# **EXHIBITS**

### Laboratory Medicine Franklin Hospital Franklin, Roosevelt 30640

September 20, YR-5

E. L. Garfield Medical Department 607 Building Roe Chemical Company Franklin, Roosevelt 30640

Dear Mr. Garfield,

Enclosed is a serum sample and an aliquot of a 24-hour urine on Mr. David Wilson, a 49- year-old male who has been exposed to dinitrobutyl phenol. On September 6th of this year, we sent you a serum and urine sample on this patient. The results appear to be presumptive evidence of previous toxic levels in his blood, and we would like to follow this up with a second sample.

The urine was collected with toluene as a preservative and the 24-hour volume was 1240 ml.

Thank you for your time.

Sincerely yours,

Tom McGee, M.D.

To Malo

TM:dm

cc: Dr. William Jason

### Duckworth Pathology Group Laboratory Medicine

No. 71-11595

September 18, YR-5

### PATHOLOGIST'S REPORT

### ANALYSIS FOR 2-SEC BUTYL 4,6-DINITROPHENOL ("DINITRO")

- 1. Serum -4.3 microgram per ml
- 2. Urine -less than 1 microgram per ml

**COMMENT:** This analysis was performed at the Roe Chemical Corporation in Franklin, Roosevelt. Dr. Charles Kramer, from Roe, says that in their employees they try to maintain serum levels less than 4 microgram per ml. Increased blood levels typically cause a hypermetabolic stimulation which simulates a hyperthyroid state with increased body temperature, etc. The half-life of Dinitro in the human body is not known; however, Roe employees who develop the hypermetabolic state recover from the disorder in 8 to 10 days, usually. Since Mr. Wilson's exposure to the compound occurred approximately one month ago, the serum level of 4.3 micrograms per ml appears to be good presumptive evidence of previous toxic levels in his blood. A couple of case reports have been published of people developing peripheral neuropathy after significant exposures to chemicals similar to Dinitro.

Dr. Duckworth

cc: Dr. William J. Jason

### ROE CHEMICAL COMPANY Medical Department

October 1, YR-5

Tom McGee, M.D. Department of Laboratory Medicine Franklin Hospital Laboratory Franklin, Roosevelt 30640

Dear Dr. McGee:

The serum and urine sample recently submitted for analysis for Dinitro is reported as having less than 1 microgram per liter in each of the two samples. The sensitivity of the analytical method does not extend below 1 microgram per liter. I am sure that you are aware of the icteric coloring of the serum specimen. If this color resulted from Dinitro, I am sure the serum level of this material would be extremely high.

We have not had any case reports of myopathy or peripheral neuropathy following exposure to Dinitro. Not surprisingly, there are also no epidemiological data suggesting an association between these chemicals and peripheral neuropathy and myopathy. I would be extremely interested in any facts on the case that you are at liberty to furnish me.

Sincerely,

Harold L. Gordon, M.D. Roe Corporation Medical Director

cc: Dr. William Jason

September 24, YR-5

Dr. J. M. Weeks 188 S. Bellevue Franklin, Roosevelt 30640

Dear Dr. Weeks:

I went to Dr. Jason as you suggested and thought maybe I should write you to tell you what he said.

Dr. Jason said considering the amount of Dinitro that I had in my blood that I was lucky to be here at all. He said it would have killed 99 out of 100 people. The experiments on the rats and mice killed a lot of them. It upset their metabolism and that because I had such a large dose that maybe I passed that level so quick that it saved my life. A few also died of cancer. This really has me worried.

Dr. Jason said that I had made some progress but that I had reached a plateau and that it would be at least two years from now before I would be able to do much of anything at all. Even then he said that I would never recover from the damage to my muscles and nerves. Who knows whether I'm developing cancer as I write to you?

Dr. Jason prescribed another form of cortisone and wants me to continue taking it for quite some time yet. He said it had given me a boost and if it were discontinued that I would go backward and become much weaker than I am now. He said that with the cortisone I could recover to the point that I would recover in three years, and without it, it would take eight or nine years.

He wants me to come back in six months.

Yours very truly,

David Wilson

### WILLIAM JASON, M.D.

12 N. Bellevue Franklin, Roosevelt 30640 Phone 901/725-0011

November 2, YR-5

Dr. Harold L. Gordon, M.D. Medical Director Roe Chemical Company, Inc. Franklin, Roosevelt 30640

**RE: David Wilson** 

Dear Dr. Gordon:

In response to your letter dated October 1, YR-5, there are published case reports of people developing neurological symptoms following exposure to chemicals very similar to 2-Sec Butyl 4,6-dinitrophenol. There are also strong animal data, that Roe and others have developed, that prove that Dinitro can cause neuropathy and myopathy. I agree that there is no definitive proof of cause and effect from acute exposure to 2-Sec Butyl 4,6-DPN and myopathy and neuropathy. Perhaps if Roe had funded more research, definitive proof would be available. It is pretty evident that Roe Chemical Company and the chemical industry have not done a good job studying this toxic chemical.

There is no doubt that Mr. Wilson has peripheral neuropathy and severe myositis which developed soon after Dinitro absorbed into his skin. The objective evidence of myositis, neuropathy, and serum levels of Dinitro are closely correlated.

The myositis responded to the usual treatment, which is not specific but does indicate that the myositis was probably caused by a mechanism consistent with muscle inflammatory diseases. In other words, since the basic etiological agent is not known in any of the muscle inflammatory diseases known as myositis, it is entirely possible that the absorption of the chemical and high blood level produced the same mechanism as in any myositic condition.

Any question of the role of Dinitro in causing Mr. Wilson's myositis will have to be settled by debate since science has been unable to conclusively answer this question.

Sincerely yours,

Dr. William Jason, Jr.

Neurologist

### Drs. Gotten, Hawkes, Tyrer & Ogle

Neurological Surgery 92 North Bellevue Franklin, Roosevelt 30640

May 24, YR-6

Dr. J.M. Weeks 188 S. Bellevue Franklin, Roosevelt 30640

Dear Dr. Weeks:

Thank you for the opportunity to see your patient, David Wilson, in neurosurgical consultation. I am including the report of my examination and opinion. Coincidentally, after agreeing to see him I found a note in our files reflecting a prior consultation with Dr. Perkins, the physician who previously operated this practice, in connection with symptoms suspected of being caused by exposure to chemicals in the Gulf War. The note merely reflected Mr. Wilson's inquiry concerning the symptoms of such exposure, with which Dr. Perkins was only slightly familiar. He apparently referred Mr. Wilson to the VA for further information and possible care.

David Wilson, informed me that on May 17, YR-6, he was struck on the head by his car door. He was not rendered unconscious, but he was dazed momentarily. He did not experience any subsequent headaches. The following morning, as he described it, he felt "funny" with recurrent feelings of dizziness and a peculiar sensation about his head. His worry immediately increased over the head injury he had had in the past, and as you know, he was taken to the hospital in Blytheville where he was observed for a short period without receiving definitive treatment. Currently, the patient states that he is feeling better although he continues to have recurrent dizzy spells. The patient says he is not prone to worry; however, he has a new wife, and in the past several days she has given him reason for concern on several occasions. Their relationship is rather stressful due to those issues and due to his son, from a prior marriage, in the house. In addition, he has been missing considerable sleep, and he feels this may in some way contribute to his present illness.

The neurological examination was entirely within normal limits. X-rays of the skull, obtained at the Methodist Hospital, were normal. An electroencephalogram did not reveal evidence of any abnormality.

It is my feeling that this is an emotional problem, and the symptoms he describes are primarily on the basis of an acute anxiety state. I do not feel that additional investigative studies are indicated at this time. I reassured the patient that there was no indication of any active disease of the nervous system, and both parties seemed relieved and satisfied with the treatment that they had received. I instructed the patient that if he had additional difficulty, he should return for reevaluation.

I also suggested he may wish to consider therapy or counseling, either individually, as a couple or as a family if these issues persist.

Sincerely yours,

William S. Ogle, M.D.

## THE ROE CHEMICAL COMPANY, INC. Franklin, Roosevelt 30640

### Memorandum

To: Director of Marketing From: Director of Operations Re: Labeling for Dinitro Date: March 15, YR-5

Thank you for your comments regarding your concerns about the possible adverse impact on sales of a change in the labeling of Dinitro. However, we have come to the conclusion that including specific language reflecting that the product can be fatal if absorbed through the skin is appropriate although not necessary as a safety consideration. This decision is not based on any new information in our possession concerning the toxicity of the product or the danger to users of the product. Rather, it is being made out of an excess of caution given the litigious nature of today's society and the willingness of plaintiffs' lawyers to take frivolous cases against manufacturers in the hope of extorting settlements out of them. Our prior customer contacts and history have shown us that few customers read the labels on these products and certainly don't do so after the first time they use our product.

Therefore, the labeling for all shipments as of July 1, YR-5 (the expected date by which the new labels will be available) will reflect this change. The new label will include the following language directly below the words "Danger - Poison" and the skull and crossbones:

KEEP OUT OF REACH OF CHILDREN AND FARM ANIMALS
MAY BE FATAL IF SWALLOWED OR ABSORBED THROUGH THE SKIN



### How to apply

To preserve a height differential between beans and weeds, the directed spray should be applied as soon as possible after the soybean plants are 5 inches tall. If treatment is delayed more than a few days, the weeds will catch up. The treatment can be repeated once or twice at 7- to 14-day intervals if necessary to control lategerminating weeds. Do not use after soybeans begin to bloom.

Plan your weed control program around PREMERGE . . . it pays

A directed spray application of PREMERGE costs only about 70¢ an acre. For this small investment you get positive control of the worst weed pests—cocklebur, annual morning glory, coffeeweed, pigweed and many other broadleaved weeds such as velvetleaf, common ragweed, smartweed.

Good weed control coupled with good fertility and management can increase soybean yields 20 or more bushels per acre. Growing weeds costs money—money you can save by using dependable economical PREMERGE dinitro weed killer.

SOYBEANS SHOULD NOT BE GRAZED OR USED FOR FORAGE WITHIN THREE WEEKS AFTER APPLYING A POSTEMERGENCE SPRAY.

WARNING: Before using PREMERGE dinitro weed killer, read and observe all the precautions given on the label.



### **POISON**

### DANGER

ABSORBED THROUGH THE SKIN

• MAY BE FATAL IF SWALLOWED

Do Not Get in Eyes, on Skin, on Clothing • Avoid Breathing
Spray Drift • Do Not Take Internally • Do Not Wear
Contaminated Clothing or Shoes • Keep Away from Heat
and Open Flame • Keep Out of Reach of Children and
Farm Animals

#### FIRST AID TREATMENT-ANTIDOTE

SYMPTOMS OF POISONING. Excessive Fatigue. Sweating. Thirst and Fever. If symptoms of poisoning develop from any type of exposure, SEND FOR A PHYSICIAN.

FIRST AID: Have patient lie quiet in coolest spot available. If feverish, cool with cold compresses or by immersion in cool water.

If Swallowed, SEND FOR A PHYSICIAN. Induce vomiting by giving an emetic such as two tablespoonfuls of table salt in a glass of warm water; repeat until vomit fluid is clear, then give two teaspoonfuls of baking soda in a glass of warm water. Treat as in FIRST AID, above.

If Splashed in Eyes, immediately flush eyes with plenty of water for at least 15 minutes and get medical attention. If Spilled on Skin, immediately remove contaminated clothing, including shoes, and wash skin with soap and plenty of water. If symptoms of poisoning develop, send for a physician and treat as in FIRST AID, above. Discard contaminated clothing and shoes or clean them thoroughly before re-use. NOTE TO ATTENDING PHYSICIAN: Active ingredient is a metabolic stimulant. Treat symptomatically.

NOTICE: Seller warrants that the product conforms to its chemical description and is reasonably fit for the purposes stated on the label when used in accordance with directions under normal conditions of use, but neither this warranty nor any other warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE, express or implied, extends to the use of this product contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to seller, and buyer assumes the risk of any such use.

[Part of paint advertisements published by defendant before 8/6/YR-6 and furnished to plaintiffs in discovery.]



# Gives you the upper hand on broad-leaved weeds in soybeans

NOTE: PREMERGE may be fatal if swallowed or absorbed through the skin. Avoid breathing spray drift, and do not wear contaminated clothing or shoes. Read carefully and observe the warnings and precautions on the container label.

Keep out of reach of children and farm animals.



### UNITED STATES DEPARTMENT OF AGRICULTURE

### Agricultural Research Service Pesticides Regulation Division Washington, D.C. 20250

Roe Chemical Company P. O. 1984 Eleanor, Roosevelt 01932

Attention: Mr. O. H. Hammer

Gentlemen:

Subject: PREMERGE

USDA Reg. No. 98765-A

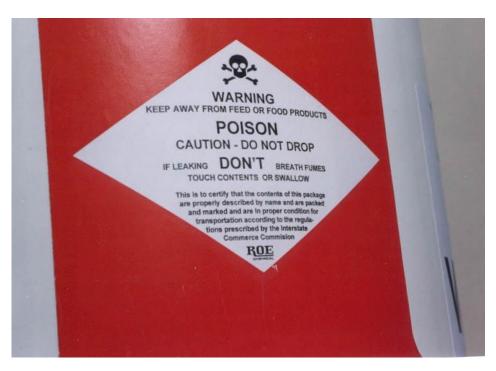
This is in reply to your letter of October 28, YR-37, informing us of the change in formulation for the above product.

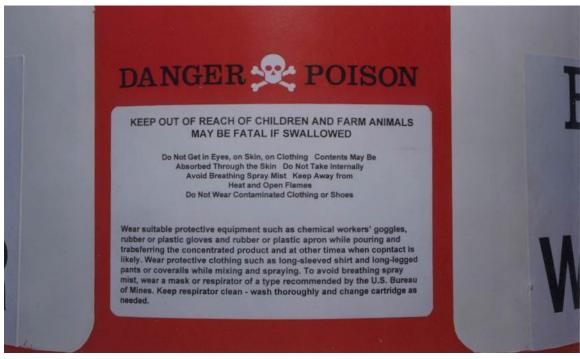
It is our understanding that this product under the new formula is to replace the old product accepted for registration on October 29, YR-37. The Regulations for the Enforcement of the Act provide that after the effective date of a change in claims or formula the product shall be marked only under new claims or formula, except that a reasonable time may be permitted to dispose of properly labeled stock or old products.

Sincerely yours,

Cathy Johnson Assistant Director For Registration

### Labeling on can sold to Wilson





### Labeling on can sold to Wilson

### DANGER



### POISON

### KEEP OUT OF REACH OF CHILDREN AND FARM ANIMALS MAY BE FATAL IF SWALLOWED

Do Not Get in Eyes, on Skin, on Clothing . Contents May Be Absorbed Through the Skin . Do Not Take Internally Avoid Breathing Spray Mist . Keep Away from Heat and Open Flames Do Not Wear Contaminated Clothing or Shoes

Wear suitable protective equipment such as chemical workers' goggles, rubber or plastic gloves and rubber or plastic apron while pouring and transferring the concentrated product and at other times when contact is likely. Wear protective clothing such as long-sleeved shirt and long-legged pants or coveralls while mixing and spraying. To avoid breathing spray mist, wear a mask or respirator of a type recommended by the U.S. Bureau of Mines. Keep respirator clean - wash thoroughly and change cartridge as needed.

### FIRST AID TREATMENT - ANTIDOTE

SYMPTOMS OF POISONING: Excessive Fatique, Sweating, Thirst and Fever. If symptoms of poisoning develop from any type of exposure, SEND FOR A PHYSICIAN. FIRST AID: Have patient lie quiet in coolest spot available. If feverish, cool with cold compresses or by immersion in cool water. If Swallowed, SEND FOR A PHYSICIAN. Induce vomiting by giving an emetic such as two tablespoonfuls of table salt in a glass of warm water; repeat until vomit fluid is clear, than give two tablespoonfuls of baking soda in a glass of water. Treat as in FIRST AlD, above. If Splashed in Eyes, immediately flush eyes with plenty of water for at least 15 minutes and get medical attention. If Spilled on Skin, immediately remove contaminated clothing, including shoes, and wash skin with soap and plenty of water. If symptoms of poisoning develop, send for a physician and treat as in FIRST AID, above. Discard contaminated clothing and shoes, or clean them thoroughly before re-use. NOTE TO ATTENDING PHYSICIAN: Active ingredient is a metabolic stimulant. Treat symptomatically,

### DANGER

ABSORBED THROUGH THE SKIN . MAY BE FATAL IF SWALLOWED Do Not Get in Eyes, on Skin, on Clothing · Avoid Breathing Spray Drift Do Not Take Internally Do Not Wear Contaminated Clothing or Shoes ·Keep Away from Heat and Open Flame

•Keep Out of Reach of Children and Farm Animals

FIRST AID TREATMENT POISON ANTIDOTE





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NOTICE: Seller warrants that the product conforms to its chemical description and is reasonably fit for the purposes stated on the label when used in accordance with directions under normal conditions of use, but neither this warranty nor any other warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE, express or implied, extends to the use of this product contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to seller, and buyer assumes the risk of any such use.

### Labeling on can sold to Wilson

### PRECAUTIONARY STATEMENTS

ENVIRONMENTAL HAZARDS: This chemical is toxic to birds. Do not apply directly to water or wetlands. Keep out of lakes, streams or ponds. Do not contaminate water by cleaning of equipment or disposal of waste. This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow it to drift to blooming crops or weeds if bees are visiting treatment area.

PHYSICAL OR CHEMICAL HAZARDS: Do not use or store near heat or open flame.

DIRECTION FOR USE: It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

READ ENTIRE LABEL. USE STRICTLY IN ACCORDANCE WITH LABEL PRECAUTIONARY STATEMENTS AND DIRECTIONS. Dinitro is registered as a herbicide, desiccant, fungicide and insecticide. The principal use of Dinitro is to control broadleaf weeds as a contact herbicide at premergence and postemergence. Dinitro has been shown to be effective for positive control of the worst weed pests-cocklebur, annual morning glory, coffee weed, pig weed and many other broadleaved weeds such as velvetleaf, common ragweed and smartweed. Other major uses of Dinitro are to control fungus and to desiccate vegetation before harvest. Dinitro may be applied as a selective weed killer in field crops and pastures, or as a contact herbicide in such locations as roadsides and right-of-ways. Dinitro has been shown to be effective as a herbicide, desiccant and fungicide on the following crops: soy beans and peanuts, cotton, snap beans, potatoes, green peas, grapes, alfalfa, almonds, walnuts, berries including blueberry, blackberry, currant, raspberry, boysenberry, gooseberry, loganberry and strawberry), hops and for such ornamental shrubs as ligustrum, tilac, spirea and yew. It may also be used for multiple purposes during the fall and winter months on a large number and variety of agricultural sites and non-agricultural sites, including forage legumes, small grains, fruit and nut orchards, berries, cucurbits, grapes, hops, potatoes, beans, orions, garlic, ornamentals, conifers and non-crop areas. To apply, mix 2 fluid ounces of Dinitro to 1 gallon of water. Mix thoroughly and spray entire plant feliage thoroughly with a hand held sprayer, tank-type or power sprayer.

STORAGE: Keep Dinitro in original container. Do not put concentrate or dilute into food or drink containers. Avoid contamination of feed and food stuffs. Store in a cool, dry place, preferably in a locked storage area. Do not store diluted spray.

DISPOSAL: PRODUCT-Partially filled bottle may be disposed of by securely wrapping original container in several layers of newspaper and discard in trash.

CONTAINER-Do not reuse empty bottle. Rinse thoroughly before discarding in trash.

NOTICE: Seller warrants that the product conforms to its chemical description and is reasonably fit for the purposes stated on the label when used in accordance with directions under normal conditions of use, but neither this warranty or any other warranty of MERCHANTABILITY or FITNESS FOR A PARTICULAR PURPOSE, express or implied, extends to the use of this product contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to seller, and buyer assumes the risk of any such use.





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Form 1040 (YR	-6)			Page			
Tax and	38	Amount from line 37 (adjusted gross income)	38	60,000			
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Deduction for—	40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	12,200			
People who	41	Subtract line 40 from line 38	41	48,800			
check any box on line	42	Exemptions. If line 38 is \$150,000 or less, multiply \$3,900 by the number on line 6d. Otherwise, see instructions	42	7,800			
39a or 39b or	43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43				
who can be claimed as a	44	Tax (see instructions). Check if any from: a Form(s) 8814 b Form 4972 c	44	41,000			
dependent, see	45	Alternative minimum tax (see instructions). Attach Form 6251	45	5,261			
instructions.	46	Add lines 44 and 45	-				
All others:	47	Foreign tax credit. Attach Form 1116 if required	46				
Single or Married filing	48	Credit for child and dependent care expenses. Attach Form 2441 48	- 323				
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Other		Self-employment tax. Attach Schedule SE	56				
Taxes	57 58	Unreported social security and Medicare tax from Form: a 4137 b 8919	57				
		Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	58				
	59a	Household employment taxes from Schedule H	59a				
	ь	First-time homebuyer credit repayment. Attach Form 5405 if required	59b				
	60	Taxes from: a Form 8959 b Form 8960 c Instructions; enter code(s)	60				
D	61	Add lines 55 through 60. This is your total tax	61	5,261			
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qualifying [	64a	Earned income credit (EIC) 64a					
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Schedule EIC.	65	Additional child tax credit. Attach Schedule 8812 65		- 1			
	66	American opportunity credit from Form 8863, line 8 66					
	67	Reserved ,					
	68	Amount paid with request for extension to file 68					
	69	Excess social security and tier 1 RRTA tax withheld 69					
	70	Credit for federal tax on fuels. Attach Form 4136 70					
	71	Credits from Form: a 2439 b Reserved c 8885 d 71	2 ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( ( (				
	72	Add lines 62, 63, 64a, and 65 through 71. These are your total payments	72	5,000			
Refund	73	If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid	73				
	74a	Amount of line 73 you want <b>refunded to you.</b> If Form 8888 is attached, check here . ▶ □	74a				
Direct deposit?	b	Routing number	10000				
See Instructions.	ď	Account number	1210				
	75	Amount of line 73 you want applied to your 2014 estimated tax ► 75	1730				
Amount	76	Amount you owe. Subtract line 72 from line 61. For details on how to pay, see instructions.	76	261			
You Owe	77	Estimated tax penalty (see instructions)		A Marie Marie (1992)			
Third Party	Do	you want to allow another person to discuss this return with the IRS (see instructions)?	. Complete be	elow. No			
Designee		ignee's Phone Personal identifi					
0	-	no. > number (PIN)	<b>&gt;</b>				
Sign	Und	er penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the	he best of my kni	owledge and belief.			
Here	they	are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer	rer has any know	rhedge and beats,			
Joint return? See	You	r signature Date Your occupation	Daytime phon	e number			
instructions.	<b>\</b>		,	Daysino priorie ridiriper			
Keep a copy for your records.	Spo	use's signature. If a joint return, both must sign. Date Spouse's occupation	If the IRS sent you an Identity Protection				
your records.			PfN, enter it here (see inst.)	T T T T T T T T T T T T T T T T T T T			
Paid	Prin	I/Type preparer's name Preparer's signature Date		PTIN			
Preparer		To and the second secon	Check if				
	Firm	's name >	self-employed				
Use Only		Parity City					
	2 11 11	Phone no.					

Form 1040 (YR-6)