Plaintiff, )

7 v. )

8 STEWART-WARNER CORPORATION, )  
9 a Virginia Corporation, and )  
10 STEWART-WARNER BASSICK-SACK )  
11 CORPORATION, a Delaware )  
12 Corporation, )

13 Defendants. )

---

14 DEPOSITION

15 OF

16 JAMES EDWIN SMITH

17 VOLUME I

---

18  
19  
20 AT RALEIGH, NORTH CAROLINA  
21 NOVEMBER 6, 1991 - 3:25 P.M.

22 REPORTED BY: PAMELA S. LILES  
23 CAROLYN Y. HALL & ASSOCIATES  
24 2551 ALBEMARLE AVENUE  
25 RALEIGH, NORTH CAROLINA 27610

TELEPHONE: (919) 231-4164  
(919) 231-4310

2 SOME OF THE AREAS BECAUSE I FELT THAT -- I BROUGHT  
3 THEM TO THE ATTENTION OF PEOPLE THAT I FELT THAT  
4 SHOULD HAVE KNOWN THAT THEY WERE THERE. AND I  
5 WOULD PUT -- TELL THEM -- I WOULD TEST THEM AND  
6 PUT THEM INTO THE LOG MOST ALL THE TIME, AND TELL  
7 THE -- MY SUPERVISOR ABOUT THEM.

8 Q. SO, THAT THE DATES OF THE TESTS THAT YOU PERFORMED  
9 SHOULD BE REFLECTED IN YOUR LOG. IS THAT WHAT  
10 YOU'RE SAYING?

11 A. THEY SHOULD BE IN THERE.

12 Q. OKAY. AND THAT WATER DRAINED OFF INTO THE  
13 RAILROAD TRACK. IS THAT WHAT YOU'RE SAYING?

14 A. YES, IT DID.

15 Q. OKAY. IS THAT IN THE AREA WHERE SOIL WAS LATER  
16 REMOVED BY GSX?

17 A. YES, IT WAS.

18 MR. JOHNSON: OBJECT TO THE FORM.

19 Q. ANYTHING ELSE YOU RECALL?

20 A. NO, NOT AS SPILLS GOES.

21 Q. DO YOU RECALL MENTIONING TO A CONTRACTOR FROM EPA  
22 ABOUT THE STORAGE OF ELECTROPLATING SLUDGE ON THE  
23 GROUND PRIOR TO ITS OFF-SITE REMOVAL?

24 A. YES, SIR.

25 Q. AND WHAT DO YOU RECALL ABOUT THAT?

2 A. WELL, THERE WAS A PERIOD WITH BASSICK-SACK THAT  
3 WE USED TO STORE OUR ELECTROPLATING SLUDGE, AND AS  
4 IT CAME OUT OF OUR FILTER PRESS, WE HAD A PAN THAT  
5 WAS A DUMP PAN AND WE JUST DRIVE A HYSTER UP UNDER  
6 THAT PAN. AND WE WOULD TAKE IT TO THE LOWER END  
7 OF THE BUILDING JUST ADJACENT TO THE "X" AT 2B---

8 Q. OKAY.

9 A. ---AND THERE WAS, LIKE, THREE STORAGE PILES, TO  
10 MY -- TO THE BEST OF MY KNOWLEDGE. THERE WAS ONE  
11 THAT WAS FAIRLY CLOSE TO THE FENCE LINE, AND WE  
12 STORED IT THERE. THAT WAS BELOW THE OLD GAS TANK  
13 THAT SAT OUT THERE IN THE FIELD. WE MOVED THAT  
14 ONE LATER, BECAUSE IT WAS ON THE VERY LOWER END OF  
15 THE LOT AND IT TENDED TO WASH VERY BADLY. SO WE  
16 MOVED IT AND IT GOT TO WHERE WE COULDN'T GET IN  
17 AND OUT OF THERE WITH A HYSTER EITHER---

18 Q. SO, THE FIRST SPOT WAS NEAR THE FENCE LINE. IS  
19 THAT WHAT YOU'RE SAYING?

20 A. YES, SIR. APPROXIMATELY AROUND 18C.

21 Q. OKAY, TAKE A LOOK AT WHERE IT GOES PARALLEL WITH  
22 THE FOUNDRY BUILDING. DO YOU SEE THE FOUNDRY  
23 BUILDING?

24 A. FOUNDRY BUILDING -- YES, SIR.

25 Q. WHY DON'T YOU PUT A CIRCLE WHERE YOU BELIEVE THE

2 FIRST SPOT WAS?

3 A. LET'S SEE. (THEREUPON, WITNESS COMPLIES.) OKAY.

4 Q. AND HOW CLOSE WOULD -- WHERE YOU'VE DRAWN THAT  
5 CIRCLE---

6 A. I'LL PUT THIS NUMBER ONE.

7 Q. ---BE TO THE FENCE LINE?

8 A. TWENTY-FIVE FEET.

9 Q. TWENTY-FIVE FEET FROM THE FENCE LINE?

10 A. YES, SIR.

11 Q. OKAY. AND WAS THERE ANOTHER SPOT?

12 A. YES, SIR, THERE WAS. AS I STARTED TO SAY, WE  
13 MOVED THAT PILE BECAUSE IT WAS ON THE LOWER END OF  
14 THE LOT AND IT TENDED TO BE ON, LIKE, A SLOPED  
15 AREA, AND BEGAN TO WASH. SO, WE MOVED IT FURTHER  
16 UP THE HILL BEHIND THE GAS TANK -- ALMOST TO THE  
17 END OF THE GAS TANK -- DIRECTLY BEHIND WHERE THE  
18 BAGHOUSE FOR THE FOUNDRY WOULD HAVE BEEN -- OR,  
19 NOT FOUNDRY -- EXCUSE ME -- BUT THE DIE CAST  
20 DEPARTMENT WOULD HAVE BEEN, IF YOU WAS LOOKING  
21 STRAIGHT FROM THAT BAGHOUSE.

22 Q. IS THAT THIS ONE HERE?

23 A. YES, SIR.

24 Q. OKAY.

25 A. IT WOULD HAVE BEEN APPROXIMATELY HERE WHERE THE

2 MOST OF THE TIME IT WAS ALWAYS WARNER PAVING DOWN  
3 THERE.

4 Q. DID YOU MAKE ANY NOTATION IN ANY OF YOUR LOGS OR  
5 RECORDS CONCERNING THE STORAGE OF SLUDGE ON THE  
6 GROUND IN THE AREAS YOU'VE MARKED ONE, TWO AND  
7 THREE?

8 A. I DON'T REMEMBER HOW I STATED THAT DURING THAT  
9 TIME BECAUSE, LIKE I SAID, YOU KNOW, THAT WAS  
10 NORMALITY TO DO THAT. AND, THEN, ALL OF A SUDDEN,  
11 IT CHANGED AND WE STARTED PUTTING IT INTO SLUDGE  
12 BINS SEVERAL YEARS LATER. SO, I PROBABLY JUST PUT  
13 IT DOWN AS DUMPING SLUDGE PAN, BECAUSE THAT'S ALL  
14 I WOULD DO EVEN AFTER THE NEW SLUDGE BIN WAS PUT  
15 IN PLACE.

16 Q. SO, IT WAS -- YOU'D STILL BE SAYING DUMPING SLUDGE  
17 PAN WHEN---

18 A. YEAH.

19 Q. ---YOU WERE PUTTING IT INTO THE METAL STORAGE BIN?

20 A. RIGHT. YES.

21 Q. HAVE YOU MADE ANY EFFORT TO CHECK ANY RECORDS TO  
22 DETERMINE WHEN THE SLUDGE STORAGE BIN STARTED  
23 BEING USED RATHER THAN THE AREAS ON THE GROUND  
24 THAT YOU MARKED?

25 A. NO, SIR.

2 Q. OTHER THAN THE -- WELL, STRIKE THAT.

3 MR. BUTLER: I DON'T HAVE ANY OTHER  
4 QUESTIONS. WHY DON'T WE TAKE A FIVE OR  
5 TEN-MINUTE BREAK?

6 MR. JOHNSON: FIVE MINUTES -- YEAH.  
7 THAT SOUNDS GOOD.

8 (THEREUPON, A SHORT  
9 BREAK WAS TAKEN.)

10 CROSS EXAMINATION BY MR. JOHNSON:

11 Q. OKAY, MR. SMITH, WHERE WE LEFT OFF, YOU WERE  
12 TESTIFYING ABOUT SOME WASTE STORAGE, OR WASTE  
13 PILES DURING BASSICK-SACK'S OPERATIONS. DO YOU  
14 REMEMBER WHEN BASSICK-SACK BEGAN USING THOSE  
15 WASTE PILES?

16 A. NOT AN EXACT DATE, NO. AT FIRST, DURING THE  
17 OPERATIONS OF BASSICK-SACK, THE EPA DISCHARGE  
18 LIMITATIONS WERE PRETTY LENIENT AND WE WERE  
19 ALLOWED TO DISCHARGE SUSPENDED SOLIDS INTO THE  
20 EFFLUENT. THEN, LATER, AROUND -- I WANT TO SAY  
21 PROBABLY '77, POSSIBLY, THERE WAS -- WE INSTALLED  
22 THE FILTER PRESS AND WE STARTED DUMPING THE SLUDGE  
23 PANS ABOUT THAT TIME.

24 Q. WHERE WERE YOU DUMPING THE SLUDGE PANS ABOUT THAT  
25 TIME?

2 A. ON THE LOWER SIDE OF THE PROPERTY.

3 Q. AND THAT -- WOULD IT BE IN ONE OF THOSE LOCATIONS  
4 THAT YOU'VE POINTED OUT ON -- I BELIEVE IT WAS  
5 EXHIBIT THREE -- THAT YOU BEGAN TO DUMP THE  
6 SLUDGE?

7 A. YES, SIR.

8 Q. WHERE WOULD THAT BE?

9 A. ON THE LOWER END OF THE PROPERTY LINE OF NOW  
10 EXISTING ILCO-UNICAN.

11 Q. AND BEFORE THAT, WHAT WAS BASSICK-SACK DOING WITH  
12 ITS SLUDGE?

13 A. BEFORE DUMPING IT ONTO THE GROUND?

14 Q. UH-HUH (YES).

15 A. WE WERE ALLOWED TO DISCHARGE SUSPENDED SOLIDS INTO  
16 THE EFFLUENT.

17 Q. YOU MEAN THE WASTEWATER EFFLUENT?

18 A. YES, SIR.

19 Q. WHICH WENT WHERE?

20 A. TO THE CITY SEWER.

21 Q. WHAT DOES THAT SLUDGE THAT WE'RE TALKING ABOUT  
22 CONTAIN?

23 A. IT WOULD CONTAIN ANY HEAVY METALS THAT WOULD HAVE  
24 BEEN USED IN THE PLATING PROCESS IN THE PLANT OR  
25 ANY RESIDUAL CHEMICALS THAT MAY HAVE BEEN USED IN

2 THE PLANT.

3 Q. HOW DO YOU KNOW THAT?

4 A. THROUGH ANALYSIS DONE ON SLUDGES IN THE PAST.

5 Q. WHAT DID THAT ANALYSIS SHOW?

6 A. IT SHOWED LARGE QUANTITIES OF ZINC, COPPER,  
7 NICKEL, LEVELS OF CYANIDE, CHROME; AND THERE WERE  
8 SOME LEVELS OF CADMIUM AND TRACES OF SILVER.

9 Q. AND WHO DID THIS ANALYSIS THAT YOU'RE REFERRING  
10 TO?

11 A. I'M NOT CERTAIN WHO DID THE ANALYSIS ON THOSE  
12 TESTS. SOME OF THEM WERE DONE BY R&A  
13 LABORATORIES. SOME WERE DONE THROUGH THE  
14 FACILITIES THAT WE SENT THE HAZARDOUS WASTE TO  
15 IN, I BELIEVE IT WAS, LINWOOD, SOUTH CAROLINA.

16 Q. WHAT WAS YOUR INVOLVEMENT IN THAT ANALYSIS?

17 A. NOTHING EXCEPT COLLECTING A SAMPLE. AND, THEN, I  
18 WOULD LABEL THE SAMPLE AND GIVE IT TO IKE BLAKLEY  
19 AND HE WOULD HAVE IT SENT OUT.

20 Q. AND HOW WOULD YOU COME TO LEARN WHAT THE RESULTS  
21 OF THAT ANALYSIS IS?

22 A. BECAUSE I SAW THE PAPERWORK FROM TIME TO TIME  
23 ON THE SLUDGE, AND WOULD HAVE TO EVALUATE THE  
24 AMOUNT OF REMOVAL OF METALS FROM THE WASTEWATER  
25 SYSTEM.

2 Q. OKAY. WHAT WERE YOUR RESPONSIBILITIES AS TO THAT  
3 SLUDGE?

4 A. COULD YOU CLARIFY THAT?

5 Q. WERE YOU INVOLVED IN THE TRANSPORTATION OF THE  
6 SLUDGE FROM THE WASTE TREATMENT PLANT TO THE WASTE  
7 PILES?

8 A. YES, SIR, I WAS.

9 Q. OKAY. AND YOU TESTIFIED THAT IT WAS ON-SITE FOR  
10 HOW LONG?

11 A. THE WASTE PILES WERE DUMPED ON THE LOWER SIDE OF  
12 THE PROPERTY FOR -- AGAIN, THIS IS AN ESTIMATE --  
13 PROBABLY TO AROUND SEVEN, EIGHT YEARS. I'M  
14 GUESSING -- FROM '76 TO, SAY, PROBABLY EARLY  
15 '80'S -- '82.

16 Q. OKAY. AND WHILE IT WAS ON-SITE, HOW LONG WOULD  
17 THE WASTE BE ALLOWED TO STAY ON-SITE BEFORE IT HAD  
18 TO BE TRANSPORTED OFF?

19 A. TO THE BEST OF MY KNOWLEDGE, WE COLLECTED IT ABOUT  
20 A NINETY-DAY CYCLE. AND EACH NINETY DAYS WE WOULD  
21 SHIP THAT SLUDGE.

22 Q. AND DID YOU HAVE ANY RESPONSIBILITIES FOR THE  
23 SLUDGE WHILE IT WAS ON-SITE DURING THOSE  
24 NINETY-DAY CYCLES?

25 A. JUST DUMPING IT, AND KEEPING UP WITH THE START

2 DATE THAT WE WOULD DUMP IT AND LETTING IKE KNOW  
3 HOW MANY PANS THAT I DUMPED IN ANY PARTICULAR  
4 PERIOD OF TIME. HE KEPT A RUNNING LOG THERE FOR A  
5 LONG TIME OF HOW MANY PANS WAS DUMPED FROM THIS  
6 NINETY DAYS VERSUS THE NEXT NINETY DAYS TO SEE IF  
7 WE WERE -- HOW MUCH INCREASE WE HAD IN OUR SLUDGE  
8 VOLUMES.

9 Q. WERE YOU INVOLVED WITH THE TRANSPORTATION OF THE  
10 SLUDGE OFF-SITE?

11 A. ONLY THE LOADING. SOMETIMES, I WOULD ASSIST IN  
12 GOING DOWN THERE TO HELP LOAD IT AND GETTING THE  
13 MANIFEST, CARRY THE PAPERWORK BACK AND FORTH TO  
14 GET IT SIGNED.

15 Q. OKAY. NOW, YOU'VE LOCATED ON EXHIBIT THREE THE  
16 THREE DIFFERENT WASTE PILES THAT WERE MAINTAINED  
17 BY BASSICK-SACK.

18 A. UH-HUH (YES).

19 Q. WOULD YOU BE ABLE TO WALK ON THE GROUNDS TODAY AND  
20 DETECT WHERE THOSE PILES WERE LOCATED?

21 A. WELL, YES, SIR. THERE'S DEAD SPOTS THERE WHERE  
22 THESE PILES WERE AT ONE TIME. THERE'S NO  
23 VEGETATION THERE.

24 Q. HOW BIG ARE THOSE PILES?

25 A. APPROXIMATELY -- PROBABLY ABOUT TEN FEET IN

2 DIAMETER.

3 Q. WAS THERE EVER A TIME THAT MORE THAN ONE OF THE  
4 PILES WAS MAINTAINED AT ONE TIME?

5 A. I CAN'T REMEMBER. I DON'T THINK SO. I THINK THEY  
6 WERE SIMULTANEOUSLY DONE AWAY WITH, AND THEN PUT  
7 INTO THE NUMBER THREE PILE.

8 Q. HOW OFTEN DID YOU HAVE TO TRANSFER THE SLUDGES TO  
9 THE WASTE PILE?

10 A. WELL, IT WOULD DEPEND ON THE OPERATIONS IN THE  
11 PLANT AND THE AMOUNT OF SOLIDS BEING REMOVED. WE  
12 HAVE DUMPED AS HIGH AS TWO PANS, THREE PANS A DAY  
13 TO THE PILE.

14 Q. AND HOW DID YOU TRANSFER IT TO THE WASTE PILES?

15 A. WE HAD A METAL PAN THAT WAS CONSTRUCTED THAT FIT  
16 ON THE END OF THE HYSTER FORKS. AND WE WOULD PICK  
17 THIS PAN UP, AND IT WAS SLIGHTLY OFF BALANCE, SO  
18 WHEN YOU TILTED THE FORKS IT WOULD DUMP THE PAN,  
19 AND WE WOULD DRIVE THAT AROUND THE BUILDING TO THE  
20 FIELD AND THEN DUMP IT IN THE PILE.

21 Q. WHERE WAS IT COMING FROM?

22 A. IT WAS COMING FROM THE FILTER PRESS AT THIS TIME  
23 AND THE WASTE TREATMENT PLANT.

24 Q. DID ANY OF THE SLUDGE EVER OVERFLOW WHILE IT WAS  
25 BEING TRANSPORTED TO THE WASTE PILES?

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MR. SMITH

VOLUME II

PAGE 251

A. THERE WAS SOME THAT FELL OFF FROM TIME TO TIME, BUT MOST OF THE TIMES, IF WE DROPPED ANY SUBSTANTIAL AMOUNT, WE WOULD PICK IT UP.

Q. WHAT WAS THE VOLUME OF THE SLUDGES PRODUCED AND STORED IN THIS WASTE PILE?

A. TO BEST OF MY KNOWLEDGE, WE SHIPPED BETWEEN TWENTY-FIVE TO THIRTY-TWO THOUSAND POUNDS OF SLUDGE EVERY NINETY DAYS, AT THAT TIME.

Q. NOW, YOU'VE TESTIFIED THAT YOUR WASTE LOGS MAY REFLECT SOME RECORDS ABOUT THESE VOLUMES. ARE THERE ANY OTHER RECORDS THAT YOU MAINTAINED THAT MIGHT REFLECT THESE RECORDS OF VOLUME?

A. WELL, THE MANIFESTS THAT WERE COLLECTED AT THAT TIME FOR THE SHIPMENTS OF THAT SLUDGE WOULD REFLECT THE QUANTITIES FOR NINETY DAYS.

Q. AND HOW LONG WERE THESE WASTE PILES MAINTAINED?

MR. BUTLER: OBJECTION.

A. AGAIN, I'M NOT EXACTLY SURE OF TIME, BUT FROM EARLY '70'S TO THE EARLY '80'S.

Q. DURING THIS PERIOD, WAS THERE ANY AMOUNT OF THE SLUDGE THAT WAS PRODUCED THAT DID NOT GET STORED ON THESE WASTE PILES?

A. I DON'T UNDERSTAND THE QUESTION.

Q. DID YOU EVER STORE SLUDGE ON-SITE IN ANY OTHER

2 LOCATIONS DURING THIS TIME?

3 A. NO, SIR, NOT UNTIL THE SLUDGE BIN WAS MADE.

4 THAT'S THE ONLY PLACES THAT WE STORED SLUDGE.

5 Q. HOW LONG BEFORE THE SALE OF THE PROPERTY TO ILCO  
6 DID BASSICK-SACK BEGIN TO USE THAT BIN?

7 MR. BUTLER: OBJECTION. HE'S

8 ALREADY SAID HE DIDN'T KNOW.

9 A. AGAIN, I'M NOT CERTAIN OF THE TIME FRAMES; BUT,  
10 TO BEST OF MY KNOWLEDGE, THAT SLUDGE BIN HAS ONLY  
11 BEEN IN -- WAS ONLY IN PLACE APPROXIMATELY FOUR TO  
12 FIVE YEARS PRIOR TO ILCO COMING IN THERE. SO  
13 YOU'RE LOOKING AT PROBABLY AROUND '83 TO '82,  
14 SOMEWHERE ALONG THERE.

15 Q. HOW HIGH DID THE WASTE PILES GET?

16 A. I'VE SEEN THEM TEN FEET IN DIAMETER AND PROBABLY  
17 FIVE TO SIX FEET TALL.

18 Q. HOW OFTEN WERE THEY THAT HIGH?

19 A. WELL, BY THE END OF THE NINETY-DAY PERIOD, THAT  
20 WAS COMMON.

21 Q. WAS THERE AN AVERAGE HEIGHT OF A WASTE PILE?

22 A. WELL, WE TRIED TO ALWAYS PILE IT AS HIGH AS WE  
23 COULD AND CONSOLIDATE THE AREA INSTEAD OF  
24 SPREADING IT OUT OVER A LONG -- LARGE AREA.  
25 SO, THAT'S PRETTY AVERAGE -- ABOUT FIVE -- FOUR

2 AND A HALF, FIVE FEET, SIX FEET, SOMETHING LIKE  
3 THAT.

4 Q. WAS THERE ANY FORM OF PROTECTION FOR THE WASTE  
5 PILES FROM THE WEATHER?

6 A. NOT THAT I CAN REMEMBER.

7 Q. WAS THERE ANYTIME WASTE FROM THE PILES WAS SO DRY  
8 THAT IT WOULD BLOW OFF THE PILES?

9 A. YES, SIR. DURING THE SUMMER MONTHS WHEN WE'D GO  
10 THROUGH LONG DURATIONS OF DRY SPELLS WHERE WE  
11 DIDN'T HAVE ANY RAIN, THE SLUDGE WOULD TEND TO DRY  
12 OUT TO A REAL POWDERY FORM AROUND THE TOP AND  
13 EDGES. AND, IF REAL HEAVY WINDS GOT UP, THEN, YOU  
14 KNOW, IT WOULD BLOW AROUND.

15 Q. WHERE WOULD IT BLOW TO?

16 A. ON THE GROUND ADJACENT TO THE PILE.

17 Q. HOW FAR AWAY FROM THE PILE?

18 A. I DON'T HAVE ANY IDEA.

19 Q. ONCE IT WAS TRANSPORTED OFF-SITE, WHERE DID IT GO?

20 A. I BELIEVE IT WAS LINWOOD, SOUTH CAROLINA.

21 Q. AND HOW WAS IT LOCATED -- HOW WAS IT LOADED ONTO  
22 THE TRUCK BEFORE IT WAS TRANSPORTED OFF-SITE?

23 A. THE COMPANY HIRED A PAVING COMPANY NEXT DOOR --  
24 WARNER PAVING COMPANY -- AND THEY WOULD COME NEXT  
25 DOOR WITH A FRONT-END LOADER AND WOULD SCOOP THIS

2 A. NO.

3 Q. DID YOU EVER COMPLAIN TO IKE OR ANYONE ELSE WITH  
4 BASSICK-SACK ABOUT CERTAIN BARRELS FROM THE  
5 FOUNDRY STORED ON THE SIDE OF THE BUILDING?

6 MR. BUTLER: OBJECTION.

7 A. YES, SIR. THERE WAS TIMES WHEN THEY WOULD COLLECT  
8 THE BARRELS UNDERNEATH THE BAGHOUSE BEFORE THEY  
9 WOULD CALL ANYBODY TO COME AND GET THESE BARRELS.  
10 AND THEY WOULD SIT THERE AND THEY DIDN'T HAVE THE  
11 LIDS ON THEM VERY WELL, AND THIS DUST -- OR LIME  
12 DUST WAS BLOWING AROUND. AND THE GROUND WAS  
13 COVERED FAIRLY SUBSTANTIALLY AROUND THAT AREA.

14 Q. WHAT WOULD THE LIME DUST CONTAIN?

15 MR. BUTLER: OBJECTION.

16 A. IT CONTAINED PRODUCTS FROM THE FOUNDRY AND -- SUCH  
17 AS LEAD AND BRASS.

18 Q. HOW DO YOU KNOW THAT?

19 A. THROUGH ANALYSIS RAN ON THAT BAGHOUSE LIME.

20 Q. DID YOU EVER CONDUCT THAT ANALYSIS?

21 A. NO, SIR. I DID NOT MYSELF, NO. ANTHONY WILDER  
22 DID.

23 Q. DID YOU EVER REVIEW THE CONCLUSIONS OF THAT  
24 ANALYSIS?

25 A. YES, SIR. WELL, I SAW THEM ON OCCASIONS THROUGH

2 DISCUSSIONS WITH IKE BLAKLEY AND ALSO WITH ANTHONY  
3 WILDER.

4 MR. JOHNSON: LET ME HAVE THIS MARKED.

5 (THEREUPON, THE DOCUMENT REFERRED  
6 TO BELOW WAS MARKED AS PLAINTIFF'S  
7 EXHIBIT NO. 1 - JAMES EDWIN SMITH  
8 DEPOSITION - FOR IDENTIFICATION.)

9 MR. BUTLER: CAN I GET A COPY OF THIS?

10 MR. JOHNSON: YEAH. I HAVEN'T---

11 MR. BUTLER: THIS IS NOT A DOCUMENT  
12 THAT'S BEEN PRODUCED.

13 MR. JOHNSON: IT'S SIMILAR TO THE MAP  
14 THAT YOU PRODUCED TODAY---

15 MR. BUTLER: RIGHT. EXCEPT THAT---

16 MR. JOHNSON: ---AND USED TODAY.

17 MR. BUTLER: ---IT'S GOT HIS NOTES ON  
18 IT.

19 MR. JOHNSON: IN PREPARATION FOR TODAY,  
20 ONLY. AND I'LL ESTABLISH THAT WITH HIM, AND  
21 GET YOU A COPY. I WOULD HAVE HAD A COPY FOR  
22 YOU BEFORE, BUT IT'S JUST SO LARGE.

23 Q. (BY MR. JOHNSON) HAVE YOU SEEN THIS DOCUMENT  
24 BEFORE?

25 A. YES, SIR, I HAVE.



1 make certain that it's covered.

2 Q Had you seen it uncovered before the  
3 inspection that this report was associated with?

4 A I don't recall.

5 Q At the time that this report was made,  
6 was cyanide sludge stored anywhere else on the  
7 property besides in this container that we've been  
8 talking about?

9 A No. It wasn't stored anyplace else,  
10 but of course, now, you've got Number 7.

11 Q So the answer to the question is, no?

12 A My answer to the question --

13 MR. BUTLER: Objection.

14 BY MR. JOHNSON:

15 Q You can go ahead.

16 A My answer to the question is that  
17 that's a general statement that it was not stored  
18 -- what I was referring to in Number 7 is a very  
19 small amount of dried sludge that evidently was  
20 left there. And, quite frankly, you want facts,  
21 but I have to make a little supposition.

22 Q All right.

23 A My supposition is this: That possibly  
24 an employee was recruited or assigned to take some  
25 sludge and put it in the proper container. He may

1 have been a rehire, an employee that wasn't aware  
2 of the big container that was used for this  
3 purpose, and he knew that at one time there had  
4 been sludge deposited there.

5 The size of that pile, and the way I  
6 stated it here, "one last pile," and saying that,  
7 so that all trace of past yard storage is cleaned  
8 up, is that here is this little pile about the  
9 size of an apple box. Let's clean it up. Why is  
10 it here? It shouldn't be because things were not  
11 supposed to be stored like that. And my thinking  
12 is an unknowing employee took it out there and  
13 left it there.

14 The thing that irritated me is that as  
15 I looked at it, that little pile of sludge, for  
16 two visits before -- and maybe even told somebody  
17 about it, but didn't put it down on paper.

18 Q Read, if you will, the complete  
19 Paragraph 7, and then I'll ask you some more  
20 questions about it.

21 A Paragraph 7. "There is also one last  
22 pile of cyanide sludge in the yard which I have  
23 been told on my last two visits would soon be  
24 removed. Could not this pile be moved to your  
25 designated storage container so that all trace of

1 the past yard storage practice is cleaned up?"

2 Q Referring to Exhibit 2, given your  
3 sentiment about the map, if it's possible, can you  
4 identify the location where this last pile was and  
5 perhaps mark it with a "P"?

6 A (Witness complies.)

7 Q And will you put a circle around that.

8 A (Witness complies.)

9 Q You referred to the dimensions of the  
10 pile as an apple -- strike that.

11 Tell me again, or describe a little bit  
12 in more detail for me, the dimensions of that pile  
13 that you're referring to in that paragraph.

14 A Well, an apple box in a grocery store  
15 is probably about twenty by twenty-four by twelve  
16 or something like that. A very small --

17 MR. BUTLER: Are you talking  
18 inches?

19 THE DEPONENT: I'm talking  
20 inches. Oh, yes. Thank you.

21 BY MR. JOHNSON:

22 Q How high was it?

23 A About a foot.

24 Q What color was it?

25 A Kind of a greenish-cast black.

1 Q Is there any difference between the  
2 cyanide sludge that you referred to in Paragraph 6  
3 in the container, and the cyanide sludge that you  
4 referred to in Paragraph 7?

5 A Yeah. There is a difference.

6 Q What is the difference?

7 A The sludge that was in the yard had  
8 been -- and maybe I shouldn't refer to it as  
9 sludge, because that takes on a context of being  
10 moist or fluid, and it was not. I think, quite  
11 frankly, that it was dried residue from the  
12 treatment plant, and not in a moist or not in a  
13 fluid state at all. It was dried.

14 Q The sludge referred to in these two  
15 paragraphs, were they produced from the same  
16 processes?

17 MR. BUTLER: Objection.

18 A Probably not produced in the same  
19 process.

20 I'm not a waste-treatment specialist.

21 BY MR. JOHNSON:

22 Q When were the two previous visits that  
23 you referred to in Paragraph 7?

24 A I would have no idea. You would be in  
25 a better position for this because you've got

1 copies of my memos. If you find those two memos  
2 you can generate time backwards.

3 Q Do you remember who told you that the  
4 pile would soon be removed?

5 A No, I don't.

6 Q Do you know how long the pile had been  
7 there?

8 A The only thing I can say in that regard  
9 is that I had noticed it as per the paragraph.

10 Q What was underneath the pile?

11 A Nothing. Just plain soil.

12 Q What was above the pile?

13 A Nothing. Air.

14 Q Did you have any discussions with  
15 anybody at the plant about this reference made in  
16 Paragraph 7 to this pile?

17 A I can't remember if I said that I had  
18 been told it would soon be removed. Evidently, I  
19 talked to somebody about it.

20 Q Did you discuss it with Ike  
21 Blakley?

22 MR. BUTLER: Objection.

23 A I might and I might not have. I mean,  
24 I might have discussed it mainly with the safety  
25 coordinator and asked him to make sure it was

1 done. I don't remember that. I might have even  
2 told -- I probably was mad enough to tell the  
3 plant manager to get the doggone thing cleaned up,  
4 but I can't --

5 BY MR. JOHNSON:

6 Q Who was the plant manager at that time?

7 A Well, that would be Max Kilgore.

8 Q Who is Wes Kiley?

9 A Wes Kiley was vice president of the  
10 corporation.

11 Q Did he ever get copies of your  
12 reports?

13 Strike that.

14 Did you ever forward copies of your  
15 reports to Mr. Kiley?

16 A I believe on occasion, but I'm not  
17 certain of that. Wes was -- had responsibilities  
18 elsewhere, besides there, and it may be that there  
19 might be something that I wanted to call to his  
20 attention.

21 On the other hand, there was a plant  
22 manager and it was his responsibility, and I would  
23 go to him rather than bother Wes.

24 Q Was this pile removed after your report  
25 was made?

1 Q Did you come to learn -- you've  
2 mentioned that this employee maybe had  
3 inadvertently put this pile out. Did you ever  
4 come to learn that that, in fact, occurred and  
5 that was the explanation for why that pile was  
6 there?

7 MR. BUTLER: Object to form.

8 BY MR. JOHNSON:

9 Q Let me strike that.  
10 Do you know why the pile was  
11 there?

12 MR. BUTLER: You're referring to  
13 the pile referenced in Paragraph 7?

14 MR. JOHNSON: Yeah.

15 A I've stated the supposition but, no, I  
16 do not know why it was there.

17 BY MR. JOHNSON:

18 Q What were you referring to in that  
19 Paragraph 7 as past yard storage practice?

20 A That particular area, I believe is  
21 where sludge was accumulated periodically to be  
22 shipped out to the disposal center.

23 Q How do you know that? How did you come  
24 to believe that?

25 A It seemed to be an area that was used

1 to pile sludge or waste. I never saw gigantic  
2 piles of waste there, or any other than what I  
3 mentioned here.

4 Q Well, why did that area seem to be a  
5 place where other piles may have been located?

6 A Well, it had a general appearance --  
7 the ground had a general appearance of having  
8 greenish stones, indicating the possibility of  
9 cyanide.

10 Q Can you mark on the map the area that  
11 you're now referring to?

12 A I already have. Right here.

13 Q Just for the record, you're referring  
14 to what?

15 A The circle marked "P."

16 Q This greenish stone that you're  
17 referring to, did you ever observe that in any  
18 other location on the facility besides the area  
19 marked "P"?

20 A No.

21 Q Did you ever talk to anyone at the  
22 facility about a past practice of storing sludge  
23 on -- in a similar fashion, in a pile on the  
24 ground?

25 A I don't remember.

1 MR. BUTLER: I have no further  
2 questions.

3 EXAMINATION

4 BY MR. JOHNSON:

5 Q Mr. Anderson, just one or two more  
6 questions.

7 The area near the last waste pile where  
8 you saw, was it green -- what was green that you  
9 saw in that area?

10 MR. BUTLER: Objection to form.

11 A A small area of the ground.

12 Are you asking me how large it was, or  
13 what are you asking me?

14 BY MR. JOHNSON:

15 Q I'm sorry. It's unclear.

16 First, I know you mentioned something  
17 was green. I, first, want to know what the  
18 substance was.

19 MR. BUTLER: What the substance  
20 was?

21 BY MR. JOHNSON:

22 Q Was it soil? Was it rocks?

23 A Dried rock. Dried rock.

24 Q And now I'll ask you how big of an area  
25 did you observe this rock?



STEWART-WARNER CORPORATION

February 4, 1981



TO: Messrs. Max Kilgore  
I. D. Blakley  
J. R. Meister

cc: Mr. P. A. Johnson

FROM: R. A. Anderson

SUBJECT: Safety Program  
Bassick-Sack Division

At the time of my recent visit, I made note of some safety concerns which I believe are deserving of your attention.

1. The full revolution mechanical power presses in the caster department should be equipped with pull-backs in addition to the two hand trip controls now in use.
2. The pressure tanks stored by the side overhead door must be securely positioned (chained) regardless of whether they are considered as empty or not. The first day of my visit the present chain was loose and the tanks were not secure. There also was an oxygen tank nestled in with the rest of the tanks. The next morning the chain was not fastened at all and there were several tanks laying on the floor. Oxygen tanks must be separated from other tanks by at least twenty feet. Aside from oxygen tanks, there should be one area designated for full tanks and one area designated for empty tanks. Both areas should be equipped with chains to fasten the tanks securely and there should be substantial signs to that effect. The supervisors should then be charged with the responsibility for maintaining secure and orderly storage of pressure tanks.
3. There were pressure tanks at the baghouse area of the yard which were not chained and were also without covers.
4. It was noted that several fire extinguishers were blocked with stored material, etc.

5. Exit lights were out at the door to the lacquer shed, the outer door of the double doors and hall in the front area and the exit door at the plating department. Sylvania makes an exit sign lamp #20T6 1/2/CF which has a 10,000 hour life, however, it does require the use of a base bushing from standard base to intermediate base.
6. There was a fresh load of cyanide sludge in the storage container which was uncovered. If this was done purposely to dry the sludge, is there a responsibility assignment in case of rain?
7. There is also one last pile of cyanide sludge in the yard which I have been told on my last two visits would soon be removed. Could not this pile be moved to your designated storage container so that all trace of the past yard storage practice is cleaned up.
8. The cover is missing from the controls at air make-up #2 and wiring is exposed.
9. Both eyewashes at the rear of the automatic plating area are ineffective due to clogged fittings or insufficient water pressure. These eyewashes are also inaccessible due to material storage and trash. The eyewash in the vibrating department also has insufficient pressure.
10. Tool rests are missing from the Baldor grinder in the toolroom.
11. Curtains at the rear of the die cast machines are not being utilized and some are frayed badly. This is a supervisor responsibility.
12. The operators of the mechanical power trim press at the rear of the die cast area do not use the pull-back guarding of the press. This was noted on both day and night shift. This is a supervisor responsibility.
13. The die storage racks near the entrance to the foundry have bent and damaged leg supports.
14. A floor fan in the foundry has poor open wiring repair to the power cord.
15. There is a male black employee in the buffing department area who was noted on three separate occasions as not wearing safety glasses.
16. With a few easily noted exceptions there is a definite lack of interest in the use of hearing protection devices in high noise level areas.

Hearing loss compensation in North Carolina can run to the amount of \$29,100. Multiply that by the number of employees not wearing ear protection and you have an approximate future cost for this lack of interest.

The above does not take into account the personal loss of your employees due to the handicap itself - and then there is OSHA who on April 15, 1981 will require hearing conservation programs in effect for all exposures over 85 dBA.

An improvement is essential - either mandatory or by educational means with examples set by supervision and management.

RAA:jg

R. C. Anderson

*Manie P. Currin and Associates*

GENERAL COURT REPORTING SERVICE  
RALEIGH • DURHAM • OXFORD  
NORTH CAROLINA

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION  
CIVIL ACTION NUMBER: 6:91-CV-00034

ILCO-UNICAN CORPORATION, )  
a North Carolina corporation, )  
 )  
Plaintiff; )

-v-

STEWART-WARNER CORPORATION, )  
a Virginia corporation, and )  
STEWART-WARNER BASSICK-SACK )  
CORPORATION, a Delaware )  
corporation, )  
 )  
Defendants. )

-----)

DEPOSITION

OF

ROYCE M. BOLES

VOLUME 1 OF 1

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At Winston-Salem, North Carolina.

Wednesday, February 5, 1992 and  
Thursday, February 6, 1992.

COPY

2 project of removing the outside holding tanks.

3 Do you see where that's listed?

4 A Yes.

5 Q And you remember your testimony this morning about  
6 the removal of those tanks?

7 A Right.

8 Q Were those tanks ever part of Ilco's operations?

9 A Not to my knowledge.

10 MR. JOHNSON: I have just got a few more  
11 questions.

12 Q (Mr. Johnson) Do you remember when -- strike that.

13 Where was the level I buffing operation of  
14 Ilco's after it took -- after it began its  
15 operations?

16 A In February 1988?

17 Q And shortly thereafter?

18 A In February of 1988, it was located on the second  
19 floor.

20 Q Did that location change at some point after that?

21 A Yes.

22 Q Do you remember when that change was made?

23 A In the -- it was a slow gradual type change. He  
24 transferred everything to the first floor.

25 Q Do you remember when that was?

2 A In '89.

3 Q And was it in the latter half, or the beginning  
4 half of '89, if you remember?

5 A It would be in the fall of the year when everything  
6 was completed.

7 Q Did Ilco for that relocation make any modifications  
8 to the equipment in the buffing operation?

9 A Yes, we added a filtration unit.

10 Q What is that?

11 A It's a large container to collect buffing  
12 materials, compounds, sandpaper, coming off of a  
13 buffing pad, and sanding operation.

14 Q Where was that placed?

15 A On the roof outside of the buffing operation in a  
16 duct line. It was all --

17 Q (Interposing) Were you involved in that  
18 installation?

19 A I assisted as far as -- yes.

20 Q Do you remember when it was installed?

21 A In April of '89.

22 Q Did it replace another type of unit?

23 A We had a -- probably a forty-eight inch (48")  
24 exhaust duct going into the atmosphere that had  
25 broken and erupted, sanding materials all over the

2 roof, and also all over the ground. Sanding and  
3 buffing materials.

4 Q How do you know it was on the ground?

5 A It was located -- well, I seen it.

6 Q What does it look like?

7 A Sand, dirt, gloves, sandpaper, buffing material,  
8 chunks of buffing materials, pads, combination of  
9 everything.

10 Q How would it get there?

11 A The employees may have throwed gloves up in the  
12 exhaust system, just even tin cans, pop cans.  
13 Buffing compounds came from sanding operations.  
14 Also from buffing operations.

15 Q Did this cease when the collector unit that you  
16 referred to was put in?

17 A Yes.

18 Q How long had this been going on, what you're  
19 referring to as the stuff going up through the duct  
20 out into the atmosphere and into the soil?

21 A I was hired in 1977, and it was still the same up  
22 until the collector was added.

23 Q Did Ilco's buffing operations, after it took over  
24 the property, include the use of a degreasing unit?

25 A When it took over the operations?