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BIRD PROBLEMS AND FOOD STORAGE AND PROCESSING FACILITIES

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Orkin Exterminating Co.
Atlanta, Georgia

Viewpoint from PCO
Robert Yeager
Rose Exterminator Co., Cincinnati

Viewpoint from Industry
Fred Baur
Procter and Gamble Co., Cincinnati

Viewpoint from Regulatory Agency
James R. Dupre, Director
Compliance Branch, FDA, Cincinnati

INTRODUCTION

Bob Russell

For the bird control problems in the food industry I think we have a good pair to work with us. We have Bob Yeager, a pest control authority. Fred Baur is from Procter and Gamble, a great company with a long record of association with the pest control industry. Third, we have with us Jim Dupre, whose experience is with the Food and Drug Administration. And with all the government controls we've learned to expect from the government in the last few years, I think it's good for us to know that we have had a long and good record of association with Food and Drug. They have helped us in many ways with our work. We're going to have three informal presentations. Bob Yeager will start off and give us the PCO viewpoint. We will then follow with Fred Baur, who will give us the industry viewpoint and also have some slides to look at. And then we'll finish with Jim Dupre, who will give us the agency philosophy and some of the things they look for in their inspection work.

VIEWPOINT FROM PCO

Robert Yeager

We will discuss a bird control call that I might receive as a pest control operator from the likes of Dr. Baur. What are some of the things that go through my mind and some of the things I need to program myself for at the time I go out there to see the situation and to try to arrive at an area where we can use some control measures? Many of the things that I'm going to say, I know have been said before, but I'm trying to set them within an actual situation so that we are seeing it from that viewpoint. Then when we get into our discussion we will see problems, maybe problems that you have, that you anticipate, problems with which you're struggling, maybe some that you have solved and you want to share. That's the atmosphere we're endeavoring to generate. [I'm referring to Dr. Baur in the aspect of a food plant. Now in your case it may be Dr. Smith or maybe Elmer Fudd or maybe somebody else. But try to put in your minds a call from an individual that's running a food operation of whatever nature.]

Of course, when I go out there to see this problem Dr. Baur called me about I'm going to be concerned about the species with which we're dealing. [We've had so much emphasis put on us about the label that I almost feel that I have to examine the bird and read its label to find out what I have to do to kill it!] I don't know how far I'm going to be able to go, but at least I do have to determine the species with which I'm dealing and make certain I'm not talking about some kind of protected bird. This fortunately doesn't happen with too much regularity. You get a few of them within the flock, but we're not dealing with that problem at this point.

I need to determine the species; I need to determine the problem area. Where are we having the problem? What are the conditions under which we're experiencing it? And certainly I have to think in terms of the tools with which I have to work. Since Fred will talk about tools at our disposal, I won't go into any detail.

I will, however, have to consider the environmental conditions around the area. Why are birds attracted to this area in the first place? Is the food plant the reason why they're there, or are there perimeter reasons? Can something be done to avoid that attraction? I have to think in terms of the contaminations taking place by the birds as well as what is the potential of my doing some contaminating with the work I might do.

Public relations concern me, because I really don't know until I get there whether or not people are living in the area. There may be bird lovers who feed and enjoy seeing the birds come into their yards. Sometimes it doesn't make any difference to them what kinds of birds they are just so they're birds; and if we're doing something that causes them to see a dead or struggling bird, there's going to be some displeasure. Of course it goes without saying that a pest control operator receiving a call of any nature involving the

control of pests thinks in terms of possible business, so I don't want to leave that out. I don't want you to think that I'm just in business for fun either. We are naturally in business because it is business; and we like to see it come on the book, and we like to make a profit from it. But I have to look at it in terms of what can I do.

One of the most important things that I feel has to be considered is the working relationship that needs to be developed between the PCO and the management of the food plant with whom we're dealing. One of the last things I want to be guilty of under these conditions is to take the attitude: "Oh forget it, Fred, I know all the answers on this thing. I'll get rid of these birds, and there's going to be no problem. You don't think about it anymore; it's totally my problem. I'll take it from here." That's one of the last things that I ever want to say in a situation here, because we all know that it's going to be a two-way street, that there has to be considerable cooperation on the part of the food processing management people, and that we work together.

We lay out a plan no matter what the plan might be. We lay out a plan and say now this is what we're going to do. This is what I need to expect of you. At some point we have to arrive at a cost arrangement, whether it be on a total cost (which is sometimes difficult to do) or on a cost unit basis, checking back at the end of a period of time to ask how we're doing. Here's where my costs are at this point, and we're going to have to do this and so.

Let's call that first plan, Plan A. I think we have to say before we get started that Plan A may not work. We may be doing everything under the sun following this plan and these birds, having a mind of their own, decide that they aren't going to respond. Then we're going to have to change some of the angles. We're going to have to go to Plan B. We're going to have that understanding, because anyone of us that has been in bird control knows that everything looked like it was just right for the program we outlined; but the birds didn't read the directions. It didn't work, and we're going to have to use something else. We're going to have to approach it in a different manner. And the understanding between the PCO and persons like Fred representing the food industry (or whomever is having the bird problem) needs this close cooperation, correspondence, and communication.

For example, if each of us as a PCO were asked to take care of a bird problem in a plant that's a hundred miles away, we could very well encounter a situation where there could be, in a heavy bird population, a number of downed birds, assuming that we're going to have to use baits and some type of Rid-a-Bird perches. It is impractical as I see it for me to say, "Well, I've got to drive out there every day and pick up birds." I'm going to make some arrangement there with management that somebody picks up birds. All I'm trying to say is that the arrangements that have to be made at the outset are going to affect materially not only the results but the feeling of cooperation and the working togetherness of us as individuals and as pest control companies related to industry companies.

After receiving such a call, I'm always hopeful that it isn't a situation where I have to say I don't think it can be done. Actually we're taking a positive attitude, and I'm hopeful that this morning we'll be looking at some problems and discussing some that are real. Hopefully we can get some thoughts that come out of this group. I feel confident that we could very well do that, and it could help to solve some of your problems and our problems; and we'll all go away from here with something that will be extremely beneficial in a real and tangible way.

Bob Russell

Thank, you, Bob. We're going to move right on to our next speaker. After they call Bob in they then have to discuss when and what they're going to do. Fred Baur will pick it up from there.

VIEWPOINT FROM INDUSTRY

Fred Baur

Be aware that I am not going to be talking on the phone to Bob here; I'm going to be talking more to what the situation is; and, of course, I'm going to use as a frame of reference my experience with Procter and Gamble. You might wonder how it is that a representative of a soap and detergent company can appear at a bird control meeting and talk about the food industry. Rest assured that Procter and Gamble is in the food business.

We marketed our initial food product in 1901 - a salad oil. We now have four operating divisions within the U.S. which manufacture food products. Our total sales on an annual basis within the U.S. are well in excess of one billion dollars. The divisions, just quickly for your information, are a food products division, which markets shortening-oil products,

prepared baking mixes, peanut butter, and potato chips; the Folger Coffee Division; an industrial foods division; and lastly, we have an oil milling organization, which handles cottonseed, soybeans, peanuts as raw materials, and markets primarily refined and crude oils and the corresponding meals. So we are in the food business. There's no question about it.

The first question I would like to address attention to is just how concerned are we relative to birds? I'll start by saying, "Yes, we're definitely concerned about birds." Our concern is less with birds than with rodents and insects, because these latter pest species are more of an infesting type; and they give us more problems in terms of our plants and our plant environments. Our concerns with birds are mainly three. First, birds can be pests, and we are concerned with any pest that can contaminate our products, or, as is more likely, contaminate our plants or plant environments. Second, we are a little less sure of our knowledge and our competence in handling possible bird situations. Hence, we have a keen interest in Bill Jackson's efforts, including this seminar. And third, we recognize that birds very properly enjoy a more favorable public image than rodents or insects; therefore, we need to be very careful in our control efforts, particularly by not harming protected species.

Let's elaborate briefly on the first of the points above. Birds can cause product contamination. They can cause adulteration of the product; but they more likely will cause contamination of the plant itself and/or the plant environment. In case you're not aware of the Food and Drug Law, a product may be considered adulterated if it has been packed, processed, or held under conditions where it may have become contaminated. Birds do leave unclean or insanitary residues, usually in a manner in which the risk of direct product contamination is small.

Our attitude toward birds is similar to that toward rodents and insects; one bird is too many. Since that's not realistic, what do we do about it? Well, if there is any contamination involved, then, of course, the product is scrapped. Contamination of any kind is strictly a "no-no." If there's contamination of the plant environment, then of course we try to monitor the situation, clean it up, and try to prevent its recurrence. In all this, we operated definitely under not only the laws and regulations of the land, but also under good manufacturing practices for industry--not only the regulatory interpretations thereof, but our own. I think we are, in all instances, at least as strict as the law and regulations would have us be. This makes very good sense from the standpoint that we want as much of a margin of safety as we can reasonably have.

What type of problems does the food industry--does Procter and Gamble--have? I don't know of a single plant that we have that does not have birds in the outside environment. I'm sure that won't come as any surprise. Relative to the inside of plants, I think it's fair to say that one is much more likely to find birds in warehouses than in the operating part of the plant. I cannot recall ever having seen a live bird in a processing-type area. I have seen remains of birds in that kind of area, but this is an extremely rare situation.

Our greatest contamination risk has been with raw materials, and this has been external to the product itself--in other words, on the bag or the container. This arises mainly from handling during transportation, particularly from a sea-type situation, either actually occurring while the product is on the surface of a ship lacking the proper canopy or protection or--more likely--on a wharf or dock.

How do we deal with birds? I can't emphasize strongly enough the aspect of prevention. Probably the key preventative measure is proper plant or warehouse design. Unfortunately, with some of our older plants and our oil mills, design does not permit the most effective or efficient control, as you will learn later. Naturally, we seek to avoid the use of possible contaminated raw materials, including packaging materials, that are procured from suppliers. We run analyses, check receipts; and, we'll hold those materials apart until we get the results of analyses. We evaluate supplier attitudes and programs relative to sanitation, or, as we call it, product protection. Lastly, all our facilities have programs aimed at control should preventative measures fail.

Let's now look at some slides which are drawn from a training program which is used at our plants. The first point of defense, as I see it from a prevention aspect, is that of the outside environment. The initial consideration is the land itself. Is there a tree canopy; what sort of specimen trees might be put on the grounds from the standpoint of landscaping; what about groundcover from the point of possible insect harborage that might be attractive to birds; how will the grounds be maintained; and is there free-standing water, etc.?

On any new plant or modification of older plants, we give considerable attention to design. We endeavor to minimize anything for the birds to roost or perch on. We handle the situation of possible entry, whether it be through the windows or dock doors. One of the things we've been doing the last few years in some of the older plants is to remove the roof-mounted equipment. Obviously, if you have equipment which does, on occasion, leak, you're getting materials that are going to attract birds to feed. Outside equipment handling products should be properly protected and be leakproof. Since the prevention of all leaks is impossible, provision should be made to permit prompt and complete clean-up of any outside spill.

Our people are trained to recognize if there is a bird problem. They are told where to look for bird evidence and what the evidence might be. These places and signs are obvious to you people. It's surprising to what extent plant people sometimes won't look up in the air when they're walking about inside or outside the plant to see whether there's a problem. Obviously, if there are droppings on the ground, there are birds overhead which have been there for a period of time.

The key evidence consideration is recognizing the type of species of bird itself; and, of course, we can't stress that enough from the standpoint of protected and unprotected birds alike. This is a flock of Canadian Geese. Unfortunately, that plant environment is a recognized sanctuary for wildlife. So that makes it a little tough if you want to come in and practice some kind of chemical control. We pay attention to what species we have. This is essential to control.

What about control? We encourage, of course, prompt removal of nests; that eliminates the main species that we have problems with--the English sparrow and pigeons. We have used nets on occasion, although we prefer a more long-range solution such as completely enclosing an area as, for example, a dock which might have supports which would be attractive as perches.

We do have bird lights in a couple of our plants. I personally do not think they do much good. On the other hand, some plant managers seem to like them and they remain.

We've not done any trapping, nor have we used the porcupine spine type of repellent. We have used the tanglefoot type. We've used "snakes" (ribbons hanging in an open doorway). We've used some of the noise devices. We have not gotten to the scarecrows; and I doubt very much that, even in the proper setting, the scarecrows are of much value. We have not been using distress/alarm calls. We have, on occasion, used shooting; but, if you use this method, be sure that the individual is a pretty good marksman, and you know where the pellet will end up.

What about chemical methods? We have found chemical perches to be quite useful. Relative to baits, again we have found them to be useful, with the greater reliance placed on Avitrol.

The next slides illustrate a problem that neither Bill, Bob, nor I have a solution to. It involves seed unloading. This first slide shows a general view of a mill. It is shown to you only from the standpoint of indicating that we do obviously at times have spillage of the seeds on the ground surface.

Yeager

From the standpoint of normal maintenance here, Fred, how regularly would that be cleaned up? Is that grain something that's reused, or is it discarded?

Baur

Let's talk about your second question first. It could or could not be reclaimed depending upon the promptness of clean-up and what contamination exposure may have occurred prior to action. Reclaiming could be complete if action were prompt and the spill surface were clean. If cleanliness of the surface is in doubt, we could and probably would skim. As to promptness of clean-up, this is variable--how soon discovered, how much involved, manpower availability, etc.

Dupre

We've taken the position that the spillage may be salvaged in a sanitary manner, but that sweepings are something else again.

Baur

That's a good point. What I think he's talking to is what is the depth of the spill. And I think what he's saying here is that, if you have a pile, you can come in and, in a sanitary manner, clean up most of the pile, providing you don't take the bottom layer.

Dupre

Well, that's not exactly what I'm saying. You're correct in what you did say; but sometimes it's been our experience that somebody has a tendency to be confused over what constitutes a fresh spill. At pecan shelling plants, for example, we encountered a problem that was traced entirely to the fact that they swept up the floor of the entire plant and tried to reclaim the floor sweepings, which meant you got dirt and broom straw, and God only knows what else.

Baur

If you have a clean surface, and it's a spill situation that you can give reasonably prompt attention to, you can pick the whole thing up. If it's an unclean surface and you act reasonably promptly, then you can skim it. You can't take the bottom.

VIEWPOINT FROM REGULATORY AGENCY

Dupre

The advantage of following two experts who essentially covered my topic is that all I have to do is reinforce a few of the more important points that they made. First of all, it's a little unusual for me to address a group of this makeup. Normally we go out and threaten industry with what happens if they don't correct a problem. In the normal course of day to day things at the office, my responsibility is to take regulatory actions against violators and violative products.

As a matter of background, I was a former inspector of the agency and worked on the gulf coast area. I've had personal experience in building cases against food products that have been contaminated by birds as well as other unsanitary conditions. I've had personal experience in helping to prosecute companies that have had recurring and repeating problems with birds along with rats, mice, and what have you. In my present capacity other people go out and do the work to build the cases, but it's my responsibility to prosecute the cases for the agency.

Fred mentioned insanitary conditions, which relate to section 403(a)(4), our basic authority for regulating the industry. It is not necessary that we would prove contamination as such; but if food is held under insanitary conditions, we can take action against the product. There are some constraints. We have many years of judicial history and a lot of precedent cases. The precedents are pretty well established. Insanitary conditions would include birds, insects, rodents, and what have you. Bird problems are unique in some respects, particularly in terms of control from a law enforcement standpoint.

A little about the enforcement philosophy of the agency. Of course, our authority includes the seizure of contaminated food, and this would be the very first measure I would contemplate. In a case where we do have contamination, we would immediately consider getting it off the market by the most expedient route. Now if seizure is the most expedient route, we would proceed in that direction. If recall will get more of it off quickly, then we will go to the company about getting the product recalled. Oust before I left we had to deal with a company that shipped some products in interstate commerce; we had asked them to hold up, but they took a chance and shipped out \$5,000 worth of merchandise. It will cost them \$60,000 to bring it back.

Once we've gotten a product off the market, the second thing we're going to do is to stop the practice. And we do have the authority to bring injunctive actions against the companies that are violating the regulations. We also have a relatively new enforcement measure that we never considered before this -- that's what we call a mass seizure and involves literally an entire warehouse full of food. I don't know if you have been reading the press clippings, but up in the Minneapolis area there will be shortly a seizure of two entire warehouses of food where a herbicide damaged the products stored. Apparently it was volatile and permeated all the food containers in the building. Now the agency will seize everything in the building. Of course, the implications and repercussions could be disastrous. I am sure there will be all sorts of suits and countersuits filed.

Once we've eliminated contaminated food and once we've stopped the practice, then we would consider whether public health has been damaged seriously enough to bring prosecution against the parties responsible. A lot of law practice goes into these decisions; and they're reviewed by any number of people in the agency, so we would not really have final authority on it. But the areas of prime concern would be the degree of contamination, the damage to public health, and also the attitude that management has toward it. Have they

made a lot of effort to achieve correction, did they achieve it properly, and did they try to shirk the responsibility and pass the buck off to someone else?

As to the relationship of a pest control operator to management, I can only add that this is extremely important. The position of the agency would be that the management of the food company is responsible for the sanitary conditions. We would never buy, and to my knowledge never have, an argument that he could shift this responsibility over to the pest control operator. We would hold management responsible. In practice over the years I have gone through many cases where management has tried to pass the buck off, either to an employee

or onto someone else. The only time we would hold the pest control operator responsible is if he in some manner were careless in the use of rodenticide or if by his own action created some hazard to the food product. Some of the cases in point (e.g., 1080) even developed in that way; but in actual practice the courts have not supported the agency too often where pest control operators have acted in a capacity that has caused violations,

It is my feeling that the courts would also want us to hold management responsible. Chances are that at the very next opportunity that a case presents itself we would probably bring a case against both of them. The theory is that management should have an obligation and responsibility to oversee the activity of the people hired.

Bear in mind that we rarely bring cases against pest control operators. But we almost invariably bring cases against officers of companies. In that regard I think we did have a precedent decision. Last year the Park decision really scared the industry. It scared them so badly that there are all sorts of bills pending in Congress to relieve presidents of liability. The case in point involved insanitary conditions at a food warehouse in Baltimore, Maryland, and we prosecuted the president in Philadelphia. He pleaded not guilty and had a big, long jury trial; and the jury convicted him. This went all the way to the Supreme Court. The Supreme Court upheld it. He claimed as president of the company he hired people to take care of these things: the manager over in Baltimore - it's his responsibility. But in this case I think the agency made sure that they had notified the president and he had failed to take affirmative management action to correct the situation in Baltimore; therefore he was held criminally liable.

As far as inspections go, we used to be very active in the area of food sanitation, and that would encompass bird problems. I said we used to be. We still are very active, but we are approaching it somewhat differently in the past three or four years. A lot of our inspections are being conducted by state officials, and we are acting in a capacity where we assist them in training and in conducting their programs in bringing regulatory actions. And we pay for this service we give them a part of our budget to use within the state in accomplishing these programs.

Here in Ohio we had a state contract last year for four food commodity codes that included food storage, beverage plants, bakeries & grain elevators; and the commodity areas contracted out to the state during this year are 13. So essentially as far as my own district is concerned within the state of Ohio, we have essentially contracted out better than 50% of our inspections. We do reserve the authority in case the state is incapable or unwilling to take some action because of limitations in their law or other reasons, to come in and take over the enforcement problems.

A word of advice. The question comes up frequently as to what we can do to help the industry when we encounter problems. All I can say is that our own inspectors, outside of giving advice on screening out birds, are really not qualified. And I think that's where you people come in. You're the technical experts in the area. I would be very sceptical of following advice that an inspector may give, knowing the background that some of these people have. I don't mean to be derogatory of our inspectors, but it's just that they're not trained in the technical aspects of controlling bird population or other sanitary conditions. They would go in to try and determine if a bird problem exists and if it exists to what degree it may present a hazard to food. If the food is becoming contaminated, what is the disposition of the food. They try to determine who's responsible for what. We don't have the technical expertise to tell you how to go about solving the problem.

In my own as an inspector I helped build a prosecution against a food warehouse that had bird droppings spilled all over the place, and they were using bird lights only. They had a history of three years of bird problems, and apparently this was the only measure they undertook. I think we're back to something Bob mentioned about Plan A failing. Well, they stuck with Plan A, and it didn't work; and we prosecuted them for it. As the inspector approaches the plant, if he sees lots of birds around on the outside, then obviously he's going to look for them on the inside. But unlike mice and insects, the management would probably not get overly concerned if it sees one bird. We probably would get concerned if

we saw more than one bird in one place. If we see lots of birds on the outside, we go about looking for birds in the building. The evidence from our standpoint is much more impressive on bird infestation than it is rodents; it's much easier to find with droppings all over the place.

If you see stacks of food that are covered with plastic tarps or cardboard, that suggests there might have been some problem in that area. Incidentally, that's not a very effective way of preventing contamination, and it causes other problems as well, particularly if you tend to neglect the area. I recall working as an inspector down on the docks in the port of New Orleans and running across half a ship full of coffee--oh, they tried their best to cover it up, but they left it on the docks. As you can well imagine, the place was just riddled with pigeons, and the only way to keep food reasonably clean is just to rush it right through and get it out of there into a clean environment. If the goods have to be stored, then you have to fix up something so they can be protected in some manner. In any event enough of it became uncovered that the birds had defecated over all the exposed top, and the rats had gotten in under the cover. It was a beautiful mess. (Boy, what a lead up to a coffee break!)

I concur with Fred's comments that the only good thing to do when contamination occurs is to destroy the product, with some possible exceptions in bulk grains. Now that the agency has toned down its enforcement philosophy on animal feeds, it is possible that some of this material could be diverted that way. At one time we got very tough in the animal feed area, but apparently the government concluded that Salmonella couldn't be eradicated; and we've eased off considerably in that regard. As far as bird contamination, there would be other, possibly public health, considerations. Of course, if it's incorporated into a finished food product, and we do run across this from time to time, it's contaminated. It is still the position of the agency that you cannot blend contaminated food with uncontaminated foods to arrive at a very low level of contamination.

Baur

I want to report two things. The first one is the Park situation that Jim mentioned. One interpretation of the Supreme Court action is that if the upper management is in any position to have any responsibility, then they have to exercise foresight to avoid occurrences such as this. The thing which I'm glad Jim brought up is this animal feed, bird and human food. You might as well be aware that Food and Drug handling is most realistic on this; if there is something of a poisonous or deleterious nature, then that's a "no-no" in contamination or adulteration, whether you're talking either human food or the animal feed. If you're talking filth, then the tolerance is greater for filth being present in animal feed. And that can influence a plant's operations. That's not to say that you should not buy clean raw materials and monitor those, but it's just saying that you don't have quite the requirements with the animal feed that you do with the others.

Dupre

Just to reinforce, salmonella in animal feeds is no longer considered a deleterious matter. However, there are exceptions to every rule; it depends on the animal.

FINAL DISCUSSION

- Question: How does the Food and Drug feel about the seriousness of bird droppings and contamination in bird feeds?
- Dupre: This would fall in the area of veterinary medicine, and this particular office has responsibility for the safety and well-being of poultry. Similarly the Bureau of Foods has responsibility for the safety and well-being of people who consume foods. While I consider it low on the agency priority list, if a transmissible disease or the potential for a transmissible disease were present because of birds having contaminated grain consumed by poultry, or the potential for transmission of disease from wild birds to fowl existed, then we still have responsibility in that area and would act to correct the situation. I personally don't know of any such cases. We have taken regulatory action in cases of rodents contamination of dog food, however.
- Knote: If a food warehouse has dog food, flour, or other food items contaminated with salmonella from mouse urine or droppings, could they then be converted into animal feed after proper processing and treatment?
- Dupre: As I understand the question, yes.

- Knote: What would be the procedure for decontamination?
- Dupre: This is a major change in our attitude admittedly. There was a time when, particularly for rodent-contaminated foods to be converted to animal feed, we required sterilization of some form. Now the agency has eased off. We would want to consider the animal that's going to consume it. Probably in most cases sterilization would not be necessary. Contaminated foods may be incorporated into most animal feeds.
- Knote: Do you have any specific animals that could not consume such foods?
- Dupre: The only animal that readily comes to mind, and this list may grow more as our scientific knowledge increases, is the dog. It's still our position that rodent-contaminated dog food is unfit for dogs.
- Knote: I was thinking of say hog, cattle, or chicken feed.
- Dupre: I would say that the degree of contamination should be considered. Good management may call for some sort of sterilization process if any significant contamination exists. Other problems come into play now, and we're getting into the area of industrial contaminants, a sort of frightening area, particularly here in the midwest. PCBs are beginning to appear; of course, they've probably been present for some time. While their occurrence is rather widespread right now, it doesn't seem to be a problem that's beyond control.
- Question: What about differences between handling and processing facilities?
- Dupre: As long as no actual processing were going on in that particular area and goods were simply being stored or conveyed to it from the point of origin until being moved into the processing area, I would not consider it a processing area.
- Question: What can a PCO do to prevent contamination of food in the food handling situation which requires the use of avicides? Obviously, the Rid-a-Bird label says "no" in food-handling situations, but can you define what a food-handling building is? Is a loading dock a food-handling area? Most of the time, food is in containers from the dock to the truck.
- Russell: Fred, how would you consider that?
- Baur: I would not use an avicide in a dock loading area even if all products were covered.
- Question: Would you use avicides on the roof or at the top edge of the dock?
- Baur: For the dock itself, I don't think we ever have that I know of. Would I? Yes, if that's indeed the best control.
- Russell: When you say the "top edge," do you mean "on top of" in contrast to "the underside" or "the bottom of the dock"?
- Baur: Right, I would definitely be more reluctant to use inside than out.
- Russell: Could I hear FDA's opinion on that?
- Dupre: Our investigator would be limited to the directions on the label. If it said "Don't use it in a food-handling area," we would not permit its use there.
- Question: Would the local inspector, then, use his judgement in determining whether a loading dock was a food handling area or not?
- Dupre: I think not. However, I would not want to see the birds in there at all. If you were talking about a grain elevator, then it would be a little bit different. As I think of normal food manufacturing and processing, I don't think we would object to using something like that on a loading dock, if there were no other use in a manufacturing area.
- Baur: This goes along with what I said before. We aim to do a little more than what the regulatory agencies say. We want to have that margin of safety. That's the way to operate.

- Russell: Procter and Gamble has very high standards, and I think that you'll find that both their plants and industries will have that margin of safety. They will try to go a little bit beyond the required.
- Question: You were talking about the responsibility of management in the situation of contamination. What would be the responsibility of a pest control owner if a service technician were involved in an area of food contamination with a residual? If that man were state certified and if he were not state certified, what would be the responsibility of the owner?
- Dupre: As far as the contaminated food, it doesn't matter, because we would want that gotten rid of. Obviously if it were not destroyed, we would try to take action and have it removed from the market. The courts, I suppose, would set the civil damage between the person who owns the food and lost money and the operator. This is an area where we don't get involved. It wasn't a criminal responsibility. Obviously if his action had resulted in some serious damage to public health or public good, then the agency would probably, considering its jurisdiction in the area by virtue of interstate commerce, take some action to prosecute him. You know in many minds prosecution is punishment. As to punishment versus protective action, we bring prosecution both for punishment and to serve as a signal to the rest; if it's a very serious case, it can be brought strictly for punishment purposes. Whether or not the supervisor would be held responsible would be determined in part by the owner of the business. In any case we would hold an informal hearing; and at that time we would expect the owner of a business to show just cause why he should not be included, and it could well be that he shouldn't be.
- Question: That's the owner of the pest control business or the owner of the business where the crime was committed? I was just trying to figure out whether you would go right straight after the owner or to the technician. Would it vary as to whether the route technician was state certified or not state certified?
- Dupre: No, it would not vary.
- Russell: You would have to go to EPA. EPA is going to hold the pest control company responsible. Certification of the operator or the supervisor does not really matter. The severity of penalty may have to do with how much training you gave that operator, and how he tried to prevent it in spite of what you had done to train him. So if you do the right thing, you may still have some responsibility; but the severity of the penalty will be less. That's the EPA viewpoint as of last week.
- Dupre: That's an excellent point to bring up. We've been taking enforcement action on pesticide violations, but once EPA cranks up they're going to preempt the field.
- Question: We're concerned about the potential contamination of food and drink. Now if one could use a Rid-a-Bird perch under a dock, around feed, or in a grain elevator, the only possible human error could be overfilling of the perch. Now if a person had a drip pan underneath that perch so there would be no opportunity for accidental contamination, what would be your response on using a Rid-a-Bird perch in those types of situations?
- Dupre: I'm sorry. I'm not familiar with the Rid-a-Bird.
- Russell: Can I answer that? I think the Food and Drug law states that you would be responsible if anything occurs under conditions where food may become contaminated. Whether you had a drip pan under there or not, if they deem there is any risk involved, you still could have responsibility.
- Dupre: I might add, though, before you get overly alarmed, that the courts have tended to uphold rather closely the assurance that there is a rather good likelihood that food will become contaminated. I'm a little bit concerned, because that action in Minneapolis is really rather frightening. Ordinarily, we would never have considered that the chemicals stored in one end of the building would contaminate food in the other end. So that may require some reevaluation of that law.

- Baur: In the Minneapolis instance, there were actually demonstrated levels of herbicide on packages, not health-damaging levels; but without doubt, products were contaminated. The point is that the drums of herbicide were leaking. And be aware that even gas-tight food packs can sometimes leak. I've seen innumerable instances of what I consider to be unwarranted, unnecessary, undesirable storage of pesticides and herbicides with food products. Sometimes they might be right next to or even touching each other.
- Steckel: Mr. Dupre indicated that sometimes they like for their inspector not to be involved in determination of what kinds of programs are to be used and in what is going to be done and planned under their inspection. I think I agree with that. I think that experience shows that you've got more than one regulatory group working in some plants--particularly where you've got meat, poultry, eggs, and so forth. I think that we need to recognize it and take a little different approach to that situation where we've got in-plant inspections, where that inspector has an office in the plant. If we can't get him involved with the plans that have to do with the program of pest protection, then we stand to have more difficulty than where your people come through on schedule.
- Dupre: If you have a resident, in-plant inspector, it is my understanding that these people tend to be more highly specialized than our people. They will make recommendations, and I take it that the industry will be expected to follow them.
- Steckel: My purpose was not to get involved. We try in everything we do to stay out of the prosecution business. We're trying to solve bird problems, and really that's your full-time job, and I understand your position. But we're trying to do the best we can to eliminate bird problems. If he can assist us, we want his input and his knowledge. In other words we need that same kind of cooperation from him that we need from plant manager, and the plant superintendent, and the corporate sanitarian. I thought maybe these people heard what I heard, which was "don't involve our people." I can see "don't involve FDA people," but we have other regulatory people to deal with on an everyday basis.
- Yeager: Before we close off, I would like to ask Fred a question on this mill that was pictured. Are there any mechanical things there that have been thought of to discourage bird problems? Are there any kinds of protective or preventive devices, in the way of structural modifications, that have been considered or maybe even done?
- Baur: Sure, for example, at one time, the tops of the feed houses were standing open; now they're screened; and we prevent entry therein. So, certainly things like that can be and have been done.
- Steckel: What's the purpose of that metal shed?
- Baur: The shed is to cover the dumping operation or to protect the dumping and the conveyors from the weather. Obviously, the pits have to be opened during dumping but are otherwise kept closed.