

STATE OF ALABAMA

IN THE CIRCUIT COURT OF CALHOUN COUNTY

MARS HILL MISSIONARY
BAPTIST CHURCH, et al.,

Plaintiffs,

CIVIL ACTION NUMBER

versus

CV-96-243

MONSANTO COMPANY, et al.,

Defendants.

/

DEPOSITION OF ALAN FAUST

The deposition of ALAN FAUST was taken
before Deborah Salers Garrett, Certified
Shorthand Reporter, Registered Professional
Reporter, as Commissioner, commencing at 9:15
a.m. on March 23, 1998, by the Plaintiffs, at
the law offices of Merrill, Porch, Dillon &
Fite, Suite 500, 1000 Quintard Avenue,
Anniston, Alabama, pursuant to the
stipulations set forth herein.

Regional Reporting Service, Inc.
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E X H I B I T S

Plaintiffs'	Marked	Offered
One	170	
Two	257	
Three	316	
Four	317	
Five	341	
Six	352	

No other exhibits were marked for identification, offered or attached as exhibits hereto.

REGIONAL REPORTING SERVICE, INC.

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED by the parties, through their respective counsel, that the deposition of ALAN FAUST may be taken before Deborah Salers Garrett, CSR, RPR, as Commissioner and Notary Public, Alabama at Large, at Anniston, Alabama, on March 23, 1998, at 9:15 a.m.

IT IS STIPULATED AND AGREED that the signature to and reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance were had with all laws and rules of Court relating to the taking of depositions.

IT IS STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions and that counsel may make objections and assign grounds at the time of trial or at the time said deposition is offered in evidence or prior thereto.

IT IS STIPULATED AND AGREED that notice of filing by the Commissioner is waived.

STATE OF ALABAMA, ANNISTON, MARCH 23, 1998

ALAN FAUST,

after having been first duly sworn, was
examined and testified as follows:

MR. PECK: Donald, obviously, I

don't care or have any
concern about who takes this
deposition. But the only
thing -- I was told, I guess.

I don't know if all this
occurred in front of me. But
this may go for two days.

MR. STEWART: I don't know whether

it will go two days or not.
It is just depending on how
forthcoming Alan is.

MR. PECK: I'm sure he will be

very forthcoming. But if it
is going to take two days, I
understood you were not going
to be able to be here the

second day. Is that right?

MR. STEWART: I may not. I have
to go back to Houston. I had
an agreement with Buddy that
if I needed to do that,
Charlie would fill in. At
least, I thought we had that
tacit understanding. He
didn't object to it. I will
put it that way.

MR. PECK: I didn't know he had
that agreement.

MR. STEWART: We didn't have a
specific agreement. I just
informed him I might have to
go back. And Charlie and I
have been working together on
preparation for the
deposition.

MR. PECK: And I understand your
concerns, and you understand,
of course, that is contrary
the normal practice in

Alabama.

MR. STEWART: Well, just tell me
what you want to do, and I
will change my air ticket.

MR. PECK: Well, what I would like
to do is whoever starts it
finishes it, but if that is
not practical in light of
your circumstances, I just
wanted to say that I don't --
Obviously I don't want
whoever finishes it just to
go back and cover things that
you covered because they
didn't like to way in which
it was covered.

MR. BARRETT: No problem.

MR. STEWART: We wouldn't intend
to do that.

MR. PECK: Okay.

MR. STEWART: Now, he may fill in
some of the holes I didn't
ask questions about in some

of the things I covered,
but -- I mean, it is not an
effort on our part to try to
trick y'all and get anybody
to clean up -- back clean up.
Nobody is trying to do that
to you.

MR. PECK: If I sense -- Obviously
if I sense that is happening
I will strenuously object on
the record, and y'all know
that is going to happen if it
happens.

MR. STEWART: I'm going to try to
finish the deposition. That
is what I'm going to try to
do.

MR. PECK: Okay. That's fine.
We'll see how it goes. And
it is not an agreement that
from now on we are going to
double-team depositions.

MR. STEWART: No. No one is -- We

will try to work it out so
that doesn't even happen in
this one.

MR. PECK: Okay.

MR. STEWART: That is one of the
reasons I said it earlier.

EXAMINATION

BY MR. STEWART:

Q. Give your name, please.

A. Alan Faust.

Q. Where do you live, Alan, here in
Anniston?

A. Live over in Golden Springs, 1220
Stillwater Road.

Q. And how long have you been here in
Anniston? How long have you been
located here in the Anniston area?

A. Since July of '96.

Q. And where were you located before that
time?

A. St. Louis.

Q. And you were working, of course -- You

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are working now for Monsanto, but you
were working in St. Louis for Monsanto;
is that correct?

A. Right.

Q. What was your position there in St.
Louis?

A. Manager of remedial projects.

Q. And who was your immediate supervisor?

A. Michael Foresman.

Q. And what was his position?

A. Director of remedial projects.

Q. And I'll get back to some of that in
just a minute. But I want to get just
some data information about your
Anniston associations. Do you belong to
any particular clubs or organizations
here in Anniston? Have you joined any
since you have been here?

A. No.

Q. You don't --

A. The YMCA is about the only thing.

Q. Just a member of the Y?

A. Right.

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Q. Do you have any church affiliation?

A. Yes.

Q. Where do you go to church?

A. Sacred Heart Catholic Church.

Q. Okay. And any other social contacts
that you have here? Do you belong to
the Anniston Country Club, for instance?

A. No, no.

Q. Do you belong to Pine Hill or anything
like that?

A. The Golden Springs Swim Club.

Q. Is that you yourself personally or a
family --

A. Family membership.

Q. Is that the little swim club that is
located in the Golden Springs area?

A. Yeah. It is right next to the community
center.

Q. All right. During your time here since
'96 have you made any speeches to civic
groups or schools or anything like that

in connection with your activities with
Monsanto?

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A. I'm not sure how many I did in '96, but
in '96, '97, yes.

Q. Tell us about those.

A. We have been asked on a number of
occasions for different groups to
present at breakfasts or lunches, to
give an update on the remediation that
we are doing out at the plant.

Q. Who asked you to do that?

A. I don't know specific names, but some
member of that organization.

Q. That you spoke to?

A. Right.

Q. And who handles those kinds of inquiries
as they come in to Monsanto's offices
here?

A. Whoever happens to get the call. It may
come in to Blake Hamilton, the site
manager, or Jack Mayausky at the time.
It is purely informal.

Q. I know this may tax you a little bit,

but can you tell us those clubs or
organizations to which you have spoken?

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A. The Anniston Rotary.

Q. When did you make that speech?

A. Sometime in '97. I can't recall
exactly.

Q. Is that the noon club, the club that
meets --

A. Yeah, the Ramada Inn at noon.

Q. Who else?

A. The breakfast Kawanis meets there by the
Koffee Klatch.

Q. Okay. Who else?

A. The Oxford --

MR. STEWART: Off the record.

(Discussion held off record.)

Q. Okay. We were at the Oxford Kawanis
Club.

A. Yeah. I believe it was the Kawanis Club
at the Civic Center, and then also the
Oxford Rotary, the one that meets at the
Western Sizzlin.

Q. Western Sizzlin in Oxford?

A. Yeah.

Q. Okay. Any other group?

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A. I'm trying to recall. That's the only
ones I can recall.

Q. Those are the places you made speeches.

Do you have a copy of your speech?

A. No. It is nothing -- Usually I'll bring
in slides -- Well, not even slides, but
presentation boards and talk from those.

Q. Do you have those presentation boards
still intact?

A. I think so.

MR. STEWART: Do we need to ask
you specifically for those,
Adam, or will you provide
them by agreement, just by
letter?

MR. PECK: I'll provide them.

What we can probably do is
shrink them down, you know,
rather than present it to you
on three-by-five boards.

MR. STEWART: I just need to see
them.

MR. PECK: Just a -- Have them

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shrunk down so we can produce
them and stamp them and know
we did it.

MR. BARRETT: Sure.

Q. Do you have notes you spoke from, just
three-by-five cards?

A. No.

Q. Never use that at all?

A. No. I just --

Q. Talk off the cuff?

A. From the boards.

Q. Okay. Who else participated in this
kind of activity from Monsanto?

A. Let me think. On at least one occasion
Robert Jones from the plant and --

Q. Who did he speak to?

A. I think it was the Oxford Kawanis.

Q. Did y'all hit them twice?

A. No. It was the same meeting. We both

participated.

Q. Okay.

A. And at the Anniston Rotary, I believe.

Q. So he participated with you at the

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Rotary?

A. Right. The others I recall it was just me.

Q. In connection with that kind of activity, did Blake Hamilton ever make a speech or talk to anybody, high school, civic club, or anything?

MR. PECK: With Alan?

MR. STEWART: By himself, with Alan, with Robert Jones.

A. I don't know what he did on his own. I'm trying to think if any of them he and I participated in. I just can't recall that he and I spoke together on any occasion.

Q. Can you give us just the general theme of what you told those people? Just tell us what you told them just in summary.

A. Yeah. In general it was updated them from a point of about 1993 where the west end landfill sampling and activities began through all the

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sampling we've done to date. And at that point it would have been in '97. So a good deal of the construction hadn't begun yet on our work last year. At the west end landfill would have been completed. Gave them an update on where we stood on construction and what we expected it to look like at the end of that construction period.

Q. Okay. Did you tell them anything about the problem y'all were attempting to eliminate?

A. Well, we talked about the sampling and, you know, the interim measures that were approved by ADEM to control those impacted areas.

Q. Okay. Tell me who your current employer is.

A. Solutia.

Q. Okay. And what is your title with them?

A. Manager of remedial projects.

Q. Is that the same thing you were doing
with Monsanto?

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A. Uh-huh (indicating yes).

Q. And is Solutia not a spinoff of
Monsanto?

A. Right. It is a spinoff of the chemical
division of Monsanto.

Q. And when you first came here you were
working for --

A. First came to Monsanto?

Q. Came to Anniston.

A. My current boss, Michael Foresman --

Q. No. I'm not talking about immediate
supervisor.

MR. PECK: He wants to know what
company you were working for
when you first came to
Anniston.

A. Monsanto.

Q. Did anybody else other than Blake

Hamilton, you, or Jones speak to anybody
in the communication with civic clubs
and that type --

A. I think Jack Mayausky may have.

Q. Do you know who he spoke to?

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A. No.

Q. Was any briefing ever provided to the
Chamber of Commerce by officials from
Monsanto?

A. I think Blake may have spoke to them.

Q. And when did he do that?

A. I know he was in a meeting with them
some two or three months ago, but I
really don't know.

Q. Who is them?

A. I believe it was the Calhoun County
Chamber of Commerce.

Q. Was the purpose of that meeting to give
him an opportunity to speak to them?

A. I don't know what the purpose of it was.

Q. Have y'all had anybody from -- other
than Blake and you and Robert Jones do

any of this type activity?

A. Not that I know of.

Q. What about Jerry Brown?

A. I don't ever recall -- I mean, he was
never on any speaking engagement with
me. I don't know if he was with anyone

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else.

Q. Have you hired anybody else to make
talks to various groups around this
area?

A. No.

Q. During the time you have been here, you
don't know of anybody that was hired by
Monsanto or Solutia to talk to any group
or any entity about the problem that
exists out there?

A. No.

Q. What about briefings that were given to
city officials or county officials?

A. Pardon me?

Q. City or county officials.

A. Yeah. We gave briefings before or -- a
presentation for the Calhoun County

commissioners.

Q. When did that take place?

A. That would have been -- I think that was early '97, but I can't recall exactly.

Q. Where did it take place?

A. At the county commissioner's office I

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think on Noble.

Q. And who all was present at that meeting?

A. All the -- It was a normal commission meeting, so all the commissioners were in attendance.

Q. So it was in a commission meeting?

A. Right. It was on a Thursday, normal sessions.

Q. What was the purpose of that?

A. That was for vacation of a street.

Q. Okay. Anything else that y'all talked about at the meeting?

A. We -- Actually I think the presentation -- We didn't give much or any presentation for that. One of the commissioners asked us to give just a

short update on what we are doing around
the plant. I think that was

Mr. Downing, I believe is his name.

Q. Y'all had not met with any of the
commissioners before that meeting and
talked to them before the meeting?

A. There was -- At that time I believe it

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was before that meeting that we had a
meeting with Eli Henderson and Pappy
Dunn, I think one or two of the other
commissioners, and a representative from
Mars Hill.

Q. Who was the representative from Mars
Hill?

A. Mr. Bowie.

Q. Was that at a regular commission meeting
or just --

A. I think it was a meeting called by Pappy
Dunn to talk about the vacation of that
street.

Q. Okay. And where did that take place?

A. In one of the side conference rooms
there in the Calhoun County offices.

Q. Was that at this same meeting?

A. No. Again, I can't remember if it was before or after that meeting, but it was in conjunction with that whole issue of vacation of streets.

Q. Who all was there from your --

A. Myself -- At the normal commission

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meeting, it was Jo Hanson and myself.

Q. Now, who is Jo Hanson?

A. She is project manager, remedial project manager.

Q. And what connection does she have if any -- Well, first, who does she work for?

A. She currently doesn't work. She is moving to Florida, I believe. But she worked for Monsanto.

Q. At the time she attended this meeting?

A. Right.

Q. When you say remedial project manager, was she the remedial project manager of this particular project?

A. Yes.

Q. And what were her duties and responsibilities as remedial project manager?

A. She was in charge of organizing the contractors or engineering firms to develop design packages and work plans and then put those out to bid and

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coordinate the contracts for the remedial work.

Q. So she was in charge, really, of the development of the remediation plan and finding the people to do the work?

A. Coordinating that effort, yeah.

Q. Did you have any participation in that?

A. When I came down in '96 that became my responsibility, and she reported to me.

Q. Before you came down in '96, did you have any part to play in that?

A. No.

Q. She had done it up until then?

A. Well, she reported through a counterpart of mine.

Q. She reported --

A. Yeah. As the project manager, there is a remedial -- a manager of remediation that is responsible for a project. Then there will be project managers that report to that remedial manager.

Q. Who was that counterpart of yours?

A. I don't recall who it was prior to that.

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Q. Could you find out for me?

A. Sure.

Q. Was that person located ever at any point in time here in Anniston?

A. No.

Q. Always located where?

A. St. Louis.

Q. And who did he work for at that time?

A. Michael Foresman.

Q. That was his supervisor?

A. Right.

Q. Who was his employer?

A. Monsanto.

Q. Okay. Am I to understand that Ms. Jo --

And that is J-o?

A. I believe so.

Q. And H-a-n?

A. S-o-n.

Q. And Ms. Hanson was the project manager
on this particular project from the
beginning?

A. I think she -- somewhere around '95 I
believe her involvement began.

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Q. Who was there before '95?

A. I don't know.

Q. Well, there was a project manager, was
there not, Alan, before '95?

A. Well, the major construction work
started in the '95 time frame.

Q. But there would have been some work done
before that?

A. Right. There was sampling and whatnot
being done. That may have been handled
out of the plant. I just don't know.

Q. Who at the plant coordinated, if you
know, with Jo Hanson, Jack Mayausky?

A. Jack and Robert Jones.

Q. So am I to understand that before you came down here to Anniston, they didn't have anybody on the ground?

A. Not seven days a week, not on a full-time basis.

Q. But they might have had somebody who was your predecessor who would come down from time to time?

A. Right.

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Q. Back to what I was asking you, if y'all ever had any -- Other than those meetings with the county, have y'all ever had any other meetings with the county or discussions with the county?

A. Discussions with the county would have been coordinating or presenting to the county engineer our plans to do work along any of the county roads, getting their -- you know, their permission or approval of whatever we were going to be doing.

Q. Who did that work?

A. You mean those meetings?

Q. Yeah. Who handled that?

A. That would have been myself or Jo Hanson
or one of the engineering, you know,
project managers with an engineering
firm that we were working with.

Q. What permission did you have to get from
them to do any of the work that you were
doing?

A. For the county there are parts of

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Clydesdale Avenue that is in the county,
and they reviewed work that we were
going to be doing conveying storm water
through some culverts that were part of
their easements or under their control.

Q. Did you reach any agreements with them
that were put in writing?

A. I don't recall if we did or not or
whether they just reviewed and verbally
said that was okay.

Q. Did you use their culverts then in
connection with the remediation work?

A. We conveyed pipelines through their

culverts, yes.

Q. And who is the county engineer that you worked with?

A. Charles Markert. I'm not sure how you spell that.

Q. Anybody else you worked with, any commissioner who might have been in charge or responsible for that?

A. No.

Q. Who was chairman of the county

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commission at the time you worked out the street part and the agreements with the --

A. I believe that is Eli Henderson.

Q. Okay. Now, during the -- Is that all of the contacts y'all had with the county?

You mentioned the one where you went to the county commission meeting.

A. Yeah. That's all.

Q. What about the city?

A. The city, we would have had dealings with them on vacation of streets. There

were some zoning issues.

Q. What were they?

A. That was during the time we were constructing what we called the east side pond, the detention pond to the east of the plant. We had --

Q. Is that the one that is to the east of Mars Hill?

A. Yes, yes.

Q. Okay.

A. There were some issues regarding fencing

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and the type of fencing depending on the type of zoning the property had. We had -- There was a meeting in -- It would have been '96, I believe, that we were going to present that, but it ended up getting adjourned, and we didn't make any presentation at that.

Q. Did you later meet with that -- with the city officials?

A. No, not that zoning board any more.

Q. Well, how is it that you worked out the problem about the fencing?

A. My recollection is that the gentleman in charge of permits, Dale Garrett, decided that it was in the best interest to allow the fencing to go up. And he made a ruling to allow the fencing to go up.

Q. Now, what position does Mr. Garrett hold?

A. I don't recall what. I believe it was in permits.

Q. Okay. And who got that agreement out of Mr. Garrett?

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MR. PECK: Object to the form of the question.

A. We discussed with Dale Garrett the issues at hand, and he made that decision.

Q. Who is we?

A. Myself and Jo Hanson.

Q. And when did that meeting take place where you got that worked out?

A. I don't recall that it was a meeting or telephone conversations.

Q. Is there anything in writing that he has issued to y'all that would relieve y'all of the responsibility of going before the zoning board?

A. I don't know. I can't recall whether there is or isn't.

Q. You don't remember whether or not he gave you something in writing --

A. Right.

Q. -- that allowed y'all to circumvent the zoning board?

A. I don't recall if it was circumventing

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or --

Q. Or what was it?

A. Just a --

Q. Just a verbal by Dale?

A. I know it was verbal. I don't know if it was followed up in writing or not.

Q. Did you get any agreement at all out of the zoning board or the city commission in connection with that particular thing?

A. We never addressed it to the zoning

board again. Whether or not Dale

Garrett discussed it with them or not,

I'm not sure.

Q. Okay. What about the vacation of streets?

A. That was -- Let's see. That would have been again with Dale Garrett. And then we were present at at least one that I remember, a city council meeting, and were there to present if there were any questions. But we were never called upon to present.

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Q. Are you telling me that in addition to giving y'all permission to put the fence up, Dale also gave y'all permission to vacate the streets, or did you go through some kind of official --

A. We went through the official vacation of street policy that the city has, and that involves, I believe, some application maps showing where they are, who the adjoining property owners are.

That goes through the city council.

Q. So you actually went through that process?

A. Right.

Q. And you have that in writing?

A. Right.

Q. What agreement did y'all make with the city about storm water drainage and the money that y'all were going to expend over there? What was that agreement?

A. I don't recall that there was any agreement. We presented to the city engineer and public works director at

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the time all of our plans.

Q. Who was that?

A. Charles Johnson.

Q. Now, who does he work for now?

A. I think Westinghouse.

Q. And where does he work for Westinghouse?

A. Here locally, I believe.

Q. Is that on the incinerator?

A. I think so.

Q. Okay. Y'all met with Charles Johnson

and presented plans. And maybe I'm mistaken. Of course, I've tried to keep up with this as much as I can, but I remember seeing a reference made by either the mayor or another city official that y'all had agreed to spend some sixty-nine thousand dollars to assist them with some drainage problems that they might have had.

A. No, nothing I know of.

Q. Did y'all do anything at all in connection with that for the city?

A. No. We never -- Nothing we did was by

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any agreement for the city's -- you know, any storm water work they did. What we did would have an effect on their storm water.

Q. Tell me about that. You mean just the whole remediation?

A. Yeah. The whole remediation and the storm water we presented to them because the drainage then goes into Snow Creek,

which they are doing work on as far as storm water goes.

Q. So you told them that what y'all were doing would be helpful or harmful to them?

MR. PECK: Object to the form of the question.

A. Well, it would make storm water conditions different.

Q. How?

A. It would lessen the amount of flow that during a storm goes into Snow Creek.

Q. And how is it you told them that the remediation work you were doing would do

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that?

A. Because as part of the remediation we are capturing and routing and detaining storm water that normally just flowed free into Snow Creek.

Q. So you are talking about the catchment ponds that y'all have that are located east of --

A. As well as the detention or the channel

we put in on the south side of 202, up
on the mountain.

Q. And you direct and divert that water
where?

A. To Tenth Street.

Q. And it doesn't go into Snow Creek?

A. No, it goes into it. But because of
these engineering controls it delays or
offsets or lessens that flow during the
peak time of a storm.

Q. So there won't be as much of an impact
on Snow Creek as there was?

A. It will be less during the peak time of
a storm.

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Q. What briefings did y'all provide to
state officials who are located here
locally?

A. Nothing to any local state officials.

Q. Did you ever talk to either Doug Ghee or
Gerald Willis or --

A. Okay.

Q. -- any of those people?

- A. We have met with Senator Ghee.
- Q. When did you meet with Senator Ghee?
- A. Did you say when?
- Q. Yeah.
- A. It was I think somewhere in January of
this year.
- Q. January of 1997?
- A. '98.
- Q. What was that in reference to?
- A. To present to him an update of the
remediation work we are doing.
- Q. Okay. Anybody else in that meeting?
- A. Yes. That was Blake and I and then two
other individuals, Peter Conroy --
- Q. Who is Peter Conroy?

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- A. He is -- I think he is an instructor at
Jacksonville State.
- Q. Okay.
- A. And then Paul Thomas.
- Q. Who is Paul Thomas?
- A. He is a developer, I believe, out of
Auburn.
- Q. Who else?

A. That's it.

Q. What was Mr. Thomas doing there?

A. He was working with the state on a project called Forever Wild, which is a state agency that develops tracts of land for wildlife preservation.

Q. What would he be doing, and what was his purpose in being at this meeting?

A. He was --

MR. PECK: Just -- Y'all have been doing it so far, but you are starting to cut Mr. Stewart off. Make sure you let him ask his question fully before you start answering. I'm

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sorry, Donald.

Q. What was Mr. Thomas --

A. Yeah. He was there explaining to us the project that they are looking at to acquire land on Coldwater Mountain.

Q. Do y'all own the land that he was interested in?

A. Yes.

Q. And was there some agreement made at that particular time to convey this land to him or --

A. There was an agreement to look into conveying that land.

Q. And who arranged for him to be there, y'all or Senator Ghee?

A. Senator Ghee.

Q. And what was Mr. Conroy's --

A. He also was working on that project.

Q. Okay. Now, was any other member of the legislative delegation at that meeting?

A. No.

Q. Where was that meeting?

A. At the plant.

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Q. You say that was in January of '97?

A. '98.

Q. Had y'all not had some previous meetings with Senator Ghee and the city about Monsanto being taken into the city?

A. I believe Jack Mayausky did.

Q. When did those meetings take place,

Mr. Faust, if you know?

A. I don't recall exactly when these meetings were.

Q. Did y'all ask the delegation to take you into the city?

A. I wasn't involved in any of those discussions.

Q. Do you have any idea as to what the company's position was with regards to being taken into the city?

A. We weren't in the city. My understanding is they were concerned about what being taken into the city would involve, but I really don't have any information on that.

Q. What impact has it had on the plant?

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A. None that I know of.

Q. Any tax consequences that you know of, Mr. Faust?

A. No, not that I know of. I assume there would be tax consequences, but I don't know what they are.

Q. Do you have any idea or any information about any of the meetings that were held with the delegation about that?

A. No.

Q. But you know there were meetings held with the delegation?

A. I know there were some meetings with Doug Ghee, yes.

Q. With Doug Ghee?

A. Yes.

Q. When exactly did those meetings take place, before or after the efforts were made to be taken into the city?

A. I don't know.

Q. Don't have any idea?

A. No.

Q. What about state officials? And I'm not

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talking about ADEM and the health department, any other state officials y'all might have briefed on the problem that existed here at Monsanto.

A. We had briefings with Representative Barbara Boyd. And that one as well, I

believe, was in the January, February

time frame of this year.

Q. What were the nature of those briefings?

A. Just an update to her on the
remediation.

Q. Had y'all met with her before?

A. No. That was the first time I had met
with her.

Q. First time you had met with her?

A. Right.

Q. To your knowledge had anybody else ever
met with Ms. Boyd?

A. Not that I know of.

Q. What about James Montgomery or Deborah
Foster?

A. They would have been at the city council
meeting that we attended.

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Q. I assumed that. I'm talking about
individual meetings with them.

A. And then there was one case -- one
instance that during the vacation of
streets we took her and the former mayor

-- I don't remember his name.

Q. David Dethrage?

A. Yes -- David Dethrage on a tour of the remediation.

Q. Took Ms. Boyd?

A. No, not Boyd, Foster, Deborah Foster.
And I believe John Seymore, city manager, was on that tour as well.

Q. When did that take place?

A. It was either late in -- Well, I don't know. When did Dethrage leave office?
It was while he was still in office, so it was either early '97 or late '96.

Q. All right. What was the purpose of that meeting, just to show them --

A. Show them where the streets were and the work we were going to be doing was.

Q. I asked you about James Montgomery. Did

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y'all ever meet with James Montgomery?

A. Yes. James came out to the plant at one point, and I think it would have been early '97, to get an update on the activities we were undertaking.

- Q. All right. Who met with James?
- A. Myself and Jack Mayausky.
- Q. What was the purpose of that meeting?
- A. That was again to update him on where all the activities were, where we were going to be working, what streets we vacated, what properties we owned.
- Q. Now, did you all at that meeting with Mr. Montgomery talk to him about anything other than, Mr. Faust, what you just got through telling me?
- A. No. The areas in general.
- Q. Other than that?
- A. He asked where Mars Hill was in relation to all the work.
- Q. Who asked?
- A. Mr. Montgomery.
- Q. And what did y'all tell him?

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- A. We pointed it out, where it was, on a map.
- Q. And just showed him that?
- A. Yeah, just where it was relative to the

work we were doing.

Q. How far along were y'all in your work at that time?

A. Early '97 we would have just been -- you know, we would have completed the east pond, the pond to the east of Mars Hill.

Q. Well, Montgomery -- Did y'all go out and actually look at the site?

A. I don't recall that we toured with him. I think it was just an office meeting.

Q. But I assume -- I mean, did he indicate that he was aware of where Mars Hill was located?

A. Yes.

Q. And of course it was not impossible for someone who came up Clydesdale or 202 to see the catchment basin, was it?

A. Right.

Q. Wouldn't it be obvious there was some

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proximity as far as the church was concerned, where it was located --

A. I don't understand --

Q. -- in connection with your remediation

work, just to the casual observer that

drove by 202?

A. I don't understand the question.

Q. Well, if I drove by 202 at that time, I could see that Mars Hill had some close proximity to your remediation work?

A. You would see it was next to the east pond, yes.

Q. And that would have some impact on it?

MR. PECK: Object to the form of the question.

A. I can't say whether it had impact or not. It was located next to it.

Q. Was there not some other purpose about him talking with y'all about Mars Hill, and did y'all not discuss it at the time?

MR. PECK: Object to the form of the question.

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A. He wanted to know where Mars Hill was in relation to everything we were going to do so that if any of his constituents

asked he could talk from knowledge of
having seen it.

Q. Did y'all authorize him at that time on
your behalf --

A. No.

Q. -- to make contact with anybody?

A. No.

Q. Did you authorize him to have any
conversations with anybody at Mars Hill?

A. No.

Q. When is this meeting that took place,
you say, in early 1997? Can you pin
that down as far as a date is concerned,
Mr. Faust?

A. No, not by my recollection, I can't. It
would have had to have been the January,
February time frame.

Q. Of --

A. Of '97. It may be March. It would be
before we had any major activities going

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on.

Q. So the people who were in that meeting
were you and Jack Mayausky and James

Montgomery?

A. Right.

Q. Did y'all ever have any subsequent meetings or telephone conversations with James Montgomery after you met with him along with Jack Mayausky in early '97?

A. He called me I believe at least one other time.

Q. When was that?

A. It would have been weeks after that meeting.

Q. And did y'all have a conversation at that time?

A. Right. He said that he had talked to some of his constituency about the work we were doing. And I believe he said he had asked them to sit down with me to look at the same things he had seen. And we never had any other meetings, so I assumed no one wanted to.

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Q. Who is it that he indicated to you that he talked to, Mr. Faust?

A. He said that he had spoken with, I believe, Ms. Franklin.

Q. Sally Franklin?

A. I think that's her name.

Q. Okay. Who else?

A. That's all I know of.

Q. Are you aware of what church Ms. Franklin goes to?

A. I believe she goes to Mars Hill.

Q. And did you know that at the time?

MR. PECK: At the time

Mr. Montgomery said he spoke to her? Is that the time you are talking about?

Q. I assume it would be sometime in 1997 and sometime after January or February of '97?

A. Right. Yeah. I would have known that, yeah.

Q. You were also aware, were you not, Mr. Faust, that Sally Franklin had made

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a claim against Monsanto at that time?

A. Yeah. I believe that -- Yeah.

Q. And that she had a lawyer?

A. Right.

Q. In addition to that, you were also aware of the fact that Mars Hill had made a claim against Monsanto at that time?

A. Right.

Q. And that they had a lawyer involved in the litigation --

A. Right.

Q. -- or had lawyers? You knew that, didn't you?

A. Yeah.

Q. Okay. All right. Anybody else either in the legislative delegation or on the city council that y'all talked to?

A. Let's see. We met with Dave Thomas, who is a representative for the Springville and Pell City area, gave him an update of the work we're doing.

Q. Okay. Is Mr. Thomas connected in any way with the suit that we have against

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y'all, or is he connected with some

other lawsuit?

A. Mr. Thomas?

Q. Yes.

A. He is a state representative.

Q. Just a state representative. What was his area of inquiry, about the people here in Anniston?

A. No. About the Lake Logan Martin area.

Q. Okay. Anybody else?

A. Not that I can recall.

Q. What about the governor's office? Did y'all ever talk to anybody there?

A. No.

Q. Did anybody from Monsanto ever talk with anybody with the economic development arm of the State of Alabama?

A. Not that I'm aware of.

Q. Okay. So it is your statement here to me today that since this problem arose beginning in -- sometime in -- When did you understand the problem first surfaced?

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A. I came down --

MR. PECK: Object to the form of
the question.

A. -- in '96.

Q. But when did you understand it first
surfaced?

A. The first sampling was in '93, I
believe, on the west end landfill.

Q. And what was that sampling for?

A. Sampled some surface soils and storm
water.

Q. For what?

A. For PCBs.

Q. Who did that sampling?

A. That would have been done by a
contractor for Monsanto.

Q. Do you know who it was?

A. Garrity and Miller, I believe.

Q. And who did you give that sampling data
to?

A. Those were all presented to ADEM.

Q. Now, again, I've tried to keep some
watch on it. Have y'all made any gifts

to any organizations or any institutions

here locally since y'all began to

experience the problem in 1993?

A. Well, I think the plant has, you know, a
budget for donations to organizations.

I'm not aware of what is on that list.

Q. Okay. Do you know anything at all about
Walter Wellborn High School?

A. I believe that is the adopted high
school for the plant.

Q. When was that done?

A. I don't know how long that has been
adopted.

Q. Was it before you came here?

A. I don't know that.

Q. I mean, could it have happened after you
came here?

A. I really don't know. That's a plant
project.

Q. Something Blake would know something
about?

A. Yes.

Q. Do you know of any gifts that have been

made to the Walter Wellborn School since
1993?

A. Just those I've seen in the paper or
heard about that --

Q. What are those?

A. I think there was some -- a donation of
monies for science classes or something.
I'm not sure.

Q. And when was that made? Do you know?

A. No.

Q. Who would know at the plant about those
gifts?

A. Blake.

Q. Is he the one that makes the decision,
or does somebody else in there make
those decisions?

A. He makes those decisions.

Q. And how would someone arrive or get a
gift like that?

MR. PECK: If you know.

A. I don't know. I really don't know.

Q. You don't know what the process is; he
would know that?

A. Right.

MR. STEWART: Again, Adam, I don't want to beat you to death with these requests, but we have done this with Buddy on some other things. Do you mind giving us a couple of things in connection with that? I don't remember -- Charlie, you correct me if I'm wrong, but I don't remember seeing some of this sampling. I've seen some sampling y'all provided to us in response to the deposition notice.

MR. PECK: West end landfill sampling?

MR. STEWART: Yes.

MR. PECK: You have that. You have any of that.

MR. STEWART: Okay. What about these gifts --

MR. PECK: He may be wrong about
the time. It may have been
in '94, but y'all have got
the west end landfill.

MR. STEWART: Got all the sampling
that was done?

MR. PECK: Yes.

MR. STEWART: What about the
gifts? Do y'all mind giving
that to us?

MR. PECK: I'm not sure what he is
talking about. Y'all
discussed something with
Blake Hamilton. I was in
here for some of it. He is
telling you about stuff he
saw in the paper. I can't
agree to something I don't
even know what we are talking
about.

Q. Let me just ask you. Do you know about
paving the parking lot at Wellborn in
addition to the science class?

A. Yes, I do.

Q. Do you know who asked about that particular thing, that that particular thing be done?

A. I believe it was Eli Henderson.

Q. Is that the person who was chairman of the county commission that y'all met with?

A. Yes.

Q. And what about the gift to the science --

A. I don't know if that is a formal program or if that was a specific request.

Q. You don't know if that was a city official or county official who might have asked y'all to make that --

A. No.

Q. Tell me if you would what your educational background is.

A. I have a bachelor's degree in geology.

Q. Where did you get that?

A. Southwest Missouri State in Springfield, Missouri.

Q. Okay.

A. Then I have a master's in business administration from the University of Oklahoma City.

Q. Okay. Anything else in the way of formal education?

A. No.

Q. Have you had any training since you have been in the work -- working world -- Have you had some formal training that you took, either seminars or --

A. Since I graduated college?

Q. Since you got your master's degree in business administration, have you gone back for any special courses or specialized courses that enable you to do the work you are doing?

A. Sure. There were seminars or additional classwork.

Q. Can you give me some idea what those are?

A. When I was in the oil business, I took classes on exploration for oil and gas.

Q. Where did you take those courses?

A. It would have been numerous places.

Q. Sort of like continuing education, that somebody would hold a seminar someplace and you would go?

A. Right.

Q. What else?

A. Environmental work, attended similar seminars and courses relating to environmental issues.

Q. Can you tell us roughly how many hours you might have had in this kind of work, and what are some of the subjects that you might have studied during that period of time?

A. No. I couldn't even guess how much. Usually we went to two or three seminars a year, and those could have been anywhere from one day to three days.

Q. Tell me when you graduated and got your master's degree in Oklahoma --

A. Uh-huh (indicating yes).

Q. What year, when?

A. Oh, let's see. It would have been '89.

Q. Okay. And when you got your master's degree, did you go to work immediately?

A. I was already working. I got my master's degree while I was working.

Q. So you began to work after you graduated from undergraduate --

A. Right, in '81.

Q. So in 1981 you started working. Who did you go to work for?

A. At the time it was City Service Oil and Gas.

Q. What did you do with them?

A. I was an exploration geologist.

Q. What was your job or responsibility as an exploration geologist?

A. To develop prospects, places to drill for oil and gas.

Q. How long did you stay with City Services?

A. Well, City Services later became Oxidental Petroleum. And I stayed with them until 1989.

Q. Did your job description change? You started out in the gas exploration area. Did your job description change at any point in time?

A. No. It was always in exploration.

Q. Did your title change in that?

A. Just the normal geologist one, two, three, whatever the --

Q. Just the normal bump-ups and progression?

A. Right, right.

Q. At any point in time while you were with them up to the time you left them in 1989, did you ever do any work or study in the environmental area?

A. No.

Q. Did you ever have responsibility for managing a remediation or remediating a problem that had to do with some environmental problem, oil spills, or anything like that?

A. No, no.

Q. So you really had no experience in that

particular area at the time you worked
with them?

A. Not in environmental, right.

Q. After you left them in 1989, who did you
go to work for?

A. I went to work for a firm in St. Louis.
It was McClellan Consultants or
McClellan -- I think it was McClellan
Consultants.

Q. And what was the nature of the work that
McClellan Consultants did?

A. It was an environmental engineering
firm.

Q. What did they hire you to do?

A. Hired me as a geologist to do site
investigations and -- well, at the time
site investigations.

Q. Who was your immediate supervisor there?

A. It would have been Burt McCullough.

Q. Okay. And what was your title while you
were there?

A. I believe it was geologist.

Q. Just geologist. Tell us something about

the kind of work you did with them. Is that what you were talking about a minute ago?

A. Right, site investigation for environmental releases.

Q. Who were some of the clients for that company that you worked on projects for?

A. We did work for -- We did work for other consulting firms who did work for Texaco and Shell. We did some work for the City of St. Louis. And others -- I don't recall the names of other entities or individuals that wanted assisting done.

Q. Of releases --

A. Right.

Q. -- of some kind of contamination --

A. Right.

Q. -- or some kind of toxic substance?

A. Just release of some chemical.

Q. Tell us how many projects, if you can, that you worked on during the time you

worked with them?

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A. I don't have any idea.

Q. What kind of work did you do for Texaco?

A. For Texaco it would have been in
relation to gas stations for releases
from their facilities --

Q. The tank --

A. Right.

Q. -- cleanup and --

A. Right.

Q. What exactly did you yourself do there?

A. I supervised individuals that did
drilling and sampling of surface and
subsurface soils and ground water.

Q. Okay. What did you do for Shell?

A. Same thing.

Q. Okay. Did you write reports or make
recommendations as to what they ought to
do in connection with the work you did?

A. Right. There would be reports of the
findings that we did, that we got out of
the investigation.

Q. And recommendations y'all would have for

what they ought to do, right?

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A. Right.

Q. In order to clean it up?

A. Or if they wanted to buy it or whatever
the situation might be.

Q. And whatever the costs might be, is that
some of the things --

A. Right.

Q. What about the City of St. Louis? What
did you do for them?

A. Normally do what were called phase one
environmental assessments for properties
they were going to acquire.

Q. Tell me a little -- Just consider me
totally ignorant and tell me what you
mean by --

A. All right. They had a list of
consultants that would do work for them.
We were on that list. When we were
assigned a project, we would go in and
do -- look at the site and determine
just visually if there were any

noticeable, you know, environmental impacts as well as do research of the

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surrounding areas to determine if there are other sites next to this one that might be impacting this particular site and then make a recommendation to them that they either do a phase two or not.

Q. What kind of wastes or substances were you dealing with in the work you did for the City of St. Louis?

A. Pretty much a myriad, you know, of different constituents, asbestos, gasoline.

Q. What else?

A. Solvents.

Q. Such as?

A. I don't remember the names, but solvents that deal with dry cleaning.

Q. Anything else that comes to mind?

A. Well, we'd always do -- If we were into the sampling mode, we would do a broad scan and whatever -- basically whatever showed up on there, trying to determine

if it was related to that site.

Q. Any of the major clients you worked for

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while your were there?

A. No.

Q. Did you write a report or participate in
writing a report for the City of St.

Louis?

A. Yes, I would have.

Q. About when was that that you did that?

A. It would have been anytime between '89
and '91.

Q. Okay. And is that firm still in
existence?

A. I think it has been bought out by
someone. I don't know what their name
is now.

Q. What did you deal with at the City of
St. Louis?

A. I don't recall any names.

Q. You don't recall any names?

A. No.

Q. But you did provide them with some

reports?

A. Well, our firm would, yes.

Q. Okay. Let me see if I understand.

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Would the purpose of the reports that you would be preparing for the City of St. Louis have to do with property they were thinking about taking into the city?

A. Yes.

Q. And potential problems that might exist with that property for the city?

A. Yes.

Q. And the costs they might incur in either taking care of that particular problem, cleaning it up, remediating it, that type of stuff?

A. In a phase one we wouldn't get into what the costs were. It would just identify trouble areas or problem areas that might need further investigation.

Q. Where would you get into the cost part?

A. That would be in either phase two or further work.

Q. Okay. And what are the kinds of things
you would go through with them in order
to tell them what they might look for by

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way of costs?

A. What we would tell them is what we
either saw visually or was later tested
and determined was there.

Q. And you would give them some estimation
of the cost of cleaning it up?

A. I don't recall that we ever got to the
point of cost of cleanup projects.

Q. But I thought you said that is what
phase two is.

A. Right. And I don't remember that we did
any phase twos.

Q. So they might decide perhaps not to pick
that particular piece of property
because of the --

A. Initial investigation.

Q. And because of the amount of money or
potential problems that might exist with
that particular piece of property?

MR. PECK: Object to the form of
the question.

A. I don't know what made their decisions
on whether to buy it or not.

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Q. That is really the reason they asked you
to do it, isn't it?

MR. PECK: Object to the form of
the question, as to what they
were thinking.

A. They asked us to do a site
investigation, which is normal procedure
for buying a piece of property.

Q. Now, in connection with the work that
you did for Texaco and I guess the other
company was Shell, when y'all went in
were y'all looking at a site that they
were potentially making a determination
of whether to buy?

A. On those we were working for another
contractor that was assigned to do that
work.

Q. But isn't that what you were basically
doing?

A. We were going in to do the investigation, the sampling that the other firm would then convey to Texaco and Shell.

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Q. But isn't that what the other company and you all were doing, looking at that particular site to see whether it was contaminated or not, the cost of cleaning that stuff up for Shell or Texaco?

A. Our work was to provide the information to them to provide the information then to their client. They were looking at impact -- whether the site was impacted or not.

Q. When you say impacted, what you are talking about is what the cost would be for them to clean it up?

MR. PECK: Object to the form of the question.

A. I don't know what they used the information for.

Q. Weren't you talking about tanks that were leaking?

A. Right.

Q. Weren't there regulations in place at that time that required to clean it up

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if they went in and bought a filling station with a tank that leaked?

A. Or require the current owner to clean it up.

Q. And there were some costs associated with it?

A. There would be costs associated with it.

Q. And that had an impact on the sale of the property, didn't it?

MR. PECK: Object to the form of the question.

Q. Or the purchase of the property?

A. It would have an impact on that property.

Q. That is what the buyer would look at?

MR. PECK: Object to the form of the question.

A. That is what all buyers look at.

MR. STEWART: Can we take a short
break?

(A break was taken.)

Q. Back to this work you were doing for
McClellan and Texaco and the City of St.

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Louis and others, your actual job and
responsibility was to calculate the
nature in the phase one study, the
nature of the contaminant? Let's just
take a filling station for instance, was
there a leaking in the tanks and that
type stuff?

A. Yes.

Q. And if so, what it was? That is why you
did the sampling and everything?

A. Right.

Q. And of course, there was work that had
to be done after that, and there was a
calculation at some point in time by you
or your company or your company in
coordination with this other company
about the cost associated with it.

Isn't that correct?

A. Somewhere there would be an assessment made as to what that impact would be.

Q. That's the purpose of making it, isn't it, for the company --

MR. PECK: Object to the form.

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Q. -- first to find out what the problem was and then the cost to remedy it?

A. That would not necessarily have been done by us.

Q. But ultimately that is the purpose of what you were doing, isn't it?

MR. PECK: Object to the form of the question.

A. The purpose is what it would take to come into compliance at that particular site.

Q. Which is what you would do and what it would cost to bring it into compliance, right?

A. That is probably the evaluation they would make.

Q. And that is a cleanup operation, isn't

it?

A. Right.

Q. And it had to do with the purchasing by these oil companies of these particular sites or locations which had previously been operated as gas stations?

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MR. PECK: Object to the form.

A. Leases or purchases, yes.

Q. Now, let just take a hypothetical, Mr. Faust. If I was going to buy a filling station here in Anniston and I was Texaco and I asked you to go in there and it was going to cost me fifty thousand dollars -- Do you understand so far what the facts are?

A. Uh-huh (indicating yes).

Q. I had you do a phase one or phase two assessment and y'all came back and told me, as Texaco or Shell, that that was going to cost me a hundred and fifty thousand dollars to clean up, wouldn't the net effect of that be that the value

of that particular piece of property was
about minus one hundred thousand
dollars? Didn't it have a negative
value at that point in time?

MR. PECK: Object to the form of
the question. I don't think
Mr. Faust has been

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established as an expert in
property evaluation.

Q. Go ahead and answer the question.

A. I would -- I wouldn't know what all went
into their making decisions on whether
to buy a piece of property or not and
what that value would be.

Q. Well, say if I'm John Q. Jones and I was
going to buy that piece of property and
pay fifty thousand dollars for it and
once I got it I was going to have to
spend a hundred and fifty thousand
dollars to clean it up. Just on those
facts alone the property would be worth,
to me, a negative value, would have a
negative value as far as I'm concerned,

wouldn't it?

MR. PECK: Object to form.

Q. Wouldn't it be worth at that point in time -- based on what I would have to spend, be worth about a negative hundred thousand dollars, wouldn't it?

MR. PECK: Object to the form of

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the question, same reason.

A. You would have to expend a certain amount of money, but why you wanted that property or what you needed it for, I can't say. I have no -- It is all hypothetical.

Q. Just on the cost of the property itself, it would cost me or have a value, wouldn't it, a negative value, just at that stage of the proceeding?

MR. PECK: Object to the form of the question, same objection.

A. I have no idea the conditions of that property or what went into the decision.

Q. Let's reverse it, Mr. Faust. Let's just

do it this way. What would you tell them they would have to spend for that property, Mr. Faust, if they had to pay fifty thousand dollars for it to the owner and spend a hundred and fifty thousand dollars to clean it up?

- A. Nothing says that the buyer has to clean that up.

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- Q. Let's say the agreement was they did. What would you tell them -- If you told Texaco or you told Shell, what would you tell them if they had to clean that property up and it was going to cost them a hundred and fifty thousand dollars and the owner wanted and would accept nothing less and they were going to have to pay fifty? What would it cost them? Not fifty would it, Mr. Faust?

- A. It would cost them the amount it would cost for the property, and if they assume those liabilities, whatever the cost that it was going to take to come

into compliance.

Q. And it would be then two hundred thousand dollars, wouldn't it?

A. If that is what it cost.

Q. Okay. And if the land as it set without the improvements was worth, market value, fifty thousand dollars, then it would have a negative value at that

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point in time because of the cost of cleanup of one hundred thousand dollars, wouldn't it?

MR. PECK: Object to the form of the question.

A. I'm not a property expert. I can't tell you what value it would have. I can tell you the cost they paid for it and what the cost would be to do that particular remedy.

Q. Okay. Now, during the time that you worked for them, did you -- in making these assessments and doing this work, did you obtain any training outside of

the group that you worked for?

A. Other than the responsibilities that I had, is that what you are asking?

Q. Other than the training you got I believe on a day-to-day basis. You told us previously you were involved in the oil exploration business and that you didn't do any remediation work.

A. Right.

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Q. You weren't responsible for managing any kind of projects. Here you were making assessments of contaminated sites.

A. Uh-huh (indicating yes).

Q. And other than the training that you got just in doing that on the job, did you receive any formal training outside of your employment?

A. I may have gone to a seminar or two like I did at Oxidental and City Service.

Q. Okay. And were those particularly aimed toward the environmental area?

A. Yes.

Q. Now, who did you go to work for in 1991?

A. Monsanto.

Q. And where did you go to work for
Monsanto?

A. St. Louis.

Q. And who was your immediate supervisor?

A. Bruce Yare.

Q. Bruce?

A. Yare.

Q. How do you spell that last name?

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A. Y-a-r-e.

Q. And what was his title?

A. He was manager of -- Let me think.

Manager of remedial technology.

Q. And who did he report to?

A. I believe to a man -- Stan Proctor.

Q. What was Mr. Proctor's title?

A. Director of engineering technology.

Q. Were y'all part of any particular
division of Monsanto?

A. We were part of the engineering division
of Monsanto.

Q. Okay. And what was your title?

A. My title was hydrogeologist.

Q. And just assume, again, that I'm not real familiar with this stuff. Tell me what a hydrogeologist did at Monsanto in 1991. In other words, what did you do?

A. Right. We would work with the plants to review and help them supervise outside consulting firms on impacts to soil and ground water.

Q. And exactly how did you do that?

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A. Either by reviewing reports or in meetings on a given site.

Q. And what was y'all's responsibility, to coordinate the work that those particular entities were doing or to review it and tell them whether they were doing it right or wrong? What exactly did you do?

A. Both. We would coordinate the activities and/or review the reports.

Q. Okay. When you did that did you answer to the particular plant manager, or did you answer to your boss, Mr. Yare, and

go up the line there in St. Louis?

A. It depended on whether or not it was a plant. I would report to -- Well, I always reported to my boss. But on a particular project I would review and report to that individual at the plant.

Q. The plant manager or someone he would assign?

A. Usually the person in charge of environmental at the plant.

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Q. So you actually answered to that particular person or reported to him?

A. For that given project.

Q. Okay. What are some of the kinds of projects that you began to work on in 1991?

A. I was given a certain number of plants to work with, and I worked on the Trenton, Michigan, plant; the closure of the Kearny, New Jersey, plant; and the closure of the Everett, Massachusetts, plant.

Q. What was the second one?

A. Kearny, K-e-a-r-n-e-y, I think, or n-y.

I'm not sure.

Q. Okay.

A. And then active work that was going on
at Chocolate Bayou in Houston and the
Carondelet plant in St. Louis.

Q. How do you spell that?

A. C-a-r-o-n-d-e-l-e-t, I think.

Q. Okay. Are those the projects that you
worked on before you came here?

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A. Yes.

Q. Any others?

A. I did supporting work for the Anniston
plant.

Q. When did you start that?

A. Probably '91, '92.

Q. We'll come back to that. Let me go
through these and have you tell me, if
you would, what you did at the Trenton,
Michigan, plant. What kind of problem
were you dealing with?

A. We were dealing with annual ground water

assessments that we delivered to the state on an annual basis, as well as some corrective measures on a settling pond.

Q. Okay. Anything else?

A. That's pretty much it.

Q. What kind of waste were you dealing with there?

A. I never dealt with any waste. We were looking at impacts to ground water.

Q. What kind of chemical compound were you

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dealing with?

A. At Trenton it was predominantly arsenic.

Q. Was there some concern that arsenic was getting in the ground water?

A. There was arsenic in the ground water.

Q. And y'all were doing what in connection with the assessment, just making a determination of the levels?

A. Monitoring the levels, yes.

Q. How is it that you were involved with that?

A. I worked with the plant environmental person to supervise an outside consultant to do that work.

Q. Who was that outside consultant?

A. GZA.

Q. G?

A. Yeah, G.

Q. Z-A?

A. Yes.

Q. Where are they located?

A. In Detroit.

Q. Okay. And they were doing what, the

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sampling?

A. Right.

Q. Of what?

A. Ground water, monitoring wells.

Q. Maybe this is sort of a simple question, but why would you have to be there to review what they did if they were an independent consultant and they did a test? Why couldn't the plant manager just send it on to the state?

A. Because -- As a review, quality

assurance review, have someone review it for accuracy.

Q. And how is it that you would make changes -- Did you make changes in some of the reports that folks provided to you?

A. We would review it and have comments on it, yeah.

Q. I mean, were you actively involved in doing some testing yourself to sort of cross-check what they were doing or monitoring it yourself? Or how is it

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that you would make the comments?

A. Based on my knowledge of where the wells were or what the direction of flow was, comments that I was knowledgeable about.

Q. Were they supportive of the reports? Were your comments generally supportive of the reports that had been done by this particular entity, or were they contrary?

A. I wouldn't categorize them as either.

They were corrections, if there were corrections to be made.

Q. Were those corrections made before or after it was presented to the state?

A. We would review it before it went to the state.

Q. Did they always make the changes, the particular consulting firm, make the changes that you asked to be made?

A. If the comment was valid, yes.

Q. Is that a standard operating procedure y'all have for any testing group that comes in and does the work?

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A. We review it for accuracy, yes.

Q. How do you select those vendors? Do they bid on it or have to come to the particular location and make a proposal and then y'all select from a number, or how do you do that?

A. It varies from -- We have certain firms that we have national contracts with.

Q. Okay.

A. As well as particular projects we will

bid out from that list of contractors.

Q. Do y'all have national contracts with anybody located or who has done work here at the Anniston plant?

A. Yes.

Q. Who is that?

A. Golder and Associates.

Q. Okay. Who else?

A. Roux, R-o-u-x, and Associates.

Q. Okay.

A. Garrity and Miller.

Q. Okay. Who else?

A. A firm called BB&L and O'Brien and Gear.

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Q. Now, when you say you have a national contract, does that mean that that particular business entity has been approved for work with Monsanto at any location that y'all might send them in certain geographical areas or nationwide?

A. Yes.

Q. Anywhere you want to send them?

A. Right.

Q. And is that decision made to hire those particular individuals to do that work done at St. Louis as opposed to, say, a local plant?

A. It could be done at either.

Q. In other words, Anniston could make a national contract with one of these particular entities, Golder and Associates?

A. Uh-huh (indicating yes).

Q. And then everybody in Monsanto would have to use them on a national basis, or is that something --

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A. Wouldn't have to use them but could use them.

Q. So Anniston can make a binding national contract for Solutia or Monsanto?

A. They would work with the people out of St. Louis in procurement to do that national contract.

Q. So the ultimate decision would have to be made as to whether or not they became

a national contract entity with the St.

Louis blessing; is that correct?

A. Not blessing. They would help with procurement documents.

Q. Are the reviews that are done done generally by people like you who are in the engineering division for Monsanto?

Each plant doesn't have someone who does that review, although the plant manager might look at it? Is that review always made in the kind of work you did at Trenton or any of these other places or doing at Anniston, is that always done by the engineering outfit in St. Louis?

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A. No. The plants had the -- had the ability to use the St. Louis support groups or not use them.

Q. How would the review be done otherwise?

A. They would just do it locally.

Q. How has it been done here?

A. With the St. Louis support.

Q. From the beginning?

A. Since my knowledge in '91.

Q. Okay. So from 1991 on St. Louis has reviewed the reports that might have been made by any one of these people and made comments?

A. Prior to '91 I don't know what the policy was.

Q. I said from 1991 on.

A. Yes.

Q. And those comments that were made were made prior to the time any of those documents were presented by any of those companies to any of the regulators, whether it be the state or the feds or whoever?

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A. We would review the reports before they were issued, yes.

Q. And changes were made?

A. They may or may not have been.

Q. Basically they had to get your approval, though, before they could send the thing in?

A. It would have to be reviewed by us.

Q. And approved by you?

A. Approved the final report, right.

Q. Who other than you -- I'm going to stay on that same -- I'm going to go back to these plants but stay on the same deal. Who other than you had to look at that report that was provided by these particular entities or anybody else who did work in connection with the Anniston plant and remediation effort?

A. The plant person would review.

Q. When you say plant person, do you mean Robert Jones or Jerry Brown or --

A. Robert Jones.

Q. Okay. What about the plant manager?

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A. He would review the final document or earlier documents if he so desired.

Q. When you say final document or earlier documents, you mean there was a sequence of documents? You would have an initial report that might be provided by these companies?

A. A draft, yes.

Q. And he would do that and make suggestions and then go to the company, and the plant manager would and Mr. Jones would and I assume you?

A. Right.

Q. Anybody else in St. Louis other than you in that mix?

A. For a time Jo Hanson would review documents as the project manager.

Q. And I assume her predecessor would have reviewed it?

A. Sure.

Q. Okay. Who else? Would your boss?

A. No.

Q. Did all of those people have to take a

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look at it in draft form before the final report was done?

A. All of them are given an opportunity to look at it, yes.

Q. And to make comments?

A. And to make comments.

Q. And those comments were then forwarded

to either Garrity and Miller --

A. Right.

Q. And then they drafted the final report?

A. Right.

Q. And sent it to you?

A. Right.

Q. Again for comments?

A. Not once it was final. We would issue
it as final and be delivered to us as
well as the agency.

Q. Where are the draft reports or interim
drafts kept?

A. We would normally discard them as just
normal record keeping procedures.

Q. So y'all discard the interim drafts of
reports, Monsanto does, on a regular

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basis?

A. Right.

Q. To your knowledge do those companies
keep those reports, those draft reports?
They do, don't they?

A. I don't know what their record keeping

requirements are. We would ask them to observe the same record keeping, and they may or may not release the drafts.

Q. What did you say?

A. They would do the same normal record keeping retention policies that whatever their business was. We didn't oblige them to keep drafts.

Q. Am I to understand that y'all -- Maybe I misunderstood you. I think perhaps I did, but I want to make sure I'm clear about it. Are you telling me y'all told them to destroy those drafts?

A. We told them to keep a final. I don't know particularly what we told them to do with drafts.

Q. Well, you dealt with them on a regular

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basis, didn't you?

A. Not me particularly always. There would be a project manager or someone else that did.

Q. But you did? Since you have been here you have done that, haven't you?

A. I have other project managers that work for me that deal with them on a more regular basis.

Q. Okay. I'll get to that in a minute. Tell me what you yourself told them. Did y'all tell them to do away with the drafts and do away with our comments and just provide a final report?

A. We told them to keep the final report.

Q. But destroy the draft?

A. Discard the drafts as part of your normal record keeping.

Q. Is that in writing somewhere?

A. I don't know if it is or not.

Q. Tell me if you would if the comments that are made by -- not the report itself, but the comments that are made

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by Monsanto are kept?

A. No.

Q. Well, the reason I asked you that, Mr. Faust, is I have had the opportunity to review thousands of pages of

documents, and some of them have been responses to reports that have been made that may have been made by someone that wasn't hired by y'all, admittedly. But the comments I have seen are comments that were made by plant managers and by people who fit your category.

A. Uh-huh (indicating yes).

Q. And they were maintained apparently as records, because we got them. And you're telling me that contrary to those kinds of comments that may have been made to an outside consultant or independent consultant, independent of Monsanto, not hired by Monsanto, y'all kept those, but you destroyed these that you made in connection with reports that you had prepared by somebody like

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Garrity and Miller?

MR. PECK: Object to the form of the question. He couldn't possibly understand that.

Q. Let me see if I can make it so Adam can

understand it, and maybe I'll understand it. Maybe you will understand it. I thought you did.

My statement to you or my question to you is I have seen comment material that was prepared by plant managers and by people who fit your category in response to reports. And those reports admittedly might have been reports that were prepared by somebody who was not hired by y'all, but y'all kept those.

And I just want to know if you do the same thing for the comments that y'all might have made in connection with the report that was prepared by someone you hired like Garrity and Miller.

MR. PECK: Object to the form of the question.

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Q. Do you?

A. I can't speak for what the practices of anyone besides myself are.

Q. You destroyed them?

A. I discard them as part of the normal record keeping.

Q. Is there some particular company policy that instructed you? Were you told to do that at the time that you went to work for Monsanto in 1991 and were making comments about particular reports?

A. We have a records retention policy.

Q. And does that policy tell you specifically, Mr. Faust, if you make a comment about a report, say it is on ground water or whatever it is on, to destroy it?

A. No, it doesn't say that.

Q. What does it say?

A. It says to discard information that is not needed as part of a project. And in the normal course, drafts are not

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needed.

Q. And the comments you might have made to one of these individuals about drafts are not needed?

A. May or may not be.

Q. Okay. And who -- You are saying what you individually do. Does the company in this engineering division have a policy and did you understand that to be the policy, where if y'all made a comment or suggested a change to one of these reports that everybody who was a project manager would destroy those comments and destroy those draft reports?

A. No. That would not be what the policy is. It is using your judgment, what information or reports you need to retain.

Q. So it is likely that if the comments were serious enough they should be there. And where would they be maintained?

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A. I can't speak for any of that.

Q. Well --

A. If there were any drafts that were

retained, it would be in the files.

Q. In St. Louis?

A. St. Louis or Anniston.

Q. Okay. Now, what did you do at the closure of the Kearny plant?

A. We did a state -- worked with the state to do some cleanup of that facility.

Q. Of what?

A. PCBs.

Q. PCBs?

A. Uh-huh (indicating yes).

Q. Is that in fact the first work that you had ever done, Mr. Faust, with PCBs, when you went to work at the closure of the Kearny plant?

A. No.

Q. Where had you worked before that with PCBs?

A. In a lot of instances the first thing you will do in your analysis is run a

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full spectrum, what they call an appendix nine. And if PCBs showed up, it would be one of the constituents we

would look after.

Q. So let me see if I understand you. If you went in to assess something like the Trenton plant, you would do some initial sampling. If you had a problem there with ground water or whatever it was, contamination, you would check each time for PCBs?

A. At some point in the process you would check for a full scan that would include PCBs.

Q. And would that be normal for any kind of testing that was done by people operating plants where that was located?

MR. PECK: Object to the form of the question.

A. Depending on where the site was or what the history of the site was, it could be done or not. So it may or may not have been done.

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Q. Well, let's just say you were checking a landfill that had some problems with

contamination, and PCBs were buried there. Would it not be normal operating procedure within Monsanto to check for PCBs and the leachment of PCBs from that particular landfill?

MR. PECK: Object to the form of the question.

A. If we were doing an investigation of a landfill, PCBs would be included.

Q. Okay. Now, at the Kearny plant, you said that your prior efforts with PCBs or prior contact or connection with them was just to check for them at these other plants?

A. Right.

Q. But you actually were cleaning up a PCB site here at the Kearny plant. Where was that located?

A. New Jersey.

Q. Okay. What was the nature of the problem?

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A. There were PCBs in the soils.

Q. What soils?

- A. In the former production area.
- Q. In the production area?
- A. Uh-huh (indicating yes).
- Q. All right. Had it had an impact on any site outside the plant?
- A. Not to my knowledge.
- Q. Just inside the plant?
- A. Uh-huh (indicating yes).
- Q. And how did y'all become aware of that?
- A. As part of closing a facility in New Jersey, you have to do an assessment of the property and those investigations.
- Q. So this came about through a normal assessment of the closing of the plant?
- A. Right.
- Q. And what did y'all do to clean that up?
- A. The remedy we placed was we removed some soil in the highest concentration area and then capped the site.
- Q. When you say removed some soil, what kind of soil removal did y'all do, how

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much?

A. Excavated. I don't know what the quantity was.

Q. Is there some report that would tell us what the quantity was?

A. Yes.

Q. Was it pounds, tons?

A. Tons.

Q. Okay. What did y'all do with that soil?

A. We disposed of it at a landfill.

Q. Not yours?

A. No.

Q. Something like Emelle?

A. I believe it was one in -- somewhere in the northeast. I don't recall exactly where it is at.

Q. When was this exactly? Can you give me the year?

A. I believe it was in the '93 time frame.

Q. Okay. And can you tell us how you removed it from the site? Did y'all put it on trucks in barrels, or how did you do that?

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A. Excavate into trucks.

Q. And just poured it in raw from into the trucks?

A. Put the soil into the trucks, and then the trucks transported it to the landfill.

Q. Do you know what the cost of that was?

A. No.

Q. Do you have any idea at all about what the cost was?

A. No, I sure don't.

Q. Okay. Were you the project manager?

A. No.

Q. Who was the project manager?

A. The project manager for that was an individual at the site.

Q. And who was that?

A. I can't remember his name.

Q. Was this designated as any type thing so -- If we wanted to ask Mr. Peck to provide us with the detailed information about it, how would you designate that?

A. In our files it would be the Kearny

site.

Q. Kearny?

A. Right.

Q. K-e-r --

A. K-e-a-r-n-y, I believe.

Q. And that would have been in the early
'90s?

A. Yeah, around '93.

Q. How long did that project take?

A. The field activities I believe took
about three months.

Q. Who was the contractor, main contractor
that worked with y'all on that?

A. Roux.

Q. Is that a contracting outfit that --

A. That is a consulting engineering firm,
and then they worked with the plant to
hire a contractor to actually come in
and do the work. And I don't know what
that contractor's name is.

Q. What was the next project you worked
with?

A. Next?

Q. Uh-huh (indicating yes). You mentioned them in sequence. I'm just going through them in sequence, Trenton, Michigan, closing the Kearny plant.

A. Everett. That was a facility that was closed in the early '90s, and as part of closure in that state as well you have to do an assessment and do certain remedy, you know.

Q. Where was it located?

A. In Boston.

Q. What was the problem?

A. We had residues from the production, just numerous production areas over the history of that plant.

Q. What kind of waste or chemical compounds --

A. PCBs.

Q. Did they make PCBs, manufacture PCBs at Kearny or at the plant in Boston?

A. No.

Q. Did they make some end product from the PCBs themselves?

A. I believe both of them used them as heat transfer fluids.

Q. Just in the plant itself?

A. Uh-huh (indicating yes).

Q. So they might have some kind of transformer or something like that --

A. Or a processor, a process that was heat intensive that required a cooling or a transfer fluid like PCBs.

Q. So these were generally equipment type things where you use the PCBs yourself and not a manufacturing process?

A. Right.

Q. What about the next plant?

A. I don't remember what sequence I gave them to you, but Chocolate Bayou is a facility in Houston.

Q. How do you spell that?

A. Well, chocolate and then b-a-y-o-u.

Q. I'm sorry. You are saying chocolate. I thought you were saying Shakka. Is that the name of a plant?

A. Yes.

Q. Was the problem the same there?

A. That was ground water, impacted ground water.

Q. Impacted with what?

A. I believe it was phenols there.

Q. Okay. And then the --

A. Carondelet plant was --

Q. Before we leave Chocolate Bayou, that name just rings a bell for some reason.

MR. CUNNINGHAM: Blake worked there.

Q. Did you work with Blake Hamilton there?

A. No.

Q. What did y'all do at Chocolate Bayou?

A. Worked again with the plant staff, the plant environmental staff to coordinate and review ongoing investigations.

Q. And did do you any cleanup there?

A. We had active ground water recovery systems in place there. Nothing other than that was done while I was involved.

Q. Okay. No removal of any --

A. No.

Q. -- contaminant? All right. There was a Carondelet plant in St. Louis?

A. Right. That was phosphorus and arsenic related impacts to ground water.

Q. What did y'all do there? What did you do there?

A. The same as everywhere else, worked with the plant staff to review work in process or in --

Q. What was the work that was in process?

A. I think there we were in the early stages of a RCRA permit.

Q. Were you in charge at each of these plants of the work? Were you a project manager at each of these plants of the work that was going on?

A. I managed the hydrogeology portions of the projects.

Q. I'm talking about overall manager.

A. No.

Q. Is that your role here?

A. Yes.

Q. Is it fair to say that that is the first

time you have done that type of work?

A. On a complete site-wide basis, yes.

Q. So you were answering to somebody else as project manager in every other site you have worked on from the time you came to the company in 1991 until you began to manage this site in 1996, the first one you have done yourself?

A. No. Prior to '96, in -- Let me get my numbers straight. In '95 I became a manager of remedial projects and was assigned responsibilities for certain sites.

Q. What sites were those? Are they different from the ones we are talking about here?

A. Yes.

Q. What were those?

A. One was -- In all of those I acted as Monsanto's representative on those sites. None of them did we have complete responsibility or control of.

Q. On the other sites that you worked on?

A. Right, prior to Anniston, yes.

Q. Give me, if you would, the names of those sites.

A. The ones I remember would be Skinner Landfill.

Q. Where was that located?

A. In Ohio.

Q. Sounded like Lexington, Mississippi. Where in Ohio?

A. Southern Ohio, I remember, somewhere near Cincinnati.

Q. How did Monsanto become involved in that landfill?

A. We had a facility in Indiana -- let me think, Indiana or Ohio -- Ohio, that sent waste to that -- solid waste to that facility.

Q. Well, it would seem like, just to the uninitiated, that that would be the end of it for Monsanto. Why is it that Monsanto got pulled into that particular project where you would have to go down? Were you doing remediation at Skinner's

Landfill?

A. Right. Often the case is that as a state agency or federal agency looks at a landfill and its impact to the surrounding environment, they will not only look to the current owner but anyone who sent waste to that facility to -- as a responsible party.

Q. What particular waste were y'all sending there that they held y'all responsible for?

A. I don't recall what it was.

Q. Was it PCBs?

A. I don't recall what it was.

Q. You don't have any idea?

A. No.

Q. All right. What were the other sites?

A. Helen Cramer.

Q. Where is that?

A. Outside of Philadelphia, I believe.

Q. Is that also a landfill?

A. Yes.

Q. And were y'all involved in that one on

the same basis that you were at Skinner
Landfill?

A. Right, right.

Q. What kind of waste had y'all delivered
there?

A. I don't recall that either.

Q. What did y'all do at Skinner, and what
did you do at Helen Cramer? What were
you required to do at those locations?

A. At Helen Cramer -- I mean, at Skinner we
were doing the design of the closure.
We and numerous other parties were doing
the design of the closure of that
landfill.

Q. Okay. And after you did the design, did
y'all actually pay for the
implementation of that along with the
other people?

A. I didn't have that site anymore. I
don't know what the current status is.

Q. Was that as a result of state regulators
forcing Monsanto and forcing the other
companies to do that, or did y'all just

go in there and say we have made a mess

here, let's clean it up?

A. There were state regulations that
required the closure of that facility.

Q. So y'all were forced to do that by the
state?

A. We were complying with regulations.

Q. Is the same thing true with Helen
Cramer? What did y'all do there?

A. That one was -- I believe that one was
closed, and this was -- I think it had
to do with the operation and maintenance
of the facility after it was closed, the
monitoring responsibility.

Q. And what were you monitoring it for?

A. I don't recall, but we looked at -- We
were monitoring storm water and ground
water.

Q. For contaminating property that was
located near the landfill?

A. It was looking at any impact the
landfill might be having.

Q. And what did y'all have to do in

connection -- What did you physically have to do there?

A. They closed it, and in accordance with regulations, cap and cover of the landfill. At the stage I was involved, it was doing the annual monitoring.

Q. Did y'all actually cap it and cover it?

A. Someone did. We were a part of that along with other companies.

Q. What else?

A. That was it for that.

Q. What other sites?

A. There were a dozen sites that I was responsible for keeping track of site, you know, costs that we were allotted for various stages of those different projects.

Q. Were those projects where you were incurring this cost and you were keeping track of those costs?

A. Uh-huh (indicating yes).

Q. Were those of the same general type as

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other Monsanto sites?

A. They were sites that we either used or a trucking firm that we used. Landfills are closed facilities.

Q. And you were keeping tabs on the costs of what y'all were expending?

A. Right.

Q. The money y'all were expending to clean up the site?

A. As well as involved on some of the committees that looked at reports and, you know, whatever happened to be going on at the time.

Q. Did any of those sites, Skinner through those twelve you mentioned, have anything to do with PCBs specifically?

A. No.

Q. Can you give us the names of those sites? I don't need it now, but can you provide it to Mr. Peck?

MR. STEWART: And then, Adam, do you mind giving us the names

of the sites where he did

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this work?

MR. PECK: You want the list of
the dozen sites in
addition --

MR. STEWART: We have Skinner
Landfill, Helen Cramer --

MR. PECK: What the other ten are?

MR. STEWART: He said twelve.

THE WITNESS: That was my
estimate.

Q. Can you get that information? That is
information that is readily available to
you, isn't it?

A. Yes.

MR. STEWART: Do you mind
providing it to us?

MR. PECK: Just the list?

MR. STEWART: I would like to have
some idea of what they did
and what he did, if you don't
mind.

Q. It appears just based on -- Well, let me ask you a couple of preparatory

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questions. You had a pretty good load on your plate as a project manager and supervising sites where contamination was involved, and it involved Monsanto. How many people did your business, did your type business there in that engineering division? How many project managers did they have? You mentioned Jo Hanson.

A. Right. There are I believe five people that do what I do.

Q. And are they still there? You still have five that do that work?

A. Uh-huh (indicating yes).

Q. How many sites around the country -- by country, I mean the United States -- is Monsanto presently involved in?

A. I don't know what that number is.

Q. Do you have any estimation?

A. No.

Q. Well, in the law it would be caseload.

With these project managers, what was the general load? How many sites were

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y'all assigned on a regular basis to sort of supervise or oversee? Let's get at it that way.

A. I would say depending -- Each manager either had one or two sites. It was basically a workload issue. If that one or two sites kept them busy, then they had one or two sites. In my instance, there were a lot of smaller involvements, so I had more than some others.

Q. Okay. Is it your testimony here to me today that other than you with your twelve, everybody else had one or two in the time frame we are talking about from '91 to the present day?

A. At least one or two.

Q. And contamination sites we could estimate would be about ten in the country, Mr. Faust, that y'all are

involved in where you have
contamination?

MR. PECK: Object to the form of

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the question.

A. I would think it is in excess of ten. I
don't know what the number is.

Q. Well, on a scale of degree, let's say
something like what we are dealing with
here, how many sites with something like
we are dealing with here do you know of
that Monsanto is involved in today?

MR. PECK: Object to the form of
the question.

A. I can't make any estimation of any sites
that are similar to this one. All sites
are unique.

Q. Let's just say a plant where you have
problems with regulators about
contamination coming off-site and
impacting neighbors?

A. Again, I --

MR. PECK: Object to the form.

A. -- can't estimate that.

Q. Who would have knowledge of that particular thing? Are they all handled by this engineering division in St.

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Louis through people like yourself, like project managers, or is there a higher level of activity that we would look to?

A. If -- All the facilities are handled out of St. Louis.

Q. And are they all handled out of this engineering division?

A. Well, now it is no longer the engineering division. It is the remedial projects.

Q. And who is head of the remedial projects division?

A. Michael Foresman.

Q. So he moved over from Monsanto to what is now Solutia?

A. Right.

Q. And who would in his particular shop be responsible for keeping a listing of the sites and that type stuff?

A. He would be.

MR. STEWART: Again, Adam, I want
to prevail on your good
nature.

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MR. PECK: Assuming I have one.

MR. STEWART: I think you do.

MR. BARRETT: He has faced some
shameless provocation.

MR. STEWART: Can you give us a
list of those sites?

MR. PECK: I just don't know what
all is involved in this.

Maybe what we need to do is
y'all need to send me a
letter at the end of this and
tell me what you want. The
number is getting pretty
high.

MR. STEWART: This is just sites
where they have contamination
problems. He had indicated
it might be as few as two or
three per person, and that

would be, based on the
number, probably ten or
fifteen.

MR. PECK: I'm just not sure what

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all is involved in your
question.

MR. STEWART: I want to know where
project managers --

MR. PECK: Where Monsanto has
ongoing remedial work around
the country -- You know, if
you send me a letter and ask
me for things, we will
consider it. I will consider
it informally. I will tell
you if you have to do it
formally. I would like some
clearer definition.

Q. Let's go back to this Everett site. How
did the -- were the PCBs cleaned up at
Everett, Massachusetts?

A. The actual cleanup was conducted after I

was no longer involved in it.

Q. Well, was there not a plan that was put together that would deal with how to clean it up before you left that particular site?

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A. There was an area that was impacted by PCBs that had been closed prior to this time, and that was capped in place. I believe that remained that way through the final closure.

Q. When you say capped, what are you talking about?

A. Put a liner and soil material over it.

Q. Okay. While we're on that particular point, let me just ask you. Is there a method or preferential method for site remediation where some kind of compound is leaching out of the landfill or -- and again, consider me totally ignorant because I'm just a poor little country lawyer trying to understand this thing.

MR. PECK: Object to the form of that question on all kinds of

accounts.

A. I missed your question. Could you say that again?

Q. Sort of amused by my remark?

A. That's right.

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Q. I will try to keep that to a minimum, then, not be quite as funny. Is there a preferred method of remedying a problem like you have, say, here at Anniston where you have contaminants that are leaching out of a landfill or coming off a site or former area of production or a chemical compound, dealing with that toxic chemical, are there methods of dealing with it that y'all recognize?

MR. PECK: Object to the form of the question.

A. There are methods.

Q. What is one y'all consider to be the best method?

MR. PECK: Object to the form of the question.

- A. The best method is one that eliminates any potential exposure and controls that contaminant from migrating.
- Q. I'm talking about dealing with the toxic chemical itself.
- A. That would be the preferred method.

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- Q. What about in the overall scheme of things making that a nontoxic substance either through a biological method or some kind of treatment method where you could do that? Do y'all view that as a workable solution to the problem?
- A. In situations where that is applicable or in conjunction with other remedies, that, again, eliminate the exposure.
- Q. Do y'all not recognize that as the best one, where you make it a nontoxic substance like that?

MR. PECK: Object to the form.

- Q. In other words, in my lay terms, just sort of detoxify it so it doesn't have the attributes that --
- A. Well, there are a lot of things to

consider in any remedy. And the one we strive for is one that impacts, you know, human health and the environment the least and gets to controlling that substance.

Q. Let's say if you had just some residue

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of PCBs, phosphorus, or some toxic chemical. The best thing to do to contain that or keep it from causing any harm would be just to make it a nontoxic substance, wouldn't it?

MR. PECK: Object to the form of the question.

A. That is one thing that could be done.

Q. That would be number one, wouldn't it, in Monsanto's choices of procedures to use to remedy a situation?

MR. PECK: Object to the form of the question.

A. Again, there are a lot of factors involved in dealing with that.

Q. If all the factors were equal for all of

the methods of remedying the situation,
that would be the preferred choice,
wouldn't it?

MR. PECK: Object to the form of
the question.

A. I can't answer that because it depends
on the site, depends on the quantity and

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concentration and what the impact of
disturbing those contaminants could be.

Q. Okay. But if all factors were equal, I
mean, if everything, cost and everything
was equal, that would be the preferred
method, wouldn't it, for y'all?

MR. PECK: Object to the form.

Q. I'm talking about for Monsanto.

A. Not necessarily.

Q. Can you tell us why?

A. Well, if all things --

MR. PECK: Object to the form of
the question. Go ahead.

A. If all things were equal, then, not
disturbing it and taking the potential
to impact, you know, the environment any

further, you would not want to disturb
that.

- Q. If it wouldn't affect the environment
any further, the best thing to do with
it in order to contain it is to make it
a nontoxic substance? That just makes
common sense, doesn't it, Alan?

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MR. PECK: Object to the form of
the question.

- A. If you could do that.

- Q. And then the next best in the way y'all
look at things is to incinerate it,
isn't it?

MR. PECK: Object to the form of
the question.

- A. I wouldn't say that.

- Q. Sir?

- A. I would not say incineration would be
the next option.

- Q. Why is that?

- A. Well, for the same reason. You would
have to handle that material, and there

are many factors in disturbing that material that may be detrimental.

Q. What are those?

A. Well, any time you disturb it you make it available to migrate.

Q. Well, if you burn it up and dispose of it, where it is really transformed into another substance really, where it is,

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again, nontoxic, you basically do away with it. So there is really no migration problem after that, is there?

MR. PECK: Object to the form of the question.

A. The end results of both of those are that you have controlled the exposure.

Q. The end result of what, now?

A. Of controlling in place and excavating and incinerating.

Q. Those are the only things that you would consider?

A. Those are major considerations.

Q. And let me ask you this: Do you know of any instances yourself and has anybody

ever indicated to you of any instances
where this was done with PCBs in
particular?

A. Incineration?

Q. Yes.

A. Yes.

Q. Where?

A. I don't know that off the top of my

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head, but PCBs have been incinerated.

Q. Who told you that?

A. I've read it in documents.

Q. That were provided to you by Monsanto?

A. Trade documents or knowledge of other
sites.

Q. What other sites do you have knowledge
of where this was done?

A. I don't know that offhand.

Q. Do you know of any that Monsanto
operated where this was done?

A. Not to my knowledge.

Q. So you have no knowledge of Monsanto --
Are you telling me they have never done

it?

A. I'm telling you I don't know if they did
or not.

Q. Okay. Now, let me see if I understand.
You have been the project manager -- And
I want to ask you a series of questions
here based on what you just told me.
You have been the project manager on
this particular project for what

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particular time, '93 on?

A. Been the manager of this project from
'96 on.

Q. '96 on. But you worked with it as a
project manager up there in St. Louis
from sometime earlier?

A. Earlier as a hydrogeologist.

Q. So you were involved in the overall deal
from about what time as hydrogeologist
until now?

A. I was involved in the ground water parts
of the Anniston facility from '91 until
'95.

Q. As a result of that I assumed you were

part and parcel of putting together the

plan as to how to remedy this thing.

A. I was involved early on with the investigation at the west end landfill.

And then my involvement -- I didn't have any involvement in it from '95 to early '96.

Q. But were you a part of any work group that put together the plan that

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implemented this?

A. The one that is currently being implemented, yes.

Q. And who was involved in that work group with you?

A. In '96 it would have been myself, Jo Hanson, Golder Associates.

Q. And that is who did it, put it together?

A. We worked together to put it together, yes. And then in conjunction with review proposals and work plans with ADEM.

Q. With the Alabama Department of

Environmental Management?

A. Yes.

Q. But inside Monsanto that is basically the group that put the remediation plan together?

A. Yes.

Q. Tell me if in connection with the question I asked you about incineration, anybody ever said, Jo Hanson or anybody at Golder or anybody at Monsanto, ever

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said anything to you about incineration as a possible remedy?

A. Our intent and our obligation is to control the migration of those materials, and we developed that plan based on the capping and covering we are doing.

Q. No, sir. I asked you the question did anybody ever discuss at any point in time, in any of those meetings, incineration?

A. Not to my knowledge.

Q. Did anybody ever discuss treating it in

any way, the first two things I mentioned?

- A. We looked at enough -- We looked at other opportunities enough to know that you would have to disturb the soils in order to even begin to consider that. So our option was to develop a plan, implement a plan that would disturb and have the least potential for, you know, migration during that operation. And

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the end result was to control, control those contaminants.

- Q. Did I understand you to say that you did consider some kind of biological treatment or did not? I was asking you that question.
- A. We never -- That I recall we never looked at it any more than to say that it would involve excavation.
- Q. All right. What about removing the PCBs and taking them to a landfill like Emelle?

A. Same thing. It would involve excavation.

Q. Did y'all look at that?

A. Not in any great detail.

Q. Isn't that third sort of -- Sort of the third best method, where you just get rid of it, take it from the site and put it somewhere like Emelle as far as Monsanto is concerned?

MR. PECK: Object to the form of the question.

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A. I wouldn't speak for Monsanto, but all the things you are doing there is the same thing you could do in place. You are controlling those materials.

Q. But I'm asking you is that not the third -- On the list of things that you can do to contaminants or chemical compounds that are leaching out into the soil from a landfill or from a past production site, ways you treat it, you have previously said that the biological or other forms of treating it where it

became nontoxic was probably the best approach --

A. I don't know if I said it was the best approach. It is an approach.

Q. But if you did away with it from a nontoxic basis or changed it from a toxic to a nontoxic, there wouldn't be a problem if it migrated, would there? We agreed to that.

A. Or control --

MR. PECK: He --

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Q. And then incineration would be the next, just transforming it in another way.

And all things being equal, those first two would be the best approach. It is my understanding from Monsanto, literature that either I or somebody else looked at, those are Monsanto's suggestions as to how to dispose.

MR. PECK: Object to the form of the question.

A. Again, I can't comment one way or the

other. Those are two options that are available.

Q. And removing it would also be another option?

A. Right.

Q. Did y'all look at that?

A. Again, similar to the other two in that it would involve massive excavations and handling of material. And if you can control it in place, which is what you would be doing in a landfill, you would eliminate that step of having to handle

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the material.

Q. Did cost come into that? Did y'all look at -- Let me ask you first, did y'all look at that?

A. We never evaluated what the cost of excavation --

Q. You never even looked at that remedy?

A. Not in totality, no.

Q. Well, in what part?

MR. PECK: He just testified to that part. But go ahead.

Say it again.

A. To the part where we got that all those other steps, all those other opportunities involved excavation, handling, transportation of those materials. And we chose the option that didn't have that step in it and got to the same result of controlling and eliminating the migration.

Q. What about I guess the least -- the last one? And this is my understanding from the list. Maybe you have never seen the

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list. Have you ever seen the list that would indicate the methods that y'all would prefer the --

A. I'm not familiar with the list you are talking about.

Q. You have worked with them since '91 and actually really dealt with remedying contaminated sites, and you have never seen the list?

A. I can't recall the list you are talking

about.

Q. All right. It's my understanding that you just got through telling us that these things that I mentioned, such as the treating of it either biologically or through some other method or incinerating it or removing it, would cause a real serious problem because you would have to handle it, and there would be some exposure to it; is that correct?

MR. PECK: Object to the form of the question.

A. There is the potential of it because you

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are handling it.

Q. Exposure in what fashion? To the people that are doing it or not only those people but also people in the surrounding areas?

A. When you remove it from where it currently presides, there is an opportunity all along that process where if there is an upset there could be -- you know, it could be spilled or

migrate.

Q. Okay. Am I to understand that there has been no excavation by y'all in the method that y'all have used to control the PCBs?

A. No. There has been.

Q. Okay. In fact, there has been a good bit, hasn't there?

A. There has been a good bit of excavation of clean material.

Q. It is your statement here today, Mr. Faust, that the excavation y'all have done has involved clean material?

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A. Clean and some impacted.

Q. Well, tell us about the some impacted.

A. There are areas in the project that we had to do excavations in order to implement the remedy. Those areas, if they were impacted, you had to excavate those and handle that material.

Q. Okay. Can you tell us where those were?

A. There was an area along 202, on the

south side of 202, where we put a
drainage ditch in.

Q. Okay. When you say on the south side of
202, are you talking about running east
and west on 202?

A. Yeah.

Q. Are you talking about that big flume
that y'all put down?

A. The concrete channel, yes.

Q. Did y'all excavate that?

A. We excavated some material in there,
yes.

Q. What kind of material did y'all excavate
in there?

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A. Soil.

Q. Soil?

A. Soil.

Q. Well, again, consider my fairly
unsophisticated in these areas, just a
poor little country boy from Munford.
But soil never was a problem for us on
our farm down there in north Talladega
County. If we just had soil, we didn't

have a problem. What problem did you

have with soil alongside 202?

A. The soil and the sediment in the ditch
were impacted with PCBs.

Q. With PCBs?

A. Uh-huh (indicating yes).

Q. And how did you become aware of that?

A. We tested.

Q. Who did the testing?

A. That would have been done by Garrity and
Miller.

Q. When was that testing done?

A. I don't know exactly, but it would have
been probably '95, '96 time frame.

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Q. '95, '96?

A. Yes.

Q. And do we have those test results? Have
you provided those to us?

A. Those are all incorporated in anything
we provided to ADEM, and it is my
understanding you have everything we
provided ADEM.

MR. PECK: Y'all have that.

Q. What kind of levels did you find there
in the drainage ditch alongside 202?

A. I believe they were all less than fifty
parts per million.

Q. How much? What were they?

A. I don't know specifically.

Q. Now, you're telling me that this stuff
was done in '95 and '96, this testing
was done in '95 and '96?

A. Uh-huh (indicating yes).

Q. Were y'all -- Before I get to that
question, is this a part of the
landfill, this place along the road?

A. This would be part of the Alabama DOT

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right-of-way.

Q. No, sir. That's not my question. My
question to you is is this area where
y'all tested for the PCBs, is that part
of the landfill y'all operate on your
property?

A. No.

Q. Okay. So how deep did you go?

A. We dug -- My recollection is a foot and a half to two feet, whatever excavation was necessary to put the concrete lining in.

Q. And did you get clean samples below --

A. We didn't test below.

Q. Okay. I don't understand. You tested the ditch. And the portion you tested would be below the concrete flume --

A. We tested the surface before we did excavation, excavated, and then put the concrete flume in.

Q. Mr. Faust, is it your testimony here today that that is all the testing that you did --

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A. No.

Q. -- of that area?

A. No.

Q. Well, did you test it any more?

A. We tested through the years of -- I don't know if it goes back to '94 or not, but '94, '95, '96, tested an area

around the plant, all around.

Q. I'm talking about this particular
section of the project out there, the
right-of-way of 202 south of --

A. We tested all along the right-of-way and
medians of 202.

Q. And that was done, though, I believe you
said, in '95 and '96?

A. That's my recollection.

Q. And was that the end of your testing?

A. For that area, yes.

Q. Did y'all do any testing there in '97?

A. I don't recall that we did any in '97.

Q. Did none in '97?

A. Not to my recollection.

Q. When did you put that flume in, that --

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A. In '97.

Q. What part of '97?

A. That was started about in June and
continued through August. We did do
some sampling along there -- not for
PCBs, but we did some sampling, some
surface sampling in an excavation there.

I do recall now.

Q. Why is it you did that?

A. When we were excavating in that area,
the contractor encountered an odor, so
we shut the project down and went in and
sampled to determine what the odor was.

Q. What did you determine the odor was?

A. We sampled and determined it was
biphenyl.

Q. Biphenyl?

A. Yes.

Q. What was that?

A. You are asking me?

Q. Yeah. Tell me what that is. I'm just
completely ignorant of --

A. Biphenyl is a product that is produced

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at the plant.

Q. So there was biphenyl in the drainage
ditch on the side of the road. How deep
did you go where you found that?

A. We -- I remember it went a couple of
feet deep.

Q. What kinds of -- Well, who did your testing?

A. The tests -- The samples were collected by our construction manager firm at the time, ICF Kiser.

Q. Who instructed them to do the tests?

A. Myself and our project manager on the project.

Q. Who?

A. Richard Williams.

Q. Is he a Monsanto employee?

A. No.

Q. Did he work for ICF?

A. No. He works for -- Currently he works for his own firm, Richard Williams and Associates, I believe.

Q. Where are they located?

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A. Chicago.

Q. So he was the project manager?

A. He is our technical project manager.

Q. How is it y'all became aware of this?

Was somebody digging in there?

A. Yes.

Q. How deep had they gone?

A. I believe they had gone a couple of feet.

Q. A couple of feet?

A. Uh-huh (indicating yes).

Q. Well, how thick is this flume that you put down through there?

MR. PECK: The flume?

A. The concrete?

Q. Yes.

A. I think it is six inches.

Q. Why were you digging down two feet?

A. We were digging in that area -- Just as a construction, you need to dig down below it and prepare a surface, a bedding that will handle the loading of the concrete. In this particular area

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we were trying to locate a water line that was supposed to be in the area.

Q. City water line?

A. Uh-huh (indicating yes).

Q. Been there for a while?

A. Probably.

Q. Did you locate it?

A. Yes.

Q. So you located the city water line and
you found this biphenyl there?

A. Biphenyl in the shallow soil.

Q. Is that a toxic substance, Mr. --

A. I don't know whether it is or not.

Q. You don't know?

A. It is regulated. I believe we have
MSDSs that explain exposures. It is
a --

Q. What do they tell you?

A. There are certain occupational, you
know, limits, I believe. I don't know
exactly.

Q. Well, did you report this finding to
anybody? Did you report it to the

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state?

A. It is not a reportable -- It was an odor
that we determined what the levels were,
which were many levels of magnitude
below that --

Q. No, sir. Did you report that to the state?

A. I believe we called the state, yes.

Q. Who did you call at the state?

A. Lance Brooks.

Q. And who is Lance Brooks?

A. He is the permit writer and project manager for ADEM.

Q. For this project?

A. Uh-huh (indicating yes).

Q. Well, I assume he hopped in his car and came right up here to see that. Did he?

A. There was no need for him to hop in the car and come up here and see it.

Q. Why is that, Mr. --

MR. PECK: Faust.

MR. STEWART: I will get it. Just give me time.

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A. We reported an odor and we investigated it and took samples to determine what it was.

Q. The state didn't come up?

A. No.

Q. Tell me if you would what contractor or
what particular entity was doing that
digging there for y'all.

A. LMS.

Q. LMS?

A. Right.

Q. Is it S or M?

A. S.

Q. What is that company?

A. They were our -- They did the earthworks
portion of the contract.

Q. What kind of equipment was out there
digging into the earth?

A. I think it was a backhoe.

Q. And how many people were working at that
site?

A. I think there were two or -- two, I
believe.

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Q. Two people?

A. Yes.

Q. And what were they doing?

A. One was excavating. The other one was

observing the hole while it was being

dug to look for the water line.

Q. Was there anybody affected adversely by

that odor or by being exposed to the

biphenyls that were found?

A. An individual went to the doctor, the

person that was on the ground. Or it

might have been the operator of the

backhoe. One went to a doctor to have a

routine checkup on it.

Q. Why?

A. He smelled it, and he was concerned. It

is his right.

Q. Well, was he affected physically in any

way?

A. No.

Q. Was anybody else? Was the operator of

the backhoe affected physically in any

way?

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A. I believe he was the operator.

Q. Okay. So you don't -- Tell us his name,

first. I need to know that.

A. I don't know what his name is.

Q. Do you know what doctor he went to?

A. I know. Not off the top of my head. It was someone locally.

Q. Is there some kind of medical person that works out there at Monsanto for y'all who would tend to somebody like that who would have a doctor they would want to see, if they had an odor or were exposed to something --

A. In the plant there they have a physician that, you know, attends on a routine basis.

Q. Do y'all have a health person located in the plant?

A. Yes. That's all directed by Robert Jones.

Q. Was that health person called in to this particular situation?

A. Yes.

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Q. And what is that person's name, his name or her name?

A. The health and safety person is Fran

Byrd.

Q. Fran Byrd?

A. Yes.

Q. Was she involved in this particular instance, and did she consult with this particular person?

A. It is a he.

Q. Fran Byrd is a he?

A. Right.

Q. I'm sorry.

A. And we consulted with the supervisor on the project, and he consulted with that particular individual as well as our health -- On our project we have a health and safety officer, and they did deal with this particular individual.

Q. Who is the health and safety officer on your project?

A. Emerson Plauche, P-l-a-u-c-h-e.

Q. And what if you know did Emerson Plauche

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or Fran Byrd tell this contractor to tell that particular employee?

A. The particular -- Emerson talked directly to that employee.

Q. Emerson did?

A. Yes, in a health and safety meeting.

Q. What did he tell him?

A. That the results of the testing were that it was biphenyl and gave him the results and showed him the levels which there is OSHA guidelines for and that those results were of no level to be concerned.

Q. Now, you haven't provided us with any sampling result that was done in connection with the biphenyls, have you?

A. I don't know if we have or not.

Q. I don't remember seeing any. Charlie has not.

MR. STEWART: Do y'all mind providing that to us?

MR. PECK: I mean, I'm not the expert on our document

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production. Buddy is not here.

MR. STEWART: Obviously I'm not
the expert on our side of the
table either.

MR. PECK: It may very well have
been provided, Donald. I
don't know that it hasn't
been.

Q. Was anybody hospitalized as a result of
this?

A. No.

Q. Was anybody treated at the emergency
room as a result of this?

A. I don't recall that there was an
emergency room, no.

Q. So you are saying there was not?

A. I don't think there was. I think he
went to a doctor's office.

Q. And it was only one person?

A. Right.

Q. Where did y'all determine the PCBs came
from?

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MR. PECK: Object to the form of

the question.

A. Which PCBs?

Q. The ones you found in the ditch
alongside 202.

A. We didn't determine they came from
anywhere. We determined they were
there.

Q. So you didn't make any determination at
that point in time as to the source of
the PCBs that were located there? You
were not required to do that?

A. Not that I'm aware of.

Q. And tell me, if you would, if at some
point in time y'all were planning to do
something in the ditch other than put in
this concrete flume.

A. No.

Q. That was your plan and your design all
along for that particular area of
remediation, to build a concrete flume
that would go for --

MR. PECK: Flume? Plume is

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something else entirely.

MR. STEWART: We will get to that
probably later on. It has to
do with another part.

MR. PECK: It is a different
issue.

Q. Were y'all not planning to do something
else other than build that big flume
down through there?

A. That became a portion of the project
when we developed the storm water
controls that are part of this project
and worked with the Alabama DOT and
presented those plans and got their
approval of those plans.

Q. You are talking about the flume now?

A. Yes.

Q. Did y'all ever at any point in time have
pipe purchased to put alongside 202 on
the south side down there in that ditch?

A. During the summer we had purchased some
concrete pipe to temporarily convey
water until we could get the concrete

ditch.

Q. What, now?

A. We had purchased some concrete pipe to convey some water.

Q. But you didn't use that after you found this stuff?

A. No. We didn't use it because the schedule for construction of that concrete flume was moved up so we didn't have to use that.

Q. So what you are telling me is that you put that concrete flume in earlier than you thought. And so what did you do, just send the pipe back to the company you purchased it from?

A. Right.

Q. Who did you purchase that pipe from?

A. I don't know.

Q. You don't have any idea?

A. No.

Q. Who would know?

A. Probably our construction manager.

Q. Who is Mr. Williams?

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A. No. Construction manager was Earl

Fansler, F-a-n-s-l-e-r.

Q. Earl. And that is a person who works
for --

A. ICF Kiser.

Q. And did Mr. Williams work under him?

A. No. Mr. Williams reported to me as well
as Earl Fansler reported to me.

Q. How many tests did y'all actually do in
the ditch as it pertains to PCBs?

A. I don't recall. I would say several
dozen probably.

Q. Did you do enough to determine the
length, width, and depth of the PCB
contamination there alongside the road?

A. We did lateral extent. Didn't do any
vertical extent.

Q. Again, just consider me real dumb. What
is a lateral extent?

A. Sideways. Vertical is depth.

Q. I know what vertical is. So you did a
lateral. How deep did it go?

A. I believe most of the samples were six

to twelve inches.

Q. Were you getting PCB contamination down
at twelve inches?

A. I believe so.

Q. So you just didn't go any further?

A. That was the extent to where we were
going to need to excavate. We didn't do
any more because --

Q. You basically were capping it with this
flume?

A. With the concrete, right.

Q. Well, do y'all have any way of knowing
what the geology is or hydrology is up
under that flume? Do you know anything
about that at all at that particular
site?

A. I believe by the logs we would be able
to tell whether it was native clay or
whatever at the bottom of that boring
was.

Q. Well, can you tell me sitting here today
what it was?

A. No, I can't.

Q. Did you make any determination as to what was below it at all that day?

MR. PECK: The logs would tell you.

A. The logs would say, but most of that area is clay.

Q. And what does that mean?

A. Fine grain soil.

Q. So it wouldn't migrate through that or wouldn't get somewhere else? Do you know sitting here today whether it would or would not?

A. It would have no potential for migration.

Q. And tell me why.

A. Because the PCBs by their nature adhere to fine materials.

MR. STEWART: It is about twelve.

This is a good place to stop.

MR. PECK: Are we going to finish today?

MR. STEWART: I'm going to try my best. I'm going to hammer

away and try my best to
finish. I'm going to ask all
the questions I want to ask.

MR. PECK: That usually
constitutes finishing.

MR. STEWART: Whether it is today
or tomorrow or whenever. I
mean, Alan is project
manager. He is not an
unimportant witness.

MR. PECK: I didn't say that. I'm
just trying to gauge what our
situation is.

(A lunch break was taken
until 1:15 p.m.)

Q. I was struck by the fact that you were
surprised about these biphenyls that you
found along there. I take it from your
statement you didn't know they were
there.

A. No.

Q. Now, let me see if I understand it. You
are the project manager, and you are

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remediating that whole area, and you don't know what is under the ground out there?

A. When we tested that area, we tested for PCBs --

Q. No. That is not my question to you, Mr. Faust. My question to you is you really, sitting here today, can't tell us what is buried out there on that hillside south of the plant, south of 202?

A. I never said anything is buried there.

Q. There is nothing in the landfill out there?

A. There is stuff in the landfill, but we weren't in the landfill.

Q. Okay. Well, is it your position here today that the biphenyls did not come from that landfill?

A. I can't say where it came from.

Q. Were there biphenyls in that landfill at some point in time? Do you know whether or not there were?

A. I don't know enough of the history of that landfill to say whether there were or not biphenyls in the landfill.

Q. What do you know about the history of the landfill and can you tell us what was in the landfill at the time you started to remediate? What were you told was there?

A. Production and solid waste from the manufacturing operations in the past went into that landfill, and the location of that landfill was documented by aerials photos and discussions with people at the plant.

Q. Well, actually what I'm looking for is chemical compounds that were buried there. You have not named one. So I take it from your statement here today that that is all you know.

A. I know where the landfill cells are and that they were operated during the facility -- when the facility operated them.

Q. But you can't tell us the chemical compounds that were buried in the landfill?

MR. PECK: Object to the form of the question.

A. I can tell you that they would have been from the production facilities.

Q. Well, do you know what it was that the waste would have been? What kind of chemical compounds would be buried there? Let me just ask it that way.

A. Whatever was related to the production units that were in operation.

Q. Can you give us the specific name of one sitting here?

A. PCB production unit during the operation of the parathion unit and any other unit. I don't know the entire history of that plant.

Q. So you are actually saying that parathion was buried there and PCBs were buried there and that is all you know?

A. I know that those are, and I know that

other solid waste, trash, demolition debris, anything of that nature would have been buried in there as well.

Q. But those are the only chemical compounds you know anything about?

MR. PECK: Object to the form of the question.

A. Specifically, yes.

Q. Weren't biphenyls used in the manufacturing process?

A. They still are being used in the process.

Q. And they were used, too, at the time that PCBs were produced there; is that right?

A. I'm not an expert on the production.

Q. You don't know anything about it?

A. I know that it is currently manufactured there. What its past history was --

Q. You just don't have any idea as to what --

A. Not to be an expert on it.

Q. I want to ask you something so we get

that pinned down.

MR. STEWART: Let me mark this as

Exhibit One to Mr. Faust's

deposition.

(Plaintiffs' Exhibit Number

One was marked for

identification.)

Q. This purports to be the southern
landfill. And can you tell me if you
would -- This is Clydesdale coming in to
202?

A. Right.

Q. Can you tell me, if you would, if we
just went first to the southern
right-of-way of 202 --

A. Right.

Q. -- as it runs from this little road
right here up to a certain area, is that
where you found the biphenyl?

A. Right, in this -- This depicts --

Q. How about drawing it for me. Just draw
it in there.

A. This depicts I believe our property

line, this hatched line (indicating).

Q. Why don't you designate it as the property line. Can we just put P line there?

A. Sure.

Q. Okay.

A. And then this is the right-of-way (indicating).

Q. Okay.

A. And we encountered the biphenyl about in there (indicating).

Q. About where, now?

A. About where that circle is.

Q. Okay. Now, where did you put the flume?

A. Right in that same location.

Q. Just in that location right there?

A. We made the flume from here -- Do you want me to go ahead and draw that?

Q. Yes.

MR. BARRETT: Why don't you draw it in blue ink?

A. All right. The flume is in here to

about there (indicating).

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Q. Okay. Now, what does it go into?

A. The water in the flume?

Q. Yes.

A. Goes under the highway and into the east pond.

Q. Under the highway and into the east pond. How does it get under the highway and into the east pond?

A. There is a culvert there.

Q. So why don't we put f-l-u-m-e, and that is the concrete flume?

A. And there is a culvert right there.

Q. Point a little arrow to it and say that is a culvert.

A. (Executed by the witness.)

Q. All right. Now, tell me where, if you can tell me, does this -- what does this flume tie into?

A. On this extent over here?

Q. Sir?

A. I don't understand the question.

Q. At the westernmost end of that flume,

what does it tie into?

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A. Into a preexisting concrete flume.

Q. Preexisting concrete flume?

A. Yes.

Q. Is there anything there that came out of
the landfill at that point in time?

MR. PECK: Object to the form of
the question.

A. I don't understand what you mean.

Q. Well, what is the lay of the land above
that, south of that flume?

A. In this direction, the water in this
direction would have gone into that
flume (indicating).

Q. The water from what area would have gone
into the flume, Mr. Faust?

A. This area right here (indicating). Do
you want me to draw it?

MR. BARRETT: Can he say it out
loud?

Q. Just say it verbally first and then show
me.

A. The area to the south of that flume
would have drained into that flume.

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Q. Okay. And that's located on whose
property?

A. Monsanto's.

Q. Okay. And is there a landfill on that
property?

A. Not directly adjacent to it but uphill
from that, yes.

Q. But not directly adjacent to the flume
itself?

A. Not this portion, no.

Q. Of course this may seem to be a simple
question, but that terrain is a hill,
and water would run off the hill and
down in the direction of the flume,
would it not?

A. Some portion of it.

Q. Even from the landfill?

A. A portion of it may end up in there,
yes.

Q. And from the landfill that is the
furthestmost -- what is that?

A. I think it is called cell 4-W.

Q. It would come from cell 4-W, wouldn't

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it?

MR. PECK: Object to the form of
the question.

A. If the land -- If there wasn't a ditch
in here (indicating). I believe there
was a ditch that carried a lot of that
water to about that point, and it would
go into the ditch at that location.

Q. Aren't all those cells that are located
along there, Mr. Faust, located on a
hill where if water came off the hill it
would come down and get in that ditch
area there?

A. Yes.

MR. PECK: Are you talking about
what it is supposed to do
after he is done or before he
is --

MR. STEWART: We are talking about
before. We will talk about

afterwards later.

MR. PECK: Before the flume was
put in is what you were

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trying to ask about.

A. It would all go to that ditch.

Q. Well, I'm to understand -- And maybe I'm
wrong about it, but y'all found this
material, the PCBs, and you found the
biphenyl in the ditch on the
right-of-way of 202 before you put the
flume in. Isn't that correct?

MR. PECK: Object to the form of
the question.

A. We sampled in the ditch and found PCBs
in there. During construction in this
area we encountered the odor and tested
for appendix nine, and the only thing
that turned up was biphenyl.

Q. I thought you stated you also found some
PCBs in there in the early testing?

A. In the early testing.

Q. Okay. And so the source of the PCBs and
the source of the biphenyls, as I

understand it, would be your landfill

which is south of this ditch area?

MR. PECK: Object to the form of

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the question.

A. I haven't said what the source is.

Q. Well, I thought you had previously indicated that the PCBs came from that landfill.

A. We put PCBs in that landfill. Whether or not the PCBs in that ditch came from those cells or not --

Q. What other source do you contend there would be, Mr. Faust?

A. I have no idea.

Q. If Mr. Hamilton said the landfill was the source and there is no other intervening source or no other party that has taken responsibility for it, do you have any reason to disagree with him, sitting here today?

MR. PECK: Object to the form of

the question. It is improper

to ask one witness to comment

on testimony of another.

MR. STEWART: I thought you
reserved that objection.

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A. Repeat your question.

Q. Mr. Hamilton says there is no another
part that y'all are asking to
participate in the responsibility of
putting these things there, the PCBs or
the biphenyls.

A. Uh-huh (indicating yes).

Q. Would you disagree with that?

A. I agree with that.

MR. PECK: Same objection.

Q. You agree with it. Okay. Now, where
does this thing go after it gets under
Highway 202?

A. It goes into that detention pond to the
east of Mars Hill.

Q. Before that where did that culvert go?
What did it feed into before you put the
piping and did the remediation work?
Where did it go, Mr. Faust?

A. Water during storms went into ditches in the east property to the east of our plant.

Q. And that east property is where the Mars

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Hill Missionary Baptist Church is located, is it not?

A. Yes. The ditches are over there.

Q. Is it not a fact when y'all did testing that you found high levels of PCBs in that area?

A. We found elevated levels in the ditch, yes.

Q. Of PCBs?

A. PCBs.

Q. Which would have had to have come from this -- down through the culvert and down there in the ditch and in the ditches that were located around and alongside of the Mars Hill Missionary Baptist Church?

A. Storm water from this land mass would have come down through those ditches,

yes.

Q. And the land mass you are referring to
is y'all's landfill up here where you
have PCBs buried?

A. Right.

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Q. And that is the basis for Mr. Hamilton
saying y'all are the source of it?

MR. PECK: Object to the form of
the question.

Q. Is that right?

A. I can't speak for Mr. Hamilton.

Q. Well, that is the basis for you saying
you agreed with Mr. Hamilton?

MR. PECK: Object to the form of
the question.

A. I agreed we are not looking for anyone
else to hold responsible for that.

Q. So y'all are assuming the responsibility
for it, then?

A. Yes.

Q. Now, how far down that roadway did you
check? Did you check from up here --
and I'm talking about the eastern -- I

mean the southern right-of-way of 202.

From where the little road is here, you have a little mark there where that flume starts. Did y'all do any testing in there?

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A. Yes.

Q. Okay. And then you have this little blob here where you say -- I'm going to mark that where you say the biphenyls are. That is where you found them. Did you do any testing beyond that to the east?

A. We did testing in both directions for PCBs, biphenyls.

Q. And what was the length of the tests that you conducted? How long a line did you test on?

A. For which, PCB or biphenyl?

Q. Biphenyl.

A. I believe we went back to this culvert, where the water would go under and back to this culvert, where water would have

gone in the past (indicating).

Q. What is the distance?

A. I have no idea.

Q. Would it be as much as eighteen hundred feet?

A. Probably close to that.

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Q. Okay. How many -- What distances were there between the tests that you made?

A. I don't recall exactly. I believe it was fifty feet.

Q. And every fifty feet y'all went down?

A. Uh-huh (indicating yes).

Q. Were there Monsanto people present at the time y'all did that testing?

A. Yes.

Q. Did they supervise the conducting of those tests?

A. Yes.

Q. Who were they?

A. Fran Byrd.

Q. And?

A. And representatives for us, ICF Kiser.

Q. Who else?

A. Our health and safety person, Emerson

Plauche.

MR. BARRETT: How do you spell

Plauche?

THE WITNESS: P-l-a-u-c-h-e.

Q. Who is "us" and who is "y'all"? You

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mentioned y'all were taking the
responsibility. Who is "y'all" and who
is "us"?

A. In my statement of responsibility, it is

Monsanto.

Q. Monsanto?

A. Yes.

Q. Okay. Is there any other -- It is

Monsanto's landfill, is it not?

A. Yes.

Q. Is there any other entity that has any
ownership in that landfill itself?

A. I'm not sure exactly how the title is
now that we are Solutia, Inc., how that
plays in.

Q. At the time you were testing out there

and doing that remediation --

A. Monsanto.

Q. -- who owned it?

A. Monsanto.

Q. To your knowledge has there been any
transfer of title to anybody else?

A. Other than Solutia, no.

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Q. When you say other than Solutia, what do
you mean?

A. All of the property that was in Monsanto
title were transferred during the
spinoff to Solutia.

Q. Who is assuming responsibility for the
liability of the this landfill?

MR. PECK: Object to the form of
the question.

Q. Solutia or Monsanto or a combination of
both?

A. I don't know specifically.

Q. Solutia?

A. I work for Solutia, and we have
responsibility for the programs out
there. I don't know exactly the --

Q. When the transfer was made did they assume the liabilities of whatever might happen as a result of the operation of the landfill, or was that --

A. I don't know the specifics of that.

Q. Who would know that?

A. Probably our in-house counsel.

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Q. Who is that?

A. Tom Bistline, B-i-s-t-l-i-n-e.

Q. Were there actual deeds drafted where the property was conveyed, including the landfill?

A. I believe there were.

Q. When was that done?

A. Somewhere around the fall of last year.

Q. And it was transferred at that time from Monsanto Chemical to --

A. Solutia.

Q. And those deeds were recorded here?

A. Yes.

Q. Now, you have indicated you understood that parathion was buried out there and

PCBs were buried out there. Where?

A. I don't know specifically.

Q. You don't have any idea specifically
where the PCBs were buried and parathion
was buried?

A. No.

Q. You can't look at Plaintiffs' Exhibit
One to your deposition and tell us which

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one of these cells housed what?

A. No.

Q. Are you familiar with the amount of
parathion or PCBs that are buried out
there?

A. No.

Q. And you couldn't tell us whether
biphenyls were buried out there or not?

A. Correct.

Q. Even though that was a part of the
production process in the past?

A. Right.

Q. And you can't tell us any other compound
or chemical compound or waste that was
buried out there?

A. Not specifically, no.

Q. Well, who is it that provided you -- Who is it that provided you with the history of the landfill when you began to work on this project?

A. We had air photos that were taken --

Q. No. Who is the individual that talked to you about it?

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MR. PECK: I'd just like you to let him finish his answers.

MR. STEWART: Well, I asked him -- We could get there a lot quicker -- Maybe it is the way I asked my question.

Q. Was there a particular person who filled you in on the history of the landfill?

A. Yes.

Q. Who?

A. Jerry Brown and Robert Jones.

Q. All right. What did Mr. Brown tell you if anything was buried out there?

A. Production wastes from production during

the operation -- during the time frame
that the landfills were operated, any
and all things from the plant.

Q. Did he know which cells contained what?

Did he indicate to you he knew which
cells contained what chemical compounds?

A. No.

Q. So is it fair to say that Mr. Brown did
not communicate to you at the time you

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talked to him where the PCBs were
buried?

A. Right.

Q. You don't know whether it is in the cell
you mentioned earlier, 4-W or cell 3-W
or cell 1 or cell 2 or whatever? You
don't know where it is?

A. No.

Q. Well, you mentioned Mr. Jones talked to
you. What did he tell you was buried
out there?

A. The same thing, production wastes and
solid wastes during the manufacturing
operations while those were operating

landfills.

Q. Did he give you any specific names of any chemical compounds, and was he able to tell you where those were located at any point in time?

A. No.

Q. Well, do you know for a fact sitting here today, Mr. Faust -- Before I leave that, though, was there anybody else

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that told you anything about the history of this particular landfill?

A. No.

Q. No question that they were Monsanto's, though?

A. No question.

Q. And no question that Monsanto put the waste there that is leaching out?

A. Monsanto operated those facilities.

Q. And put the waste there --

A. Yes.

Q. -- that is leaching out?

MR. PECK: Object to form of the

question.

A. We are collecting ground water around it. There is no leaching from that.

Q. Okay. At this time, you say?

A. At this time or any time that I know in the past.

Q. Okay. Tell me, if you would, if you actually know based on what you heard from those two people and what you know about the history of it if the PCBs are

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only buried in these cells.

A. Those were the only landfill cells besides the west end landfill that we operated during the past.

Q. Well, isn't it a fact, Mr. Faust, that y'all own property that is contiguous to and surrounds these cells on Coldwater Mountain?

A. Yes.

Q. And you have it fenced in?

A. Yes. That is what this depicts.

Q. And when you say this depicts, there is what appears to be a fence line around

those cells. Is that the property that
is contained within the confines of that
fence line that Monsanto owns on
Coldwater Mountain south of 202?

A. It is not all of it, no.

Q. Well, what is that?

A. It extends to the south over the top of
Coldwater Mountain.

Q. But how big is this piece of property
right here?

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A. I think it is an --

MR. PECK: Y'all are pointing to
Exhibit One?

MR. STEWART: Yes.

MR. PECK: And the fence line
area, is that what you are
asking for?

A. I believe within the fenced line is
about seventy acres.

Q. And how much of that seventy acres is
comprised of cells that are actual
landfill cells?

A. Probably thirty to forty acres.

Q. Thirty to forty acres?

A. Uh-huh (indicating yes).

Q. So there are some thirty to forty acres
that are not within the confines of the
cells themselves?

A. Right.

Q. And sitting here today you do not know
whether there is waste buried outside
those landfill areas or not, do you?

A. Based on the aerial photos and the

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discussions with Jerry Brown and Robert

Jones, no, I don't know that there is
anything buried outside there.

Q. There could be something buried out
there unbeknownst to you; is that
correct?

A. There is no knowledge if there is.

Q. Tell me if you would if you ever
bothered to learn at any point in time
before you began to work on this
remediation or during your initial
introduction to this remediation site

what the production was at the plant and
the production waste was that came from
that that was buried in the landfills?

Did you ever make any attempt or any
effort to talk to anybody and find out
what it was?

MR. PECK: Other than what he has
already told you about?

MR. STEWART: That is not an
objection.

Q. You can go ahead.

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MR. PECK: Do you want to him to
repeat what he's already told
you about?

MR. BARRETT: Just let him answer
the question.

MR. STEWART: Why don't you just
make an objection if you want
to make it, and you go ahead,
Alan, and tell me the answer
to my question.

A. Repeat the question.

Q. Did you make any effort to find out what the production waste was that was buried in those landfills?

A. Other than to know that it came from the time period while the landfills were operational and that we knew where those cells were, no.

Q. So the answer to the question is you didn't make any effort?

A. I didn't -- I didn't feel an effort was warranted.

Q. Did you make any effort to find out if

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there had been any previous problems with this particular landfill that had been reported to federal or state regulators?

A. I didn't make any efforts, but none was told to me.

Q. So you came down here, and it was your understanding that there was never any problem that was reported to anybody who regulated this particular facility either at the state or the federal

level?

MR. PECK: Object to the form of
the question. I don't know
what you mean by problems.

THE WITNESS: I don't either.

Q. Well, one similar to the one you have
now, where PCBs got out of the landfill
and got on your neighbor's property.

A. Prior to us putting together the work
plans for the closure and activities we
have done, there was storm water
sampling. We have in the past, since

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the early '80s, been sampling and
pumping and treating ground water that
is impacted.

Q. Impacted what?

A. Ground water.

Q. What has impacted ground water? What
contaminants did you find in the ground
water?

A. Parathion and PNP.

Q. Well, what did you test for, parathion

and PNP?

A. No.

MR. PECK: When?

MR. STEWART: In the time frame he
is talking about.

Q. I'm talking about you, Mr. Faust. And
so that Adam understands it, I'm talking
about the sampling you did prior to time
you got in there. Did y'all check for
anything other than parathion and PNP?

MR. PECK: Talking about Monsanto,
before he came?

A. Monsanto had sampled in the past for

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appendix nine on ground water, which is
the broad scan of organics.

Q. What would it cover? Would it cover
biphenyls?

A. I think it would.

Q. Would it cover PCBs?

A. Yes.

Q. And you are saying tested for PCBs
before and never found any? Is that
your understanding of what the situation

was?

A. None in the ground water, yes.

Q. Where did they find it?

A. When they sampled storm water in I

believe it was -- I believe '94. It

might have been '93, probably '94.

Found PCBs in the storm water samples.

Q. And it is your understanding that is the first time that PCBs were found in those storm water samples, in '93 or '94?

A. Yes.

Q. And you knew nothing about any kind of problem with PCBs that the company had

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experienced in tributaries that were below that landfill that is located south of 202 before that time?

A. I knew they had done sampling in Snow Creek in the past.

Q. Did more than sampling, didn't they, Mr. Faust?

A. I believe there was a removal action taken.

Q. Well, who took that removal action?

A. Monsanto.

Q. And that removal action was taken from
where?

A. I'm not sure exactly where it was. It
was --

Q. Was it from Snow Creek?

A. I don't know for sure whether it was a
ditch leading to Snow Creek or Snow
Creek itself.

Q. What if you know was done with the soil
that was taken from Snow Creek at that
time?

A. Landfilled, I believe.

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Q. Landfilled?

A. Uh-huh (indicating yes).

Q. Where?

A. That would have probably been Emelle.

Q. So at that point in time y'all took PCB
dirt or soil or sediment out of Snow
Creek and took it to Emelle?

A. That is my understanding.

Q. Okay. And do you know what the cost

would be of that?

A. No.

Q. Do you have any idea?

A. No.

Q. And that was done when?

A. Early '90s. I'm not sure.

Q. Okay. Do you know of any activity
before then that was related to PCBs?

A. Other than the manufacturing, no.

Q. You don't know of any problem that
Monsanto might have had before that
time, and no one told you about any
problems they might have had with either
state or federal regulators before that

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time about PCBs?

A. I know that they had been working with
ADEM on PCBs related to the removal we
talked about.

Q. At Snow Creek?

A. Yeah, Snow Creek or the ditch.

Q. Do you know any problems they might have
had with any other entity other than

ADEM?

A. No.

Q. Now, the ditch we talked about a minute ago when we looked at Plaintiffs' One that is across the road, that this culvert that the flume goes to, that ditch runs in a northerly direction towards Snow Creek, doesn't it, the ditch on the other side of 202, on the northern side of 202?

A. Yes.

Q. And ties into Snow Creek?

A. Yes.

Q. And runs near the Mars Hill Missionary Baptist Church?

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A. Yes.

Q. Do you know of any problems or did anybody tell you about any problems they might have had in '70 with any state or federal regulators about PCBs in that area?

MR. PECK: In 1970?

MR. STEWART: In the '70s.

A. No.

Q. No one told you about that? Neither Mr. Brown nor Mr. Jones told you about that, did they?

MR. PECK: Object to the form of the question.

A. As far as environmental sampling for PCBs?

Q. Environmental sampling, lawsuits, anything that had to do with PCBs. They didn't tell you anything about that, did they?

MR. PECK: Object to the form of the question.

A. '70s is the time when we discontinued

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operation of the PCB unit.

Q. That's what they told you?

A. Uh-huh (indicating yes).

Q. Did they tell you any problem existed, though, between Monsanto Chemical Company and the Anniston plant and any regulator or official of the State of

Alabama or any federal official?

A. No.

Q. Now, you may have already answered this, but they couldn't tell you the quantity of any of these items I mentioned that were up there, could they?

MR. PECK: Object to the form of the question.

A. I didn't specifically ask.

Q. Did you look or see any document that had been prepared by Monsanto that would tell you what kind and quantities of materials were buried either in the southern landfills located south of 202 or the western landfill? Did you ever see a document that indicated to you how

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much waste was buried in either place?

A. No.

Q. Well, wouldn't you think it would be important, Mr. Faust, for you to know that in order for you and Ms. Hanson and this work team to make up a plan and determine what to do with that stuff?

A. No.

Q. That's not important, for you to either know where it is buried, what is buried there, or how much there is there?

A. I know where it is buried.

Q. You know where it is buried?

A. Uh-huh (indicating yes).

Q. Well, let's get to that. Are you telling me and this court reporter and the jury that there is nothing buried outside the confines of these cells up there?

A. Not to my knowledge.

Q. Did you or did any anybody during the time you have been involved in that remediation project run into any

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production waste, whatever it might be, south of 202 that was not located inside the landfill, those cells?

A. We encountered the biphenyl.

Q. Other than the biphenyl that you just pointed to on Plaintiffs' Exhibit One,

which I assume is the biphenyl you claim
you found on the right-of-way of 202,
south of 202, where you put that flume,
other than that, is there any waste that
you all found outside the confines of
those cells that comprise that landfill
on the south side of 202?

A. When?

MR. PECK: By waste do you mean
PCB?

MR. STEWART: I want him to answer
the question.

MR. PECK: Okay.

A. We --

MR. PECK: Object to the form of
the question as it does not
define waste. Go ahead.

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A. We encountered some impacted ground
water when we were excavating to the
south side of -- between the
right-of-way and the landfill cell.

Q. Okay. I'm going to come back to that.
But I want you to tell me anything else

you found, Mr. Faust.

A. Nothing.

Q. Nothing, not a thing outside --

MR. BARRETT: Did he get an
answer? I didn't hear what
you said.

A. I said no.

Q. Nothing?

A. Nothing.

Q. Tell me about that item you just
mentioned, other than the biphenyls you
found something?

A. When we were doing excavation in and
around the treatment collection system
we encountered a -- the granular
backfill around the pipeline that
conveys that water had some impacted

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ground water in it, impacted just like
the rest of the ground water.

Q. What did you -- Did you check that?

A. Uh-huh (indicating yes).

Q. Did you do any tests?

A. Yes.

Q. What did your tests reveal?

A. I'm not sure, but the odor that it had smelled like the impacted ground water, which was impacted with parathion and PNP.

Q. So when you say that area, were you digging a ditch or something, trenching along in front of that landfill in between your fence and the landfill cell, the last landfill cell on the westernmost side?

A. I'm not sure exactly what the activities were at the time. I think it was digging a trench to convey storm water.

Q. So you were digging a trench in front of what appears to be cell -- And I can't read that. It looks like 2-W. Is that

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it?

A. Right. It was more in the area in front of 1-W.

Q. More in the area in front of 1-W?

A. Uh-huh (indicating yes).

MR. BARRETT: What direction is it

in front of, north, south?

Q. North of, wouldn't it be, Mr. Faust, of
1-W?

A. Right, yes.

Q. And in that particular instance you
found PNP. Did you say granules or --

A. No. Impacted ground water.

Q. Impacted ground water?

A. Right.

Q. Had an odor to it?

A. Uh-huh (indicating yes).

Q. Did you actually perform tests or have
someone perform tests so you would know
for sure it was PNP?

A. I'm not sure if we did or not.

Q. Did you report that to anybody, the ADEM
folks?

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A. Yes.

Q. Did you do this the same way you did the
others, just call old Lance up and tell
him, "Lance, we've found some PNP out

here, but we don't think it's a problem," or did you put a written report together?

A. We notified them that we had encountered a pipeline and that we were going to be repairing it as we continued our construction.

Q. What did you do to repair it?

A. Replaced -- There was -- We had hit -- The origin of it was that the backhoe had hit the pipe. So we repaired the pipe.

Q. When they repaired the pipe, did the people who go in there -- Were they Monsanto employees, or were they employees from a construction company?

A. Employees from a construction company.

Q. What if anything did y'all do when y'all found that? Did you let them continue

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to work there, or did you ask them to leave the area?

A. We asked them to stop and leave the area.

Q. Why?

A. Because those odors indicative of parathion and PNP need certain precautions.

Q. For what reason, Mr. Faust?

A. Because of their -- From a safety standpoint, so we wouldn't be exposing a worker.

Q. Is it fair to say that parathion in the form it was found is a fairly dangerous chemical substance and is toxic? Is that a regulated chemical?

A. It is a regulated chemical. Whether or not the form we found it in was toxic or not, I can't answer that.

Q. What did your tests show? I thought you said you did some sampling and did some tests.

A. I'm not sure if we tested those specific

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areas or not. We had enough information from our past history in dealing with it that we knew that that was impacted

ground water.

Q. So what you told me a minute ago about testing is not correct? You did not test it?

A. I'm not sure if we did or not.

Q. Did you test for the PNP?

A. I'm not sure if we did or not.

Q. Well, how did you know that's what it was that you found? You don't know what's in there, so how do you know that's what it was that you found?

A. Because dealing with it, people at the plant dealing with it over the history of pumping ground water, that characteristic odor.

Q. Who is it at the plant that told you -- What did they do, come out there and just lean over into the pit, smell it, and say that is parathion or that's PNP?

A. No. That would have been Fran Byrd.

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Q. And Fran Byrd did what? What did he do?

A. He said that -- And those others that were out there that knew that smell said

that's probably from ground water. And
then when we demonstrated that the pipe
was broken, we knew it was ground water.

Q. Who is it that said that is PNP and
parathion other than Fran Byrd? You
have mentioned those others who were out
there.

A. I would have been a part of that, saying
that is probably what it is, so let's
take certain precautions.

Q. Okay. And anybody else?

A. None come to mind.

Q. How many days did you keep people out of
there?

A. I don't recall.

Q. Were there people working in the ditch
when whoever it was struck that?

A. I don't know where they were.

Q. Was anybody hurt or made sick by
exposure to the parathion or the PNP?

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A. No.

Q. Nobody had to go to the doctor or go to

the emergency room or anything from that incident?

A. Not that I recall.

Q. If someone from the contractor crew went to the hospital or to see a doctor, did y'all pay for that?

MR. PECK: Object to the form of the question. He said nobody did.

A. I don't know that anyone did. And we have not paid any medical bills.

Q. For anyone out there?

A. Right.

Q. When they went in to repair that, did they go in with supplied air and the moon suits, all the stuff?

A. They went in with the proper --

Q. Which was what?

A. They went in with supplied air and Tyvek, I believe.

Q. What is Tyvek?

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A. A white protective garment.

Q. Did they have on the rubber boots and

gloves?

A. Yes.

Q. Then the whole moon suit; is that correct?

A. Well, that would be what they wore, yeah.

Q. And how many of them went in there and did that?

A. I don't know exactly.

Q. Is PNP a regulated chemical compound?

A. I'm not sure exactly of its status.

Q. Okay. Then you don't even know whether it's regulated or not?

A. I can't exactly answer that.

Q. The answer to the question is you do not know whether it's regulated or not?

A. Right.

Q. But you know that PNP was buried out there?

A. PNP was a form of the waste that went into those cells.

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Q. And you didn't think it was important to

find out whether or not it was a regulated chemical compound and could harm somebody?

A. We have been pumping ground water that had PNP and parathion in it. And at the time that we encountered something that was thought to have those constituents in it, we took the proper precautions to protect our workers.

Q. Did you tell them that that's what they might run into before they got into that?

A. We told them that there was a ground water collection system out there that collected ground water with PNP and parathion in it.

Q. And how is it that you told them about that?

A. We would have told the contractors that -- the supervisors and the health and safety officer was aware of that. So during health and safety briefings and

contractors briefing their employees.

Q. Did you give each of these people a material safety data sheet on what you assumed to be out there?

A. No. But there was a set of them available.

Q. Did you tell them where those were?

A. Told them they were available on the facility. Exactly where, I can't say that we did.

Q. And what material safety data sheets did y'all set aside on what chemical compounds that they could go look at in order to make a determination, these contractors? What did Monsanto put out there that those contractors or their employees could go look at to determine what was up there?

A. All the chemicals that we handled are available through the health and safety officer at the plant.

Q. That wasn't my question. My question was -- And if you don't know the answer

to it -- My question was what chemicals did you point them to as far as material safety data sheets that they could look at?

A. When we encountered those odors, we pointed to the MSDSs of parathion and PNP.

Q. Who exactly did you point that out to?

A. To the health and safety officer who pointed it out to them.

Q. To a person who was angry about the fact that y'all had run into that?

A. No.

Q. Did no one get angry about the fact that y'all pulled a crew off there and hadn't properly informed them about that?

A. I don't understand the question.

Q. Did anyone get angry, any contractor or subcontractor come to you and say, "Alan, you should have told me what was out there?"

A. No one came to me, no.

Q. Did you ever have any conversation with

anybody during the time that you were involved in this remediation process where a fellow got upset with you about that, a contractor or subcontractor, and had words with you, Mr. Faust?

A. No.

Q. Not at any time during the remediation process did that occur?

A. With me, no.

Q. Who with?

A. The superintendent on site for who that contractor was working with had voiced some concerns to that superintendent.

Q. Who is it that voiced the concerns to the superintendent?

A. I don't know his name.

MR. PECK: Are y'all switching back to the biphenyls?

MR. STEWART: I'm switching back to any particular occasion.

MR. PECK: That was around -- I want the record to be clear.

Are y'all talking about the

biphenyl now?

THE WITNESS: Yes.

Q. And that is the occasion when somebody
got upset, a subcontractor got upset?

A. Uh-huh (indicating yes).

Q. And he got upset for what reason, if you
understood the reason, Mr. Faust?

A. My understanding was that he got upset
because he thought he had been exposed
and was suffering ill consequences.

Q. What were the ill consequences,
Mr. Faust, he claimed that he was
suffering?

A. I think I remember tightness of breath.

Q. Tightness of breath?

A. That's what I understand.

Q. He was having trouble breathing?

MR. PECK: Object to the form of
the question.

Q. Was he having trouble breathing?

A. That's what he said.

Q. Was it one person or more than one
person who had difficulty breathing as a

result of being exposed to the
biphenyls?

A. Someone that claimed they were having
trouble breathing. One person is all I
know of.

Q. And he complained to the superintendent,
and the superintendent complained to
you?

A. The superintendent advised me of it,
yes.

Q. What did he say to you?

A. He said that this individual is feeling
tightness of breath and that individual
was advised to go to a doctor.

Q. And is that the individual who went to
the doctor about the biphenyl incident,
or did that occur when they hit the pipe
up there?

A. I believe it was the biphenyl.

Q. You believe it was the biphenyl; is that
correct?

A. Yes.

Q. Could it have been the other site?

A. I only know of one person that went to seek a doctor's opinion.

Q. At the time that he sought the doctor's opinion, did you take it upon yourself to tell the doctor -- send the doctor a material safety data sheet indicating what chemical he might have been exposed to?

A. We provided a material safety data sheet to the worker, who provided it to the doctor, I believe.

Q. And who is it in your operation that provided the material safety data sheet to the worker? You didn't, did you?

A. No.

Q. Who did that?

A. Emerson Plauche.

Q. Okay. Is there anybody else that works with Emerson Plauche or did while he was out there who might have provided that --

A. Not that --

Q. -- information?

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A. Not to my knowledge.

Q. Do y'all have a nurse on-site out there?

A. I don't think on a regular basis, no.

Q. Well, did anybody ever in that type capacity receive a report from anybody other than what you have just mentioned about exposure to some kind of chemical or something that they ran into while they were out there?

A. Not that I'm aware of.

Q. How many minutes or hours did it take to repair the lines?

A. I don't recall how long it took.

Q. How many days did you keep people away from that site?

A. As long as it was open, and I don't know how many days that was.

Q. Would it have been as much as a few weeks?

A. I'm not -- have no idea.

Q. Could it have been as much as a month?

A. That the trench was open?

Q. Yes.

A. I don't recall what it was.

Q. And those lines were broken.

A. I don't recall that to be the case.

Q. When they cut that trench through there,
did y'all ever see any streams of water
coming out of there that indicated there
were springs located in these landfill
cells?

A. No.

Q. Do you know what the -- Do you call it
hydrology or what the makeup of the --

A. Hydrogeology.

Q. Do you know what the hydrogeology is of
that area up there where y'all have
these landfills?

A. Yes.

Q. Do you know the history of it?

A. Yes.

Q. Are there some spring-fed -- former
spring-fed ponds or bodies of water into
which y'all placed waste from the
production there at Monsanto?

A. Not that I know of.

Q. So you know of no springs that are located in any of the areas that these cells cover that are on the southern portion of the landfill?

A. We have never gone out to identify springs, but during rainy season, there were wet water -- what they call wet water seeps. That water is running in ditches.

Q. From what?

A. From just high water table.

Q. But you don't know of any wet water -- I mean, any springs that are operating under any of these landfill cells?

A. No.

Q. Well, do you know what the makeup of those original landfill sites were out there, what they were used for originally? Do you know anything about the history of that?

A. No.

Q. Do you know anything about the hydrogeology of that area out there? Do

you have a report that indicated to you
anything about that before you got
involved --

A. Sure.

Q. -- in this plan?

A. Right.

Q. What does it tell you about that area?

A. Well, it's a pretty broad question.

What do you need to know?

Q. Well, I need to know what you know about
it, Mr. Faust.

A. Ground water, ground water flows from
the south to the north.

Q. South to the north?

A. Under those cells.

Q. And that's all you know about it?

That's all you are telling us today that
you know about it, that the ground water
runs from the south to north under those
cells? That's the sum total and
substance of your knowledge?

A. I know that the soils are made up of
fine grain clays.

Q. Do you know the types that are under there? Can you tell us today what the types are under there?

A. Clays and silts.

Q. Clays and silts?

A. Uh-huh (indicating yes).

Q. Anything else?

A. That pretty well sums it up.

Q. Do you know whether all those landfill cells are lined?

A. I don't know that any of them are lined.

Q. You are telling me today that none of them are lined?

MR. PECK: Object to the form of the question.

A. I don't know enough about the history of those to say how they were prepared.

Q. Would it not be important for you if you are remediating that area, Mr. Faust, to know that?

A. Not particularly.

Q. And why is that?

A. Well, what we are looking at is is there

any impact from the operations of those cells. And we know that impact by the monitoring wells we have in place.

Q. And your statement to me today would be what about those monitoring wells that are in place?

A. The cells on the western portion -- western cells have impacted ground water. The eastern cells have not.

Q. So the eastern cells on the southern side of the road have no -- have not impacted the ground water?

A. Right.

Q. And the western cells have?

A. Right.

Q. On the southern side of the road over there?

A. Right.

Q. They have impacted that ground water, I believe you've told us, with PNP?

A. And parathion.

Q. And parathion?

A. Uh-huh (indicating yes).

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Q. And then PCBs?

A. No.

Q. There has been no impact on the ground
water from PCBs?

A. No.

Q. But there has been an impact from those
cells there on PCBs in the ditch as it
travels under 202 and down past the
church; is that not correct?

A. Storm water flowing over those cells had
PCBs in them.

Q. How is it that you all determine that
the PCBs got out of those cells and down
in that area?

A. I don't think we ever determined that it
came out. We investigated where the
storm water came from and found areas
impacted with PCBs.

Q. Where did it come from?

A. The PCBs?

Q. No. Where did the storm water come
from?

A. From the landfill cells.

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Q. Okay. And so did y'all then assume that
it came from those cells, off the top of
the cells?

A. We assumed that it came from storm water
that ran across those cells.

Q. So it came from the cells, is that --
How far had it migrated when you got
there to the site?

MR. PECK: Object to the form of
the question.

A. I'm not sure what you are asking.

Q. When you first came down here and began
to work on it, how far did you
understand it had migrated?

MR. PECK: PCBs?

A. We had done PCB sampling in sediments
and soils as well as an appendix nine
analysis in the ditches on a point from
the landfill cell downstream to Snow
Creek.

Q. Had y'all not also done some work down

on Choccolocco Creek and Logan Martin
Lake?

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A. We had done some -- We have done some
fish sampling.

Q. And had you not found PCB -- the
presence of PCBs in fish on Logan Martin
Lake?

A. Yes.

Q. Deformed fish and stuff like that?

A. Found PCBs in filets of fish.

Q. And so the PCBs had traveled a pretty
good distance from the landfill. Do you
have any idea how far those PCBs that
came from this landfill had traveled?

MR. PECK: Object to the form of
the question.

A. We sampled for PCBs in fish, and we
sampled for PCBs in sediments and found
PCBs.

Q. Would it be fair to say, then, that PCBs
had come from your landfill or traveled
from the landfill up there that Monsanto
operated all the way down to Logan

Martin Lake?

MR. PECK: Object to the form of

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the question.

A. I would not make that statement.

Q. Why would you not make that statement,

Mr. Faust?

A. Because we have sampled and found PCBs,

but there has been no direct tie that

those PCBs came from those landfill

cells.

Q. Well, maybe I'm stupid. But it's my

understanding that y'all are -- And

maybe I'm missing the problem that you

were sent here to correct. But it's my

understanding that you are working with

ADEM to resolve the PCB problem that

exists as a result of your landfill --

that substance coming out of your

landfill that is located on the south

side of 202 and perhaps even on the

western landfill. Isn't that what you

are doing?

A. We are about investigating and finding PCBs where they are and remediating and controlling those.

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Q. Well, does Monsanto generally take it upon itself that wherever PCBs are found, no matter where they are found, that y'all will rush out at a moment's notice and put together a large size operation to take care of them, no matter what contact or participation you had in it?

A. We set out to investigate our property and the downstream impacts of that.

Q. So your property. And by your property you mean Monsanto's property and the downstream impact. So what you're saying -- And I want to make sure. I don't want to put words in your mouth. But what you are saying is you know the PCBs came from your landfill up there?

MR. PECK: Object to the form of the question.

A. We are working downstream of the

landfill and investigating PCBs.

Q. Well, let me ask it this way: The source of those PCBs that you are

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investigating and finding in the sediment of Snow Creek, the sediment in the ditch on our clients' property, and the dust and the stuff from our clients came from the landfill there located either south or west -- south of 202 or west of the plant?

MR. PECK: Object to the form of the question.

A. The south landfill is a potential source.

Q. What other potential sources have y'all identified in between the property that is owned by Mars Hill Missionary Baptist Church, a corporation, and this southern landfill?

A. None.

Q. Okay. Logically then, where would they have come from, Mr. Faust?

A. They would have come from the storm
water that came across the south
landfill.

Q. Thus from your landfill?

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A. From that storm water.

MR. BARRETT: That's different.

Q. Where, Mr. Faust, other than the
landfill over there, do you know PCBs
are buried up there on Coldwater
Mountain?

A. We have no other burial sites up there
but those landfills.

Q. Does anybody else?

A. Does anybody else what?

Q. Have a burial site where they have PCBs
buried up there?

A. Not to my knowledge.

Q. Is there any --

MR. PECK: We are not saying --

MR. STEWART: You're not
testifying either.

MR. PECK: Nobody is trying to say
that the PCBs that are found

in the ditch at Mars Hill
aren't ours. You keep
throwing in other parameters,
though, and trying to trick

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him. Of course, Choccolocco
Creek and Lake Logan Martin,
and then you go back and you
spend thirty minutes on
something you have already
established. We will be here
for two or three days if it
keeps going that way. That's
why I object to you handing
it off later, because you're
not getting anywhere.

MR. STEWART: He is doing sort
of --

MR. BARRETT: Are you stipulating
that the PCBs on our clients'
property came from Monsanto?

MR. PECK: I'm not stipulating to
anything. He hasn't disputed

that, though. You all have
been asking the same question
for two hours now.

Q. Do you agree that they came from your
landfill, those that are located on Mars

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Hill Missionary Baptist Church property
and the other property that is located
in Cobb Town and Sweet Valley?

A. I'm agreeing that we are taking
responsibility for those PCBs.

Q. And not holding anybody else responsible
for it?

A. Right.

Q. And there is one other question that --
And the reason, Alan -- and I apologize
to you -- that I keep asking these
questions a second time is I sometimes
don't get a clear answer. I know you
are trying to be as straightforward as
you can, and maybe it's the way I ask
the question. I apologize. But I
didn't know whether you reported to ADEM
in writing about the biphenyls or the

PNP or any of that stuff. My impression was that you didn't make a written report about any one of those situations.

A. We did not make a written report on the

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biphenyls. But we did make a written -- wrote a letter to them saying that we had encountered the piping from the ground water system.

Q. Piping from the ground water system?

A. Right.

Q. Did you tell them anything in there about what you found?

A. I don't recall what we exactly said.

Q. And did anybody from ADEM come up about either that or the biphenyls?

A. No.

Q. So there was no sampling or testing done by them at all. They just took your word for it; is that correct?

A. They did no sampling.

Q. Did you tell them that y'all broke the

pipe when y'all were doing the work?

A. Yes.

Q. Now, in connection with this remediation work you did on the south landfill -- I call it the south landfill, the one that's south of 202.

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A. Uh-huh (indicating yes).

Q. Did y'all ever fill out any manifests or any documents that you had to file with a regulator where you told them what you did either at the biphenyl area or when you excavated or found this -- And you mentioned earlier y'all excavated some soil that had PCBs in it and disposed of that. Did y'all ever tell anybody about that, a regulator?

A. I'm not sure exactly what you are asking.

Q. Well, if you sent it to Emelle, aren't you supposed to let somebody know what you did with it?

MR. PECK: He is asking about a manifest.

THE WITNESS: And I don't recall
saying we sent anything to
Emelle.

MR. STEWART: Maybe I
misunderstood you --
(Mr. Taylor Stewart entered

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the deposition proceedings.)

Q. What I was asking is did you all fill
out any manifests that had to do -- I
thought you indicated y'all had
excavated some dirt at some point in
time in the remediation process and
removed it from the site.

A. No. We did not remove it from the site.

Q. What did you do with it?

A. We incorporated it under the cover on
the south landfill.

Q. You incorporated it under the cover on
the south landfill?

A. Yes.

Q. And when exactly did you do that?

A. I don't know exactly, but it would have

been sometime last summer.

Q. Okay. Would that have been in August?

A. Probably July, August, somewhere.

Q. July, August of 1997?

A. Right, last year.

Q. How much did you put under the cover?

A. I don't know the exact amount, but it

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was for the length of that flume, the

first foot.

Q. So that's what you -- That's what you

were referring to earlier. I'm talking

about now the western landfill and the

southern landfill and the catchment

basin. Anywhere is what I'm talking

about, at any point during the

remediation. That's the only stuff that

y'all actually dug up and put under the

cover of a landfill?

A. No. We excavated soils during the east

pond construction. Where the outlet

pipe is was an impacted area.

Q. When you say impacted, impacted with

what?

A. PCBs.

Q. And did you -- What did you do with that?

A. We incorporated that under the cover on the east side, the Mars Hill area.

Q. Now, wait just a minute. Is there a landfill over there?

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A. No. There is a cover over there.

Q. A cover?

A. Uh-huh (indicating yes).

Q. Are you talking about this sort of tar paper looking stuff that y'all put everywhere and then --

A. It's a fabric. But yes, that is what I'm talking about.

Q. What was that contaminated with, PCBs?

A. Uh-huh (indicating yes).

Q. What kind of readings were you getting on that stuff that y'all --

A. I don't recall exactly, but less than fifty.

Q. Less than fifty?

A. Uh-huh (indicating yes).

Q. Who did that testing for you?

A. Garrity and Miller.

Q. And y'all reported that to ADEM?

A. Right.

Q. Did y'all let ADEM know when y'all found
this stuff near that -- What did you
say, now? Was it the spillway at the

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catchment --

A. Outlet pipe.

Q. Outlet pipe at the catchment basin?

A. Right. They already knew where all the
PCBs were because we had filed those
reports previously.

Q. So y'all had previously stated there
were PCBs present there?

A. Right.

Q. So what y'all did at that point in time
is you just excavated it, put the pipe
in, and then you buried it under that
cover you have over there?

A. Placed it under the cover, right.

Q. What else did you put on top of it?

A. Depending on where it was at. If you were in the ditch, it was the fabric, soil, a liner, and soil. Areas adjacent to that ditch was fabric and soil.

Q. Okay. Was it more than one part per million?

A. Yes.

Q. Was it more than ten parts per million?

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A. More than.

Q. More than?

A. More than, some of it was.

Q. Was it more than twenty?

A. Some of it.

Q. More than thirty?

A. Most -- Well, all of it was below fifty parts per million.

Q. Most of it between thirty and forty and fifty?

A. I don't remember exactly.

Q. Well, how many sampling sites did you check in that particular area to make a determination as to what the levels

were?

A. I don't recall exactly. When we worked in the ditch area, we stepped out in twenty-five foot increments.

Q. And how far out did you go from the ditch?

A. Depending on where we are at, we went to a point where we got no detection of PCBs.

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Q. How far down were you going?

A. It depended on where we were.

Q. Did you excavate all of that where you found PCBs, or did you just put a cover over it?

A. We excavated out what we needed to excavate for construction and placed that under the cover and then came back in that area with either, you know, concrete or a cover.

Q. So the answer to my question is no, you did not excavate all of the PCBs and put them under the cover. You just covered them as you found them in the ground and

just excavated where you needed to

build; is that correct?

A. Right. We excavated where we needed to excavate.

Q. Now, on the eastern side did y'all ever do anything other than what you have indicated that y'all did when you put the cover down or excavated, if you had to, for the purpose of your

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construction? Did y'all ever find anything that you took somewhere else and disposed of?

MR. PECK: You mean off-site?

MR. STEWART: Either off-site or at another location owned by the plant that would not be --

MR. PECK: But not under the cover? Different than under the cover.

Q. It might be under the cover. But let's say between Tenth Street and 202, in

that area that y'all remediated in there. Did y'all ever take anything, dig anything up and take it and put it somewhere else?

A. Not to my knowledge.

Q. Okay. Did you ever do anything beyond Tenth Street, on property that y'all owned on the other side of Tenth Street that is adjacent to Snow Creek?

A. What do you mean by did we ever do

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something?

Q. Did you ever dispose of anything over there, bury anything over there?

A. Over there we had a ditch that we closed, and we closed it with impacted material that we may have excavated to construct our ditch.

Q. Impacted material?

A. With PCBs.

Q. So you have got PCB material over there across Tenth Street that y'all used to cover a place that you closed?

A. To fill the old ditch.

Q. To fill the old ditch?

A. To fill in the old depression that was the old ditch and then cover that with a liner.

Q. You mean this tar paper looking stuff you covered that with? It wasn't -- Sort of a plastic like substance. I don't know what you call that other substance.

A. No. The plastic substance is what we

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covered it with.

Q. You covered it with plastic?

A. In the ditch we put down what you are calling tar paper and then fill material and then the liner.

Q. Which contained PCBs?

A. Some of it may have, yes.

Q. Where did you get that?

A. From areas we needed to excavate to put in our ditch that exists now.

Q. So what you did is you took it, say, off the property that might be located

between 202 and Tenth Street. You took impacted or contaminated soil from there, and you used that contaminated soil to close out an area over there across Tenth Street, north of Tenth Street?

A. The material we used to fill was from the area north of Tenth Street.

Q. So there was material that you just took from the site itself?

A. Right, from Tenth Street.

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Q. You didn't move soil, contaminated soil from the south of Tenth Street, across Tenth Street, and put it on the property owned north --

A. Not impacted with PCBs, no.

Q. Well, where did you get the soil that you used over there?

A. We have a large concrete collection box on the south side of 202 or Tenth Street that required excavation. We used that material and took it across Tenth Street and closed out the ditch.

- Q. Did y'all test that soil first before
you moved it over there?
- A. The upper surface, we did.
- Q. Test any part of it -- When you say
upper surface, how deep did you go?
- A. I believe six to twelve inches.
- Q. There appears to be, Mr. Faust, that tar
paper looking stuff everywhere the eye
can see as you drive by, go out
Clydesdale or Tenth Street and drive by
the plant facility. There is a good bit

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of it on the right-of-way as you head
toward 202, on the right-of-way -- road
right-of-way up to the fence of
Monsanto. There is a good bit on the
other side of the fence that would be
east of the plant. There is a good bit
of it as you come up to the parking lot,
before you get to the parking lot on the
right-hand side of the road there, all
in that eastern section of the property
in between 202 and Tenth Street. North

of Mars Hill there is a good bit of
that. Is it safe to assume that
everywhere y'all put that there were
PCBs located?

A. Based on our sampling, we put the fabric
and cover over all the areas that tested
positive for PCBs.

Q. Well, behind the church and on the
right-of-way to the left, just before
you get to Jewel Jackson's property,
there is what looks like a big, black
swathe that you put in there. Would it

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be safe to assume there are PCBs there?

A. I'm not sure where you are talking
about.

Q. As you come up Clydesdale heading
towards 202, on the left. I have
already covered the right. I wanted to
know about the left side of the road
there.

A. South of Sixth Street?

Q. No, sir. Coming up Tenth Street, and it
is north of 202. It is just as you tie

into Tenth Street and intersect with

202, just to the left there. There is a

big --

A. Wait a second, Donald. Tenth Street
doesn't connect with 202.

Q. That's Clydesdale?

A. Right. Well, Tenth Street ends, and it
goes to the north.

Q. So we are talking about the area on
Clydesdale that comes in front of the
plant there?

A. Right, right. The area right at the

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intersection of Clydesdale and 202?

Q. Right.

A. It had impacts of PCBs.

Q. What kinds of ratings did y'all get
there, Mr. Faust?

A. I don't recall, but they were all
twenty-five parts per million or less.

Q. They were in excess of one part per
million, in excess of ten parts per
million?

A. Some of them were, yes.

Q. Obviously they were up to twenty-five parts per million?

A. Right.

Q. How many samples did y'all take in that general area?

A. I don't recall.

Q. Now, there is a big area that -- And I'm trying to get all of this down. I may have to talk to Charlie, because he and I have ridden out there. There is a big area that is west and under the power lines on the south side of 202.

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A. Uh-huh (indicating yes).

Q. And about a month ago there was a huge mound of dirt there, and today there is a big hole. When was that done?

A. I'm not sure I know what you are talking about. I know there is a big hole there, but I don't know what the large mound of dirt you are talking about was.

Q. Well, it was -- When was that dug out? When did y'all excavate that?

MR. PECK: Where are you talking

about?

A. Can you point out where you are talking about?

Q. Yeah. Let's take a look at that. Right in that area (indicating), and there are some power lines that run over it.

A. Well, nothing in there. There weren't any power lines.

Q. Okay. I will move it over there.

A. Right, right.

Q. That's wrong, and this is right, right?

A. Right.

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Q. Now, there is a big hole right there?

A. Yes, there is.

Q. When did y'all make that hole?

A. We started that about June and finished it up -- finished the final excavation in there about January, February.

Q. What happened to all that dirt?

A. We used it as cover, foundation cover and final cover on the landfill, and to

build a diversion channel up above the landfill cells.

Q. So that is where you got your dirt to put on top of the landfill cells --

A. Yes.

Q. -- of the solid waste management units?

MR. STEWART: Is that what you call them, Charles?

MR. CUNNINGHAM: SMUs.

Q. And you used it to build the big berm or dam up above that channel of water?

A. Right.

Q. What kind of testing had you done before you excavated in there?

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A. Our testing prior to excavating there went out to this area, and we had clean samples adjacent to that area.

Q. You had clean samples adjacent to the area, but did you actually test in the area itself where you excavated to make sure there were no PCBs in there?

A. No, we didn't.

Q. So you can't tell us whether or not you

in fact put contaminated soil on top of
those landfill cells, can you,
Mr. Faust?

MR. PECK: Object to the form of
the question.

A. Not by testing.

Q. Now, there is another area that is east
of Clydesdale and just before you get to
the parking lot where there is a good
bit of work that is being done right
now?

A. Right.

Q. Previously that had a cover on it?

A. It didn't have a cover. Previously it

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was undisturbed.

Q. Okay. I'm sorry. What is that all
about?

A. That was another borrow source for soil,
like this one. And we used that soil
over in the east side, east of
Clydesdale.

Q. That is a borrow source of soil?

A. Yes.

Q. Is there any -- Is there any testing results that you got that you can point me to or us to show that y'all checked to make sure that was clean soil before you moved it and put it over there to the eastern --

A. Yes. We reported those to ADEM, and I believe those were furnished to --

Q. To us?

A. Right.

MR. PECK: Where was that?

THE WITNESS: To the north of the plant, that area across from the church.

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Can we take a break?

(A break was taken.)

Q. Let me ask you just one final question, and then I want to go to some more general questions about you yourself and your initial programs -- I want to ask you about your initial participation in this thing that I haven't covered since

we have been jumping around.

My understanding is wherever y'all found PCBs out there, whether it is north of Mars Hill, in that area that is east of the plant, or along the right-of-way or on the right-hand or left-hand side of Clydesdale as you head towards 202, wherever it might be, y'all covered it. Is that basically the way y'all remediated it?

A. Those properties that we owned or could get access to, yes.

Q. No matter what the level was, y'all did that?

A. Right.

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Q. Because of the presence of the PCBs?

A. Correct.

Q. Now, how were you selected to take this responsibility?

A. In early '96 I was a manager of remedial projects in St. Louis at the time. And I was asked if I would like to manage

this project. And I showed interest and
said I'd like to move down here and
manage it.

Q. By whom? Who asked you that?

A. Michael Foresman.

Q. Who else was involved in making that
decision?

A. I don't know that anyone else was.

Q. Okay. So he was the fellow who was head
of the engineering division, and he
asked you if you would come down here --
or remedial --

A. Director of remedial projects.

Q. Now, in connection with that, you had
had some previous experience with this
particular site?

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A. Right.

Q. You had been involved in, what,
reviewing documents?

A. Right.

Q. And helping put plans together?

A. For ground water.

Q. For ground water only; is that right?

A. Yes.

Q. But there had been some work done before
you got down here?

A. Do you mean like in '95, '96, that time
frame.

Q. Well, you came down at what time in '96?

A. I began commuting down here in March of
'96.

Q. March of 1996?

A. Yes.

Q. And before that time some work had been
done on this site on the west landfill?

A. Yes.

Q. Okay. Let me show you Plaintiffs'
Exhibit --

MR. PECK: Do you have two of

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these?

MR. STEWART: No. I may have
another.

MR. PECK: That's all right. I
just didn't know if you
planned to do it that way.

MR. BARRETT: As a general
procedure, we ought to do
that.

MR. STEWART: That is what I would
prefer to do.

THE WITNESS: A couple of files
down, there was something
that looked like it.

MR. PECK: There it is. That is
it.

(Plaintiffs' Exhibit Number
Two was marked for
identification.)

MR. STEWART: Now you have it.

Q. Did you have any part to play in the
plan that was followed to handle that
problem?

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A. You are talking about the west end
landfill?

Q. Absolutely.

A. In the '94 time frame, I believe it was,
I was involved in working with the plant
and Garrity and Miller to lay out a

sampling program for the west end

landfill.

Q. Okay. And when they carried out that sampling program, did you see the results of it?

A. Yes.

Q. What did they find?

A. They found surficial samples with PCBs and no impacted ground water.

Q. You are talking about surface PCBs?

A. Yes, samples of the surface across the landfill and the adjacent area.

Q. The adjacent area?

A. Within the fence line, yes.

Q. How deep did you go with those samples?

A. I don't recall what the depths were.

Q. Was there any cover on the landfill at

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that time?

A. There was a soil cover.

Q. But anything else?

A. Grass, soil.

Q. And that was it?

A. Yes.

Q. And how far out from the confines of the landfill did you go in making your tests?

A. With that particular testing we stayed within the confines of the fence.

Q. Did you go beyond the fence at some point in time?

A. Yes.

Q. All right. And what did you find when you went beyond the fence?

A. The results as you moved to the west and to the north were low levels in the ditch along First Street and then non-detect analysis out in the residential area.

Q. What are you talking about, low levels?

A. These were all less than ten parts per

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million.

Q. Was there any land acquired as a result of y'all's implementation plan that y'all put together in connection with the remediation of that particular area?

A. None after we sampled. Prior to that we took ownership of the west end landfill from Alabama Power.

Q. Were there any property owners whose property you bought, and did you move the fence out beyond the confines of their property over there?

A. No.

Q. At any point in the '90s did y'all buy any land and indicate that y'all were going to expand the plant or the facility?

A. Not to my knowledge.

Q. All right. When y'all tested along the ditch area, what did y'all do as far as remediating that area?

A. We have not done anything with that at this time.

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Q. So there are PCBs out there that are not covered in any fashion at this time?

A. Correct.

Q. And what levels were you finding out

there?

A. My recollection is it was in the ten parts per million range.

Q. Ten parts per million?

A. Yes.

Q. When y'all put the plan together, what did you propose to do with the west end landfill, and what did you do?

A. We proposed to put a cover across -- Well, let me back up -- put a multilayer cap over the west end landfill itself, which is soils and a membrane, drainage layer, and a foot and a half of final cover, soil and grass.

Q. Okay.

A. And on the adjacent area, the flat area to the west of the cell itself, covered that with soil.

Q. Where did you get the soil to cover that

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portion of the property that was outside the confines of the landfill?

A. Got it from a borrow source down 202.

Q. Near the FM station down there?

A. Yeah, Amoco or whatever.

Q. Who did you buy it from?

A. I believe we purchased it through Brown Brothers with our construction -- our excavators.

Q. Brown Brothers Grading?

A. Yeah.

Q. Are y'all in litigation with them at this time?

A. Not that I'm aware of.

Q. Have you ever been?

A. There was a claim against Westinghouse.

Q. And what did that have to do with?

A. I believe it had to do with payment of invoices.

Q. For what, for work they did --

A. For work they did with Westinghouse.

Q. Do you know or have any knowledge why Westinghouse was denying coverage?

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MR. PECK: Denying the claim?

MR. STEWART: Denying the claim.

Pardon me.

A. I believe it was they claimed the work
was not done.

Q. The work was not done on what?

A. On the services that Brown Brothers was
claiming to have provided.

Q. What was that?

A. It had to do with excavation of clean
soils and bringing it to the landfill.

Q. And what in particular did they say the
Brown Brothers didn't do in connection
with the west end landfill?

A. I don't know specifics.

Q. Do you know how much money was involved?

A. No, I don't.

Q. Was it one thousand dollars, one hundred
thousand dollars, or two hundred
thousand dollars?

A. I really don't know.

Q. Well, do you know the magnitude of the
work that was involved?

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A. I know the magnitude of Westinghouse's
work, of which Brown Brothers was a
subcontractor.

Q. Okay.

A. That was a little over a million.

Q. And you don't know what percentage of
this --

A. No.

Q. -- particular contract is in contest?

A. No.

Q. Who else worked on the west end landfill
besides Monsanto -- I mean, besides
Westinghouse and Brown Brothers?

A. The design of the -- The design and
oversight was done by Golder and
Associates. And the oversight was done
by Golder Construction Services.

Q. How did Westinghouse get involved in it?

A. Once we had an approved design, we bid
that out among three or four
contractors, and Westinghouse was
awarded the contract based on those
bids.

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Q. Is that the construction arm of
Westinghouse?

A. I think it was Westinghouse Remedial Services.

Q. Okay. And did they basically put people in here who did that work?

A. They had supervisors, supervisory and managers that came in, and then they hired Brown Brothers to do the --

Q. The actual work of covering the landfill?

A. The excavation portions of it. They also hired a subcontractor, Gundale Lining Systems to do the liner.

Q. Where are they located?

A. I don't know.

Q. Tell me, if you would, if at the time y'all began to work on this -- or before y'all began to work on this particular site in 1994 -- Is that when you began to work on it?

A. In '94 we did --

Q. Sampling and design?

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A. Through '94 we did sampling and design.

Q. When did you actually begin your work on

that?

A. I believe we began in the fall of '95.

Q. And when did you complete it?

A. August of '96.

Q. Okay. So it basically was completed --

You say you came down here in -- Was it
January of '96?

A. March of '96.

Q. So you were here for a part of the time.

Did you actually participate in the
supervision?

A. Not directly.

Q. Did y'all submit those plans for the
western landfill to ADEM?

A. Yes.

Q. Okay. And did they approve it sometime
before y'all began your work there?

A. I'm not sure exactly when they approved
it.

Q. Okay. Have they approved that
particular site and the work that you

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have done there?

A. Yes.

Q. Who in particular did you work with? I guess that was the beginning of your work. Who in particular did you work with at ADEM?

A. Lance Brooks and Steve Cobb.

Q. And they are from the land --

A. Land division, I believe it is called.

Q. And who is their superior?

A. Gerald Hardy, Harding or Hardy. Hardy, I think it is.

Q. Which one of those guys stayed on the site while y'all did this work?

A. Lance and Steve Cobb visited on occasion.

Q. How often would you say from the time you first started here in March of 1996 did they come and visit the site?

A. Up until today or through the west end landfill?

Q. Well, just how often? Give me a general idea of how often they would come.

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MR. PECK: On the west end

landfill site?

Q. Let's start with the west end landfill site.

A. I'm not real sure on the west end landfill site because it --

Q. Started before you got here?

A. Right. But their normal practice is probably every month and a half they come for a site visit.

Q. What would they do? How long would they stay, first, and what would they do?

A. It all depended if we had other meetings to attend to or just for oversight. It could be a half a day; it could be a day.

Q. Was there some kind of consent order that this plan was a part of that had already been entered into?

A. The west end landfill was part of a consent order -- Well, there were two consent orders. The first consent order directed to doing a design for the west

end landfill.

Q. When was that entered, if you --

A. I don't recall.

Q. Was it in '95?

A. It was prior to '96, but I don't know exactly.

Q. Before 1996?

A. Yes.

Q. All right, sir. Were there meetings that were held in connection with that consent order here in Anniston?

A. That I don't know. I wasn't involved in that consent order.

Q. Okay. Who was involved from Monsanto in that consent order?

A. I really don't know.

Q. Would Mr. Jones have been involved in it perhaps?

A. Probably.

Q. Okay. Was Jack Mayausky head of the plant at that time?

A. Yes.

Q. Was ADEM the only regulatory agency that

was involved in that or was EPA?

A. I don't know. On that first consent order I don't know who all was involved.

Q. And was the consent order obtained before y'all actually began the physical work?

A. Yeah.

Q. Now, the next site or project that you worked on had to do with the south landfill, is that correct, and the catchment basin and all that work on the eastern side?

A. The next construction project after the west end landfill was the east detention pond next to Mars Hill.

Q. That was the next construction project?

A. Right.

Q. Was that a part of a grand design or scheme that y'all had put together to remediate that particular area alone, or was it tied in with a landfill that was south of 202 --

A. It was all part of the master plan to

control storm water and impacted soils
and sediments.

Q. When did y'all begin work on that
particular plan?

A. On the east pond or master plan?

Q. East pond or master plan. Let's take
the master plan that the east pond was a
part of, when y'all began work on that.

A. Well, the consent order was entered into
in March of '96.

Q. March of 1996?

A. Yes.

Q. Okay.

A. It had specific items in it that talked
of controlling storm water east of
Clydesdale and beginning design on the
cover for the south landfill and
continuing sampling in and around the
plant and any ditches that we knew of.
So the first part of that was to
construct the east pond.

Q. Well, now, you all had a plan in place
and had done sampling of that area

before the consent order was entered in
March of 1996, didn't you?

A. Yes.

Q. When did y'all actually start sampling
and doing the work on that area where
you determined that there was some
problem over there in the eastern
property east of the plant and the
property south of 202 and --

A. Sampling occurred from a point in '94,
which I'm not exactly sure when it
started, through -- into 1996.

Q. You began to sample where in 1994 on the
east side of the plant, across
Clydesdale?

A. I don't know the exact beginning
location, but it was in the ditch that
flows through the east side and then
worked upstream and downstream of it.

Q. Down to Snow Creek and where it enters
Snow Creek?

A. Yes.

Q. And then back across the road into the

landfill area?

A. Yes.

Q. Who did that sampling for you?

A. Garrity and Miller.

Q. Did y'all provide copies of that sampling to ADEM?

A. Yes.

Q. Did you find high levels of PCBs in the ditch on the property east of the plant?

A. We found a wide variation in sampling results.

Q. Give me some idea of that variation.

A. From non-detect to, I believe, in excess of ten thousand parts per million.

Q. So y'all had knowledge of that kind of presence of PCBs in that area sometime in '94?

A. I don't know if it was '94 or '95.

Q. It would have been the early part of '95, wouldn't it, Mr. Faust?

MR. BARRETT: '95 or '94.

A. '95. We started sampling somewhere in '94, and I don't know when exactly we

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had the results of the east side.

- Q. Didn't y'all take some graft samples from the ditch sometime in '94 that indicated it was pretty high?

MR. PECK: Obviously Mr. Faust wasn't there. You can tell him what you remember, but you weren't there. Don't guess. He doesn't want you to guess.

- Q. Would it have been early '95, then?

- A. It could have been. I wasn't involved at that point in time.

- Q. Okay. Well, how far along was the plan for how y'all were going to deal with that in the early part of 1995 and the latter part of 1994?

- A. We were still investigating to determine the extent at that time. So the plan would not have been very much developed.

- Q. Well, y'all really had done some work in sampling and everything over there before the early part of 1995, and

actually it had gone as far back as
1994, about mid 1994, on the eastern
side and on the southern side of 202.

MR. PECK: Object to the form of
the question.

Q. You know Mr. Jones, don't you?

A. Yes.

Q. And do you know Mr. Phillip Davis?

A. That doesn't ring a bell.

Q. You don't know a Mr. Phillip Davis who
works with the Alabama Department of
Environmental Management?

A. No.

Q. Well, y'all had actually done some work,
had you not -- Monsanto had done some
work over there in connection with storm
water discharge on the landfill across
from 202, hadn't you?

A. There was storm water sampling, I
believe, in '94.

Q. When you say storm water sampling, what
were you trying to basically do, is it
not, Mr. Faust, is to find out if PCBs

were being carried out of the landfill
and onto the property that is east of
the plant and north of 202?

MR. PECK: Object to the form of
the question. He wasn't
there then, so he couldn't
have been involved.

MR. STEWART: If he knows, he can
answer the question.

MR. PECK: You said what he was
trying to do, and he wasn't
there.

A. There was storm water sampling done
there at that time to look at waters
running off the south landfill.

Q. To find out if PCBs -- if that was the
source of the PCBs getting on the
property east of the plant and north of
202?

MR. PECK: Object to the form of
the question.

A. To find out if PCBs were in the storm
water.

Q. And y'all found out that there were?

A. There were low levels of PCBs in that storm water.

Q. What was that level?

A. I recall they were around ten parts per million.

Q. Okay. So y'all began to try to implement a plan and actually did some work over there, didn't you?

A. Investigation, yes.

Q. Well, you actually did some work over there, didn't you? You were looking at and reviewing what was being done at this time as part of the project management team up in St. Louis. So you know what I'm talking about, don't you, Mr. Faust?

A. No, no. I didn't get involved at all until '96.

Q. Maybe I misunderstood you earlier. I thought you said you had been involved in some kind of review -- Maybe it's just the hydrology of the area.

A. Right. And in '94 -- I was no longer involved from '94 to a point in early '96.

Q. But when did y'all actually start putting that plan together that ultimately wound up in this catchment basin? That was in '94, wasn't it? That's when Monsanto began to do that, wasn't it?

MR. PECK: Object to the form of the question.

A. I don't know.

Q. They were in fact meeting with people at ADEM during that period of time?

A. They probably were.

Q. And discussing the problem that would be east of the plant and north of 202 and the south landfill problem?

MR. PECK: Object to the form of the question.

A. I wasn't involved in those meetings.

Q. I wasn't asking if you were involved. I was asking if the meetings were in fact

taking place.

A. I can't answer that either. I wasn't involved.

Q. Is the sequence of events, the way you do these things, y'all meet with them, discuss with them what you're going to do, put the plan together, present the plan to them, and ultimately wind up with a consent order that y'all operate under? Is that the way it works?

MR. PECK: Object to the form of the question.

A. All consent orders are different.

Q. Is that the way y'all did it in this case?

MR. PECK: Object to the form of the question.

A. I don't know what those meetings were in '94.

Q. Was Mr. Cobb and Mr. -- I want to make sure I get it right. Were they the same people involved on the south side of 202

and in the eastern section? Were they

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the same people?

A. Yes.

Q. But y'all got your plan together
sometime at least in the early part of
1995, is that correct, where you knew
what you were going to do?

MR. PECK: Object to the form of
the question.

A. I can't speak to that. I wasn't
involved in '95.

Q. Was the plan in place when you came down
in '96?

A. When I came down here we had entered
into a consent order in 1996 that spoke
to continuing sampling, finish the
construction of the west end landfill
closure, develop plans for controlling
storm water in the east side, and
starting design of the south landfill.

Q. How long did that take?

A. To do all of that?

Q. Yeah.

A. We closed that consent order last

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summer, I believe. So we had completed them. So from '96 to mid '97, a little over a year. We completed the west end landfill, constructed the east pond --

Q. No. What I'm talking about is how long did it take y'all to get your plans formulated as to what you were actually going to do?

A. Well, each piece had a different timing to it.

Q. Give me your best judgment as to the timing on each piece of it.

A. From the time the consent order was signed?

Q. Yes.

A. We finished the design for the east pond in a couple of months.

Q. So you were through with it, then, sometime in --

A. Finished that in the fall of '96.

Q. The fall of '96?

A. Yes.

Q. I thought you said you started in March.

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Maybe I'm wrong, but I thought you said
you started it in March.

A. Of '96.

Q. Finished in a couple of months?

A. The plan and engineering took a couple
of months, and then it took about four
or five months to construct.

Q. Okay. So you are saying you completed
it. So you had your plans, done all of
your sampling sometime in May of 19 --
at least May of 1996?

A. Yes.

Q. Now, in connection with that, y'all had
had some meetings that took place
between Monsanto's representatives and
representatives from ADEM and
representatives from EPA, and those had
taken place where, at the Holiday Inn
here in Oxford?

A. I was not involved in those meetings.

Q. Who was?

A. I don't know.

Q. Well, did the meetings take place?

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A. I don't know that for a fact either.

Q. So it's your statement here today that
you just don't know whether or not they
took place?

A. Right.

Q. Who would have been involved in those
meetings, Jack Mayausky?

A. I have no idea, because I have no idea
that they happened.

Q. Is it your contention that if ADEM gave
me some evidence to the fact that y'all
had meetings with them down at the
Holiday Inn in Oxford, that that didn't
occur, that the lawyer is saying
something that didn't happen?

A. I'm saying I don't know. I don't know
any details about it.

Q. And do you know at any point in time
with your dealing with ADEM if there
were any people from the local community

who were involved?

A. I don't have any knowledge of that.

Q. Do you know whether or not there were

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any representatives from Cobb Town or
Sweet Valley or the area of the
community out there that is west of the
western landfill who were ever involved
in any meetings that y'all might have
had with ADEM or you might have had with
the EPA where they were informed about
what the problem was?

A. I don't know if they were involved in
any meetings.

Q. Did you ever participate in any meetings
during which they were involved before
y'all went to the community with another
piece of the program?

A. Whenever we did sampling in the west or
east of the plant, we met with the
particular landowner prior to to get
permission to go on to --

Q. Got a little consent form signed?

A. Right.

Q. But what I'm actually talking about is
were there ever any occasions where
y'all met with them and with the ADEM

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representative to discuss what was going
to happen out there in that community,
the building of the catchment basin, the
capping of the west end landfill, the
work that y'all did on the south
landfill?

A. Not to my knowledge.

Q. And did Monsanto as a company ever send
any representatives into that area,
before y'all entered into your consent
decree with ADEM in March of 1996 or the
earlier consent decree, telling the
people of the community about what y'all
were going to do?

MR. PECK: Object to the form of
the question.

A. I don't know the details about any
meetings that happened prior to me
coming on.

Q. Are you telling me that none happened or none occurred, or are you telling me that you just don't know?

A. I don't know the details.

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Q. Did Jack Mayausky or Jerry Brown or Robert Jones or any of those people ever tell you that we have gone out and talked to our neighbors on the western side in Cobb Town or Sweet Valley and we told them about the property that was north of the plant and told them what we were going to do?

A. I don't know any details about any meetings.

Q. In connection with that catchment basin over there, tell me how that is supposed to operate.

A. That captures the water from an area that is -- landfill -- Can I point to this (indicating)?

Q. Yes.

A. It captures the water that falls on basically what you see here, south of

202. And that flume then channels it to
culverts under 202 and into the basin.

Q. Okay.

A. And the intent of that basin is twofold.

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One is to control storm water, and then
secondly it's to capture sediments that
might be in that storage water.

Q. Okay. When you say capture, do you mean
they just settle to the bottom --

A. Yes.

Q. -- of the pond?

A. Right.

Q. What happens to those, if you know,
Mr. Faust, once the water is out of
there, if it dries up from time to time
or if the bank dries? What happens to
that; do you know, have any idea?

A. No.

Q. And what in particular, as far as a
substance is concerned, are you trying
to catch?

A. At this point it captures all the land

that has clean soil on it. So we are capturing clean soil.

Q. So it is all clean soil down there?

A. Yes.

Q. Y'all have done testing in the catchment

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basin, and there are no PCBs that y'all have found in there?

A. We have sampled water coming out of the basins, and it was non-detect.

Q. Do you mean on the other end of the basin as it leaves the basin?

A. Right.

Q. What about the sediment that settles to the bottom of the catchment --

A. Well, it is all clean soil.

Q. You've tested that so you can tell --

A. No. We know we put clean soil on the landfill, and that is the origin of the storm water.

Q. So it's my understanding that you have done no sampling of the sediment that is settling to the bottom?

A. No, we have not.

Q. Sitting here today, based on any testing, you can't tell me whether it's clean or not?

A. We sampled prior to building the basin, and they were clean. And waters that go

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in there now are coming off of clean soils. And we have not tested since then.

Q. But you have tested the water that comes out of the other end, and it is clean?

A. Right.

Q. And from that you have deducted that it is clean, nothing is gathering up in the basin?

A. Right.

Q. Have you done any air sampling around that basin itself?

A. We -- As part of the project during the construction of that, we did construction air monitoring.

Q. When did you start that?

A. We have done it during all the projects.

Q. You have done air samples ever since you got underway?

A. Ever since the west end landfill.

Q. Which was sometime in '94?

A. No. We started that construction in '95.

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Q. '95. And what devices did you use to sample -- to perform these air sample tests?

A. We used a device called a -- I can't remember the name of it. But it samples for particulates and dust.

Q. And where were they located?

A. They were done -- The sampling was done by our health and safety officer all around the construction area.

Q. Did y'all test for PCBs?

A. No.

Q. So you just did a sample for -- When did you start testing for PCBs in the air?

A. There was a sampling put in place this year.

Q. In 19 --

A. '98.

Q. And was that sometime after you got the results of the air samples from our expert, Mark Hermison, from those tests?

A. I believe it followed that, yes.

Q. That is what prompted you to do it?

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A. I wasn't -- I didn't direct those samples.

Q. Who directed the samples?

A. Our attorneys did.

Q. So the first time anybody did anything about sampling the air in connection with PCBs and the possible contamination of the atmosphere happened only after the lawsuit was filed and y'all got the test results?

MR. PECK: Object to the form of the question.

Q. And your attorneys told you to do it?

A. We sampled -- got an approved plan from the Alabama Department --

Q. No, sir. That is not --

MR. PECK: Let him answer the
question.

MR. STEWART: I don't want him to
evade. And that isn't an
objection.

MR. PECK: He is entitled to
answer the question you

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asked, and he is answering.

MR. STEWART: And I want him to
answer it --

MR. PECK: He got three words in,
and you can't possibly know
what he was going to say.
Let him answer the question.

Q. But you hadn't performed any air samples
before the time that I mentioned, had
you, Mr. Faust?

A. We sampled air during all of the
construction.

Q. For PCBs?

A. We sampled for dust and determined what
levels of dust in a worst case scenario,
if those were all laden with PCBs,

would exceed any OSHA levels.

Q. OSHA levels?

A. Right.

Q. But that dust sampling was done inside houses where you took a swab and wiped along a piece of furniture or the floor or something like that?

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A. No. The samples I'm referring to are real-time samples taken around each of the construction areas while we were doing construction.

Q. And you took those dust samples and checked them for PCBs? Is that what you're saying?

A. No. We detected them for levels of dust that in a worst case scenario they were all PCB.

Q. I see.

A. What the levels would be.

Q. So the answer to my question is no, you didn't check the air for PCBs until such time as we did our tests and provided

you that in this litigation?

A. We didn't analyze specifically for PCBs,
no.

Q. And now how many little chicken houses
have y'all got stuck around -- that's
what they look like, little game rooster
houses -- have y'all got stuck around?

A. Are you referring to sampling devices?

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Q. Sampling devices.

A. I believe we have four.

Q. Where did y'all put those?

A. One up on the diversion channel.

Q. That's that big berm type thing --

A. Above the landfill.

Q. -- located above the landfill, south of
202?

A. Yes.

Q. Okay.

A. And then we have one just to the south
of Mars Hill.

Q. That's in the ditch back behind that?

A. Adjacent to the ditch.

Q. On the property adjacent to the ditch.

That would be south of Mars Hill?

A. Yes.

Q. Okay.

A. And then two of them to the northeast of Mars Hill, between Mars Hill and the catchment basin.

Q. Have y'all gotten any results off those at this time?

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A. No. I've not seen any.

Q. Okay. Who is doing that work for you?

A. It is being done for the attorneys.

Q. Well, who is doing it?

A. I believe ENSR is doing the work.

Q. What is the name of the company?

A. ENSR, E-N-S-R, I believe.

Q. ENSR?

A. Yes.

Q. Where are they located?

A. I don't know.

Q. But you all have not received any results yet at Monsanto?

A. No.

Q. How long have they been there?

A. I believe they were first put in in February, I think. I'm not real sure exactly when.

Q. February of 1998?

A. Yes.

Q. And would it be fair to say that before you came here there was no air sampling for PCBs done by Monsanto?

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A. I can't say whether there is or not.

Q. Have you ever seen any?

A. I have not seen any.

Q. Now, after y'all finished those catchment basins, you put the plan together for the south landfill. Tell me, if you would, what that consisted of.

A. When --

Q. Just briefly tell me what y'all proposed in your plan to do and what the purpose of it was.

A. Put together an interim measures plan that we presented to ADEM.

Q. When was that done?

A. That was presented in early '97.

In that plan it had several components. One was the implementation of the cover and cap south of 202, the building of the diversion channel and routing of storm water from that diversion channel, the lining of a sewer in the plant, the --

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Q. Lining of what?

A. Of a storm sewer in the plant.

Q. Where was that storm sewer located?

A. Right down the middle basically of the plant.

Q. What did you line it with?

A. It's a felt epoxy-impregnated lining system.

Q. Why?

A. To keep any impacted sediments from getting into those sewers and being transported by storm water.

Q. Impacted by what?

A. PCBs.

Q. Is that the purpose of all the other stuff you were doing, to keep PCBs from coming off your landfill and going on the property that was owned by Mars Hill and other --

A. To keep PCBs from being transported by storm water, wherever they resided.

Q. What else?

A. To cover by a geo-synthetic and soil.

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Q. Cover of what, now? What cells did y'all cover?

A. I wasn't talking about cells. I was talking about the east side.

Q. Okay.

A. Based on our sampling results, any property that we owned or could get access to, we put the geo-synthetic and cover over. The portions of the ditch we also filled and covered with a plastic liner and then covered with soil.

Q. Now, what about the landfill itself?

Did y'all cover a portion of that?

A. All of the landfill cells that exist on the western half, we covered thirteen acres with soil.

Q. Can you mark that with a --

MR. STEWART: Charlie, I'm going to use your little salmon colored crayon.

A. The area that is in salmon is the area that we covered with the multilayer

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liner and soil cover. That's it (indicating).

Q. Okay. Why don't you just color that? Just make some marks.

A. And stay in the lines?

Q. It doesn't matter. Just make some broad marks. I just want to make sure we know what that is.

A. (Executed by the witness.)

Q. And did you do that because it was your understanding that that's where the PCBs were?

A. We did it because we knew those were past disposal sites that were impacting ground water.

Q. With what?

A. PNP and parathion.

Q. But you didn't test for PCBs, so you don't know whether it was or not?

A. No. We tested the ground water for PCBs, and there were no PCBs in the ground water.

Q. This may be a stupid question, and it

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probably is, but what about the other units --

A. The other cells?

Q. Yes, the other cells.

A. The other cells, we have a monitoring well system around that, as well as we did surface soil sampling in here, and both of those are unimpacted.

Q. Unimpacted by what?

A. Anything.

Q. So you didn't find any parathion; you didn't find any PNP; you didn't find any

PCBs, and you checked for all of that?

A. Right.

Q. Did you check for biphenyls up there?

A. We would have done an appendix nine and broad scan, and biphenyls are a part of that.

Q. Did you check for parathion up there?

A. Yes.

Q. You didn't find any of that up there?

A. No.

Q. Either in your surface sampling or in

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the ground water?

A. Right.

Q. Now, is that all of the plan that y'all have basically -- Have y'all basically implemented that plan?

A. We have implemented all but -- The one we didn't talk about was the area north of the plant.

Q. Do you have a ground water problem there?

A. Not north of the plant, no.

Q. What are you going to do north of the plant?

A. There is a ditch that came from the west end landfill area that goes through that north area. And very similar to the east area, the ditch and adjacent to the ditch, there are PCB impacted sediments and soils.

Q. Can you just show us on Exhibit Two the area where y'all will be remediating the work?

A. Yeah. The ditch that we're working on

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in the north -- That doesn't show up very well, I think.

Q. Do you want to use that pen right there and draw it --

A. Well, let me just color in the area or mark in the area we are working on. Where is Tenth Street? I think that is Tenth Street. It is in the accuracy of this little map, the area we are working on this year (indicating).

Q. And what do you plan to do there?

A. We will be conveying storm water from a culvert under the railroad and hooking it into the city storm water sewer and covering with the geo-synthetic and soil, the adjacent proper soils, and closing the ditch out with the same multilayer closure we did on the east site, which is fabric, soil, liner, and soil.

Q. Is that plastic cover, is that a more substantive kind of thing than what you put on the --

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A. It is the same stuff.

Q. Is that the tar paper looking stuff that is rolled up in about fifteen different places over there?

A. It is technically a non-woven fabric, and the liner is forty mills thick, plastic, black plastic.

Q. You put the black plastic, and then you put the cover on top of it?

A. On the top of it. Cover, soil, and then

plastic and then put soil on top of it
and grade it to drain properly.

Q. And that again is because of PCBs that
are coming off the western landfill?

A. Those are because of PCBs that are in
that ditch and adjacent to that.

Q. And coming off the western landfill and
y'all's property, Monsanto's property?

A. That's where the water comes from.

Q. Where in your opinion did the PCBs come
from that were found near the Mars Hill
Church in the concentration of ten
thousand parts per million?

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MR. PECK: Object to the form of
the question.

A. I'm not going to give an opinion. I
will tell you that storm water from the
south landfill flowed through those
ditches.

Q. So sitting here today, knowing that high
levels of PCBs were found in that ditch,
you will not tell us that that came from
Monsanto's property, from the landfill?

MR. PECK: Object to the form of
the question.

A. I can't say exactly where it came from.

I can say it probably came from storm
water.

Q. Off of the landfill?

A. That's where the storm water comes from.

Q. Tell me, if you would, if you know of
any buried PCBs of any substantial
amount that would exceed what is buried
on Coldwater Mountain and the landfill,
that western landfill, any place in the
United States where you can tell us

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there are more PCBs buried.

MR. PECK: Object to the form of
the question.

A. I can't answer that question.

Q. Do you have any idea as to how what is
buried there compares to what is buried
elsewhere?

A. No.

Q. Now, wasn't a part of this whole plan a

relocation plan that y'all entered into
with the state?

A. We developed a relocation --

Q. Who is we, Mr. Faust?

A. Monsanto developed a relocation plan in
'95, the fall of '95, to purchase and
relocate residents and purchase
properties east of the Monsanto
facility.

Q. Who implemented that plan?

A. We had Prudential Insurance, their
relocation division out of Atlanta,
implement that.

Q. And who at the plant was responsible for

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it?

A. I don't know specifically who was
responsible, but Robert Jones was
involved in it.

Q. Was Mr. Mayausky also involved in that?

A. Insomuch as Robert reported to
Mr. Mayausky.

Q. And what did that consist of?

A. His oversight?

Q. No. The plan itself. What did it consist of?

A. It consisted of meeting with the property owner and getting agreement to do appraisals of the property. And then there were other incentives and bonuses involved. But the general framework of it was to take the two highest, I believe, appraisals and offer the average of that plus a seventy-five percent bonus to that number and then any relocation and cleaning or temporary housing that might have gone along with that.

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Q. Now, to whom did you offer temporary housing?

A. I believe it was part of every offering.

Q. And how is it that you offered that? Did y'all pay rent at places where --

A. If they needed to be temporarily housed while there was some cleaning done or in the process of the move while the new

residence was being readied, that
temporary housing was covered.

Q. What happened if a resident refused to
sell his property to you but he wanted
to be temporarily located somewhere else
because of the contamination that was
there in the Cobb Town or Sweet Valley
area? I assume y'all paid their rent?

A. I'm not sure I understand the question.

Q. Let's just say y'all went to Mr. Y and
he said --

MR. PECK: Mr. Y or White?

MR. STEWART: Y, A, B, C -- Just
pick a letter, just a little
hypothetical.

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MR. PECK: All right.

Q. And you talked to him and you told him,
"We want to purchase your property and
get it appraised," and he said, "I'm
sorry, but I'm going to sue you, and I'm
going to sue you for the damages that
you've done to my property by
contaminating it with PCBs and

contaminating me with PCBs." Did y'all pay -- But he says, "I want to move to another section of town where I'm not subjected to this catchment basin or all of this contamination." What did y'all do at that point in time? Did y'all pay the rent for that person?

MR. PECK: Object to the form of the question.

A. I'm not aware of a situation like that happening.

Q. So what y'all did was you paid the rent for someone who would sell their house to you or their property to you and wanted to move somewhere else. Isn't

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that fair to say?

A. We did that, yes.

Q. And in the other situation that I mentioned, y'all wouldn't do that?

MR. PECK: Object to the form of the question.

A. I don't know that that situation

happened.

Q. Name any situation where anybody came to you and said, "I will not sell the property to you, but I want to move to Lenlock or Weaver or Jacksonville. How about paying my rent," where y'all paid that rent.

A. I don't know of a situation like that.

Q. Wasn't a part and parcel of the deal, where you paid the rent, they had to sell their property to you? Isn't that correct?

A. If they sold the property and there was temporary housing involved, we paid for that.

Q. Tell me this: Who did y'all have

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working for y'all in the community out there as a real estate agent?

A. I don't know the specifics of that.

Q. Do you know Walter Frazier?

A. I've heard of Walter Frazier.

Q. Have you ever had any dealings with him?

A. Not me personally.

Q. To your knowledge has Monsanto Chemical Company ever had any dealings with him in connection with purchasing property in that area?

A. I believe his mother had a piece of property in the area.

Q. Anybody else?

A. Not that I'm aware of.

Q. Have y'all ever paid him, in fact, money, checks written out to Mr. Frazier from Monsanto Chemical Company for work he did for y'all out there?

A. I don't recall that.

Q. Who would know that? Are you saying it didn't happen, or are you saying you don't recall it?

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A. I don't know that it happened. I don't know whether it happened or not.

Q. Why would you be paying Mr. Frazier if his mother sold you the house?

MR. PECK: Temporary relocation.

I think he was involved, if

you want to know the truth.

MR. STEWART: We are looking for
the truth, but I'm not
looking for it from you.

MR. PECK: If you don't want me to
clear it up for you, fine.
Just be unclear about it,
Donald. That's the way you
like to go through life
apparently, so go ahead.

MR. STEWART: No. I just want to
know what he knew. What did
y'all pay him for?

MR. PECK: Then forget it.

MR. STEWART: All right. I'll
talk to Buddy. Buddy will
know.

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MR. PECK: Yeah. He is a nicer
guy than I am. Go ahead.

MR. STEWART: He is. But you're
nice enough. I'm just
kidding.

Q. Who else did y'all have working for you

out there in that area besides

Mr. Frazier?

A. I don't know that Mr. Frazier worked for us.

Q. Well, did he ever at your instruction talk to anybody about selling their property to Monsanto?

A. I don't know the details of that.

Q. Did he ever come and talk to you about property that he had that he wanted to sell to Monsanto on behalf of people out there?

A. Not to me.

Q. To your knowledge did he ever talk to Mr. Jones or Mr. Mayausky or Blake about working for y'all at any point in time?

A. Not to my knowledge.

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Q. So if he said he was working for Monsanto out there, trying to get people to sell property, you just don't have any knowledge?

A. I have no knowledge of that.

Q. Now, tell me, if you would, if you know,
when the first time was that you all
contacted Mars Hill Missionary Baptist
Church about their property.

A. I was not involved in any contacts with
them, but I believe Mr. Mayausky had a
meeting prior to me coming down in '96.

Q. So he met with them when in '96?

A. I don't know if it was '96 or '95. I
don't know when it was.

Q. You don't know anything at all about
that meeting?

A. Just that it happened. I don't know any
details.

Q. Okay. And do you know who he met with?

A. Not specifically, no.

Q. Okay. Did he inform you at all about
the meetings that he had had with the

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church?

A. No more than that he had met with them
at some time in the past.

Q. Tell me, if you would, if at any point
in time your plan for the property east

of the plant and north of 202, where you built the catchment basin, ever involved or included the Mars Hill Missionary Baptist Church property.

A. To be incorporated as part of that?

Q. Yes.

A. The plans we submitted to ADEM included the ditch that is on Mars Hill property.

Q. No, sir. I'm asking you if at any point in time y'all considered that property as a possible site for any portion of the catchment basin.

A. No.

Q. Do you know whether or not y'all ever made any changes in that particular part of the plan that y'all implemented out there to remediate as a result of y'all not being able to acquire certain

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properties?

A. No.

Q. So the plan from the very beginning to put the ponds where they are now never

has been changed?

A. To my knowledge it never has been changed.

MR. PECK: Can we take a break? I ran out of paper. You have done something I don't think has ever happened to me.

MR. STEWART: Okay. I'm trying to hammer toward the end.

(A break was taken.)

(Mr. Don Barrett, Mr. Stephen Ashley, and Mr. Taylor Stewart left the proceedings.)

(Plaintiffs' Exhibit Number Three was marked for identification.)

Q. Let me show you what is marked as Plaintiffs' Exhibit Three and ask you,

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Mr. Faust -- We were talking about this property relocation thing.

A. Right.

Q. This is a document --

MR. STEWART: And, Adam, I don't

have an extra copy of this.

But it's Monsanto property

purchase program for

churches.

Q. Is that any different than what you have

previously talked about? Is that a

document y'all put together?

A. I believe I've seen that document, yes.

Q. Do you know anything about it?

A. It's no document that I ever used.

Q. Okay. I'll just --

MR. STEWART: If we can pull that

back.

Q. Would Mr. Mayausky or Jo Hanson know

something about this?

A. Yes.

Q. Let me show you, then, what would be

Plaintiffs' Exhibit Three and Four to

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your deposition, and I want to ask you

something about these.

(Plaintiffs' Exhibit Number

Three was remarked for
identification, and
Plaintiffs' Exhibit Number
Four was marked for
identification.)

Q. This is a document that y'all provided
to us?

A. Right.

Q. Tell me what -- This says RCRA permit
recommends additional FRI. What are we
talking about here on Plaintiffs'
Exhibit Three?

A. This is -- comes from the document that
we submitted as the -- to the RCRA
permit, our RFI work plan.

Q. What does it relate to?

A. This relates to the area -- Let me get
my bearings straight. Where is the
plant? This speaks to the area east of
the plant.

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Q. And is that the area that you have
previously been referring to that y'all
covered?

A. Right.

Q. You covered that whole area?

A. We covered all the areas based on sampling where there were PCBs of properties we owned or could get access to.

Q. Okay. And let me show you what has been marked as Plaintiffs' Exhibit Four. And is that the same thing?

A. It is in that same document, and it talks about the areas to the south of 202.

Q. South of 202?

A. Right.

Q. And is it my understand that y'all have covered the area that is marked in green there?

A. We have covered everything to the west in that area.

Q. Well, what is that property that is --

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When you say to the west, can you draw a line for us in the area of -- Take this

pen and draw a line in the area where --

A. Where we have done work?

Q. Yes.

A. (Executed by the witness.)

Q. Is the area in green the only area that
y'all have covered?

A. With a multilayer membrane. The rest of
this was with fabric and soil.

Q. And why is it that you covered the rest
of the area inside this ink pen line
here?

A. We did surface sampling for PCBs. We
found surface impacts here and some over
here (indicating).

Q. And that is outside the landfill?

A. Yes, on the soil.

Q. So you are marking that in -- How about
just marking PCBs?

A. (Executed by the witness.)

Q. Put PCBs under that if you would.

A. (Executed by the witness.)

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Q. What's the additional RFI? You have
previously told us about that. That

says additional RFI on Three and Four to the right. What do you mean by additional? Is that an amendment to your plan basically?

A. It has differing meanings. For these areas that -- All of these areas that are in green were delineated in the permit to understand their current impact and future impact to the environment.

Q. Permit that you got from whom?

A. ADEM. The additional work is to either incorporate the work we have been doing, sampling and closure, or in this case it would be installing some new wells to additionally look at ground water impact.

Q. Why are you installing those wells, because the others are not giving you accurate readings, or is there some concern that there might be a leaking

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out of the landfill of some kind of

toxic substance or PCBs or what?

A. To confirm what our understanding has been over the last fifteen years.

Q. And who asked you to do that?

A. We presented a plan that looked at understanding all the media, and ADEM commented on that, and this is the final result of our recommendations, their comments, and the plan.

Q. Well, who is it that made these recommendations, y'all, or did they suggest the monitoring wells? Who is it that suggested the monitoring wells?

A. I don't know whether we suggested it and they approved or we worked together. I don't know specifically who recommended those.

Q. Basically would it be fair to say, Mr. Faust, that y'all put the plans together and went down there and just got a sign-off from ADEM?

A. No.

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Q. What major change can you think of

sitting here today that they made to any plan that you presented to them?

A. I can't enumerate it. But we developed a plan and presented it to them in a meeting, as well as supplied them with all the documents. They reviewed them in their offices and have given us comments on two occasions to clarify or add certain things, and we've complied with those. We are at the stage now where they had two final comments. One was for an additional soil sampling, and the other two were clarifications of a map.

Q. Where was the additional soil sampling they asked you to take?

A. Let me get my bearings straight. In a solid waste management unit over here in this area (indicating).

Q. In a what?

A. A solid waste management unit.

Q. A cell?

A. No. Where the old limestone bed was.

Q. Can you draw that off for us?

A. Yeah.

Q. What was the purpose of that limestone bed? Did it have anything to do with PCB production?

A. Not that I'm aware of.

Q. What did it have to do with?

A. It was limestone, so it neutralized any possible acidic discharge.

Q. That came off the plant site?

A. Yes.

Q. They wanted a monitoring well there?

A. We have a monitoring well there. They just wanted a sample at five and ten feet deep there, additional.

Q. And what else?

A. The other last comments were something to do with maps. It was just a mapping presentation.

Q. Well, basically, then, they haven't made any major changes?

A. These are the final changes. They also

gave us a document -- It would have been last fall. Actually it would have been prior to this one. So it would have been last September or so, several pages of comments.

Q. But no major changes to what you had proposed to do?

A. I don't know what "major" means.

Q. What is the cost of this whole thing to Monsanto?

A. That is pretty vague, the whole thing. What do you mean?

Q. Well, covering the west end landfill, the work that you're doing north, the work you're doing south of 202, the work that was done east of the plant and north of 202, the work that was done north of Fifth Street. What is the cost to Monsanto, the price tag on all that?

A. We have spent -- from 1994 to date we have spent around twenty-five million.

Q. On that project?

A. On that project.

Q. And is it not a fact that the method
that y'all chose to resolve this problem
here at your Anniston plant is the
cheapest method that you could have
chosen to solve the problem?

A. No, I wouldn't say that.

Q. What would be a cheaper method?

A. I don't know. We never evaluated
cheaper methods.

Q. Can you sitting here today tell me a
cheaper method than y'all have chosen to
do this work?

MR. PECK: Object to the form of
the question.

A. No. I can't tell you.

Q. Would it be fair to say that if you did
something like digging up the PCBs and
moving them to a landfill it would be
more expensive?

A. Yes.

Q. Would it be fair to say that if you
chose to incinerate them, dig them up,
excavate them, and incinerate them, it

would be more expensive?

A. Yes.

Q. Did y'all ever at any time consider
either one of those choices?

A. No.

Q. Those were never on the table?

A. Other than, as I discussed before,
looking at the potential downsides to
excavation, handling, and transporting
that material when a technically sound
approach was to leave them in place and
cap and cover and monitor them as they
sit.

Q. Did y'all ever tell the people who put
the plan together to do anything other
than to follow that particular plan,
from the very beginning?

A. Not that I'm aware of.

Q. Never discussed anything other than what
y'all are doing here?

A. I'm not aware of any discussions like
that.

Q. So the idea for the proposal that y'all

have chosen to use in order to solve
this problem here in Anniston came from
Monsanto?

A. We put the plans together and were
approved by ADEM.

Q. But the idea came from Monsanto
initially as to what y'all would choose
to do here?

MR. PECK: Object to the form of
the question.

A. We've worked with ADEM all along in the
process and early on had discussions
that these were some ideas we were
considering, and they agreed with those
ideas.

Q. Tell me, if you will, if there are any
major contractors other than -- You have
mentioned Kiser, I believe it was, and
Westinghouse. Other than those, any
other major contractors that y'all used
out there?

A. Yes.

Q. Okay.

A. For the east pond, the major contractor on that was CMS. I believe they're called Corpsman. They're out of -- I think they're out of Louisville.

MR. CUNNINGHAM: Corpsman Construction. Actually I think it is Nicholasville, Kentucky.

Q. Okay.

A. On the landfill and east of the plant is CCC out of San Antonio, was the general contractor, and LMS was the earthworks contractor that was sub to CCC.

Q. Were there any subcontractors other than those two that did work?

A. There probably were.

Q. Do you know any of them?

A. No.

Q. Have you ever had contact with a fellow named Dick Blakeny or Blakeny Construction?

A. That sounds familiar, but I don't --

Q. Did he do work out there on the site?

A. I can't recall.

Q. Do you know anything at all about where
he is located?

A. No.

Q. Now, in connection with your property
purchase program, did y'all purchase the
homes of a Ms. Flora Corbett,
Ms. Elouise Meeling, Ms. Odessa Reece,
Mr. and Mrs. Jimmy Thomas, Ms. Dorothy
Hammock, and Mr. Enoch Bell?

A. Yes.

Q. All of those were purchased?

A. Yes.

Q. And you paid rent at some point in time
for those people?

A. Yes.

Q. Okay. Now, did you yourself ever
contact a member of the Mars Hill
Missionary Baptist Church?

A. I was contacted by members of Mars Hill,
yes.

Q. When exactly did that occur?

A. Sometime prior to -- And I don't know

the date -- but Father's Day of last year.

Q. Before Father's Day of --

A. '97. I don't know what date that is.

Some weeks before that.

Q. How many weeks?

A. I don't recall. It was probably two or three.

Q. All right. And who contacted you?

A. A Ms. Melanie Tignor.

Q. How did she contact you, in person or by phone?

A. Called me.

Q. Where were you when she called you?

A. In my office.

Q. And what did she say to you?

A. Well, she had left a message prior to her actually calling.

Q. When did she leave the message?

A. The date of May rings a bell. I believe that's it.

Q. Okay. And what did she say at that point in time?

A. Well, when she called back, I asked her if she was represented by counsel, and she said no. And I said, "Well, you are not represented by Donald Stewart," and she said, "No." And I said, "Are you a member of Mars Hill Baptist Church," and she said, "Yes." So then I said that based on that I can't comment on anything to do with Mars Hill Baptist Church. And she began to tell me of her concerns as a member.

Q. What did she tell you?

A. She did not feel that the church was represented, that she just wanted a church like Bethel got, and that they were trying to figure out a way to dissolve the lawsuit.

Q. So after you told her you couldn't talk to her, you continued to talk to her?

A. No. I listened to her.

Q. All right. Anything else she said in that conversation?

A. Just that she didn't trust the deacons

or the minister.

Q. Okay.

A. And that a -- I don't remember the name now -- Adrian Frederick would try to get hold of me as well, that he was looking into the same situation of trying to dissolve the lawsuit.

Q. Now, the lawsuit you are referring to is the lawsuit that Mars Hill had filed against Monsanto for damages?

A. Right.

Q. And it was filed at that time?

A. It had been filed prior to that.

Q. And you were aware of the fact that Charlie and me and the rest of us represented --

A. Right. That is why I asked if they were represented by you all or members of Mars Hill.

Q. Had you had any conversations before that time with anyone which would have involved what you should do if you ran into someone who was represented by an

attorney?

MR. PECK: If you --

MR. STEWART: I didn't ask him
what was said. I just asked
him if he had had
conversations.

A. Yes.

Q. And were those conversations with your
lawyers?

A. Yes.

Q. Okay. And was this conversation that
you had with Mr. Frederick and the one
you had -- Did he later call you?

A. Yes.

Q. -- and the one you had with Ms. Tignor,
were those after the occasion when you
came with Warren and with Adam, I guess
it was, and presented this --

A. I believe they were.

Q. -- proposal to the church?

And tell me, if you would, when
you had your conversation with

Ms. Tignor, if that is all that was

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said, what you have just gotten through
reporting to me.

A. That was it.

Q. Did you later have a conversation with
Mr. Frederick?

A. He called me, yes.

Q. When was that?

A. I don't recall. It was, I believe, a
day or two after Melanie had called.

Q. Okay. And what did he say?

A. Again, I asked him if he was represented
by counsel. He said no. I asked him if
he was a member of Mars Hill. He said
yes. I told him based on that
information I could not discuss with him
anything in the Mars Hill situation.

Q. Was it your understanding at that time
that you had a right to listen to this
particular individual?

A. Yes.

Q. You couldn't comment, but you had a
right to listen?

A. Yes.

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Q. All right. Go ahead.

A. So then he discussed or told me that he had a relative or friend that knew a lawyer and they were looking into how they could dissolve the lawsuit and fire Mr. Stewart. And I believe he said they had called the bar association, said they were very frustrated. And he just said they wanted a church.

Q. Why is it that he told you they wanted a church? They wanted to get out of that area and go somewhere else?

A. He didn't express why.

Q. Were y'all going to build them a church there in that area, Mr. Faust, or were you going to acquire the property and build them a church somewhere else like you did Bethel?

A. We had made an offer to Mars Hill to build a new facility similar to the Bethel one and relocate them.

Q. Relocate them out of that area?

A. Yes.

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Q. Why is it that you wanted to relocate them out of the area?

A. We had made that offer similar to those to other people or residents in the area where their properties were impacted.

Q. Because you wanted to cover that property there as you had covered the other --

A. We wanted to remediate those properties, yes.

Q. So that is what your intentions would be, to remediate that property on which the church was located?

A. We made an offer and in our offer, to either relocate and build a new facility or take title and responsibility to that property.

Q. Once you took title and responsibility, what your plans were were to cover it like you had covered the other areas; is that correct?

A. If we had control of the property, we would, yes.

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Q. Okay. And because of the presence of PCBs on that property?

A. Right.

Q. And you would have torn the church down?

A. More than likely.

Q. Which is what you plan to do with Bethel; isn't it?

A. Yes.

Q. Then did you say anything else to Mr. Frederick at that time?

A. No.

Q. Did you have any conversations with anybody after you talked with Mr. Frederick and after you talked with Ms. Tignor?

A. Yes. The Friday before Father's Day -- if someone has a calendar to help me with the date -- I received a call from Cassandra Roberts.

Q. Okay. And what was the substance of

that call?

- A. I again asked her if she was represented by counsel, and she said yes. I said

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was that representation Donald Stewart, and she said no, that it was Grover Hankins. I asked her if she was a member of Mars Hill Church, and she said she was and that she wanted to meet with me, along with other folks, and she had a copy of a letter that had been presented to Mars Hill capturing the intent of the offer we had made in that meeting.

Q. Who was the letter from?

A. It was from Warren Lightfoot, I believe.

Q. She told you at the time she talked to you by phone that she had a letter?

A. She had a copy of that letter.

Q. And where did she say she got that?

A. I'm not sure. She didn't say.

Q. Okay.

A. And she asked could we meet and give her a better copy of that letter and that

also she would like to show to me the
letters that she and others had written
to the Minister Weatherly and the deacon

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board -- I believe those were the
letters -- that talked about their
displeasure and wanting to dissolve the
lawsuit.

Q. You keep saying wanting to dissolve the
lawsuit. Would that mean that they
would not have any claim against you all
at all?

A. We didn't get into any details. I don't
know what that meant.

Q. Okay.

A. She expressed as well that she wanted a
church similar to Bethel.

Q. Okay. Go ahead.

A. She said that she would like to meet on
Saturday morning. I suggested we could
meet at my office. She said no, she
would rather meet at Shoney's or
Denney's -- Shoney's. I think it is on

North Quintard -- and that she would
have with her Melanie Tignor and Adrian
Frederick. I asked her that based on my
information of Adrian Frederick I would

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rather he not be present.

Q. Why?

A. Because it was my understanding he was a
client of Donald Stewart.

Q. How did you know that?

A. I checked with my attorney.

Q. Did you have a conversation -- I don't
want to know what you said. But did you
have a conversation with your attorney
after Ms. Tignor called and after
Ms. Roberts called?

A. Yes.

Q. After that did you subsequently meet
with these people?

A. Yes, Saturday morning.

MR. PECK: Not Adrian Frederick.

THE WITNESS: Adrian Frederick
wasn't there.

Q. And what did you talk about at that

meeting?

A. Along with me was Blake Hamilton. I brought the story boards that we had presented to the deacon board and you

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and Mr. Cody at that meeting in your office.

Q. Okay.

A. And basically laid out what we had done for Bethel and what we had discussed that we would do for Mars Hill. I asked her to see the copy of the letter she said she had. She showed me, so I gave her a fresh copy of that letter. And then she showed me and presented to me the letters that she said they had authored regarding the minister and the deacons and the lawsuit.

Q. Okay. What else did you talk about?

A. That was the substance of it.

Q. Okay. There is notes that we will mark as Plaintiffs' Exhibit Number Five. Let me just ask you to give me -- Whose

number is this at the top?

(Plaintiffs' Exhibit Number

Five was marked for

identification.)

A. I believe that is Blake Hamilton's.

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Q. And did you call him at the time you --

before you made these notes or --

A. I believe it was later, to give him

details on the meeting for Saturday. He

was out of town, I believe, that Friday.

Q. And what are these notes from, your

conversations --

A. These are just my running notes I make

on a daily basis, to-do lists.

Q. And what is the Turner card?

A. Oh, I believe that is when Eugene Turner

died, a sympathy card to the Turner

family. Shelby Dean is our architect

for Bethel, a note to call him.

Q. What is pavement?

A. I don't recall what that is.

Q. What are the goals?

A. I don't know what that is.

Q. Contact?

A. Contract. It is probably something to do with the contract on the work we did last year.

Q. APCO?

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A. That is recording easements that we had to negotiate with APCO for them to relocate some power lines on the south landfill.

Q. And then Mars Hill, Melanie?

A. Right.

Q. And leadership, what is --

A. At the leadership -- We have a site leadership team. I wanted to remind them at the meeting that we were being visited by you.

Q. Oxford Kiwanis, Lance Turner?

A. Oxford Kiwanis is that presentation I talked about this morning.

Q. DOT board?

A. DOT bond, we had to get a bond in order to do the work along the DOT

right-of-way.

Q. The right-of-way, is that in fact a
landfill along that right-of-way?

A. No.

Q. Okay. Stewart visit?

A. I wanted to make sure I knew you were

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coming.

Q. Okay.

A. And this is the notes I took during our
conversation.

Q. Members didn't vote on --

A. Her comment was she thought it was
underhanded.

Q. What was underhanded?

A. The deacons were working underhanded.

Q. Okay. What is meet with --

A. She said the deacons didn't meet with
the congregation or tell them anything
that was going on.

Q. And pastor and deacons not voting?

A. That the congregation didn't vote on it.

Q. Vote on what?

A. On the lawsuit and whether or not to

accept our offer.

Q. And this is Ms. Roberts?

A. No. This is Melanie Tignor.

Q. Wanted a church?

A. Right.

Q. Doesn't make sense, what --

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A. She says them not taking a church
doesn't make sense, they want a church,
and then she felt they were insulting
her intelligence, and they wanted to
hear the truth.

Q. And what is, "They are wrong"?

A. She considered the deacons and the
minister to be wrong.

Q. Judge to fire Stewart?

A. That came from the discussions. She
said Adrian was trying to figure out a
way that they could get a judge to fire
Mr. Stewart.

Q. Monsanto offer to three people?

A. Three people were at the meeting that we
had with you and Mr. Cody.

Q. How did she know that?

A. I don't know.

Q. Is that not something you told her?

A. No.

Q. Okay.

A. This again was a conversation, that she
said Adrian was calling the bar

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association to see how they could
dissolve the lawsuit.

Q. Okay. Tell me, if you would, if at any
point in time you informed either
Melanie Tignor or the other people you
met with -- Who else did you meet with
at Shoney's?

A. Cassandra Roberts and her mother. I
believe it was Ms. Meeling.

Q. For whom y'all had bought a home?

A. Yes.

Q. Did you ever inform any of those people
at any point in time that they were
entitled to something other than a new
church?

A. We informed them that we had made an

offer to build a new church and relocate them.

Q. That's not what I'm talking about. Did y'all ever inform them that they were entitled to something other than a new church?

A. We had discussed the remediation we were

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doing around the area, but I don't remember offering anything other than a church.

Q. Did you ever discuss with them anything other than damages -- any other kinds of damages that they would be entitled to?

A. Not that I recall.

Q. Did you ever tell them anything about punitive damages?

A. Not that I recall.

Q. Did you ever tell them that they could share the punitive damages in cash?

A. No.

Q. Where would they get that?

A. I have no idea.

Q. If they said you told them that, would they be telling the truth, Mr. Faust --

MR. PECK: Object to the form of the question.

Q. -- or telling a story?

A. I don't recall ever saying that.

Q. So you don't recall ever telling them that they would be entitled to divide

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among themselves the punitive damages?

MR. PECK: Object to the form of the question.

A. Correct.

Q. You said something a minute ago, that you found out that some of these people were represented by Grover Hankins. Is it your position here today that you have a right to talk to people who are represented by other lawyers other than me or Charlie and this group over here?

A. Yes.

Q. Okay. You have a right to talk to them if they are represented by Grover Hankins?

A. Grover Hankins has never told us not to talk to his clients.

Q. So you have an understanding that if a person is represented by a lawyer, that you can talk to them anytime you want to just so long as it's not Donald Stewart, who has told you not to talk to his clients? Is that what you understand,

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Mr. Faust?

A. My understanding is you are the only one who has told us not to talk to your clients.

Q. So as a consequence of that, you can talk to anybody else's clients, even though they are represented by a lawyer?

A. In the normal practice, we will consult with that attorney prior to talking with them. But we have never been told by anyone that we couldn't talk to them.

Q. Did you consult with Mr. Hankins before you talked to either Ms. Roberts or Ms. Tignor or Ms. Meeling?

A. No. But at the same time I had not been told not to.

Q. Were you later told that you couldn't do that?

A. No.

Q. So it is your understanding that if he hadn't told you affirmatively that you couldn't talk to his clients, you had a perfect right to; it's the lawyer's

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responsibility to tell Monsanto they couldn't talk to people?

A. If I wasn't told specifically not to talk to someone, I talked to them.

Q. Did you ever make -- Even though they were represented by a lawyer?

A. Yes.

Q. And that was your understanding of what you had a right to do?

A. Yes.

Q. Did you ever make any efforts to determine whether or not these people, Mr. Faust, were officers -- any of them were officers in Mars Hill Missionary

Baptist Church?

A. No.

Q. Do you understand sitting here today
that your obligations and
responsibilities might have been
different ethically, if the church was
represented by a lawyer and in fact had
sued you, if some of these people were
officers in that corporation?

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A. I couldn't interpret that.

MR. PECK: Let me just say for the
record, in light of your
earlier question, Mr. Hankins
was aware of this, because he
told you in a letter that
Mr. Hankins was aware that
the meeting was going on.

MR. STEWART: That is not
responsive to anything.

MR. PECK: The meeting with
Ms. Tignor and Ms. Meeling
and Cassandra Roberts.

Q. Mr. Faust, did you understand your obligations to be somewhat different as to whether or not you could talk to these people if they were officers?

A. I didn't understand that, no.

Q. And no one had ever explained that to you, did they?

MR. PECK: Object to the form of the question.

A. No.

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(Plaintiffs' Exhibit Number Six was marked for identification.)

Q. Let me ask you to look at Plaintiffs' Exhibit Six and ask you if that is your handwriting and if that is a note that you took in connection with the call that was made to you by Adrian Frederick?

A. The handwriting on the note itself pertaining to my name and Adrian Frederick's is my secretary's handwriting.

Q. The other --

A. The other handwriting is mine.

Q. Anything that goes -- the stuff that is written out?

A. And these numbers here, the numbers, Monday, and that phone number that I can't read.

Q. Monday what?

A. There is a phone number there.

Q. There is a note down here that says,

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"One member can dissolve suit for the church Sunday."

A. This is a Post-it note that I had, I took notes on of his discussion, his telling me. And it was basically that Bowie and the pastor acted on the lawsuit and did not inform the people, and he says he understands that one member can dissolve the lawsuit for a church.

Q. Frederick said that?

A. Yes.

Q. Did he tell you where he obtained that information?

A. No.

Q. Do y'all make contributions from time to time to organizations that have to do with environmental protection?

A. I don't know. That would be handled out of St. Louis, and I don't know that.

Q. Who handles that out of St. Louis?

A. I don't know that either.

Q. Have y'all made any contributions to any

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organizations in connection with protests or efforts to resolve this problem here in Anniston as it relates to the PCBs and the contamination that grows out of this?

A. No.

Q. When I say y'all, I mean Monsanto.

A. Right.

Q. Has Monsanto made any contributions?

A. No.

Q. Have y'all paid anyone any money in connection with any efforts to resolve,

whether it is with Mars Hill Missionary Baptist Church or with other people in that community out there? Have y'all paid anybody any money, Mr. Faust, to get them to try to get people to either sell their property to you or to get people to agree to accept offers that you would make outside of selling their property?

A. No.

MR. STEWART: If we could have a

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few minutes, we may be
through.

(A break was taken.)

Q. By the way, let me ask you this: When you met with Ms. Tignor and Ms. Meeling and with Cassandra Roberts, you mentioned y'all went to the board and everything. Did y'all discuss anything else that y'all would do by way of making an offer to them?

A. No.

Q. Did you ever discuss buses?

A. Melanie Tignor mentioned several times she would like a bus.

Q. Did you ever make an offer to them to provide them with a bus?

A. No. I told her that was a detail that we could talk later.

Q. The details you could talk later?

A. Right.

Q. Was there ever any concession made in any of the other areas, Mr. Faust, as to what you would do, like installation of

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pews, things like that, like substitute a bus for that?

A. No.

Q. Did you ever mention a figure to them?

A. Yeah. I believe I mentioned the one point three million that it took to build Bethel.

Q. You mentioned the one point three million that it took to build Bethel when you were talking to Ms. Meeling and them?

A. Right.

Q. Did you tell them that y'all would do the same for Mars Hill?

A. Yes.

Q. Who was going to control the money under your proposal?

A. As we discussed with you all, it could have been either as we did with Bethel, we could do a turnkey, or we could give them that sum to do whatever they designed and desired to do.

Q. By the way, while we are talking about

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Bethel, just for curiosity sake, how much steel is in the construction of Bethel?

A. I don't think there is -- besides reinforcing the concrete, none.

Q. Reinforcing in what concrete?

A. The floor.

Q. That's the only steel that is present in the building?

A. And the joints where the design beams

come together.

Q. Any other?

A. No. Well, steel in the cross up front.

Q. Okay. I think that may be all.

What did you do with the remains
or rubble or whatever it was of the
houses you tore down? What did you do
with it?

A. We sent it to Live Oak Landfill. It is
a chem waste landfill in Atlanta.

Q. Was there some cost associated with that
per truckload?

A. Uh-huh (indicating yes), per truck.

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Q. Can you tell us what that was?

A. I believe it was six hundred and fifty
dollars if we could get -- if they could
get two rounds trips. So for that
truck, three hundred and twenty-five
dollars a truckload.

Q. Three hundred and twenty-five dollars?

A. Right.

Q. And what was the cost of hauling off
those structures? Do you know the

overall cost?

A. Overall demolition project, I can't recall exactly the numbers. I can provide that information. I just don't know off the top of my head.

Q. Could you provide that to Adam?

A. Yes.

MR. STEWART: Adam, do you mind giving that to us?

MR. PECK: No.

Q. Is there a concentration of PCBs or a level of PCBs in some of these structures that would be too high just

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to cover, particularly the soil?

A. No.

Q. So there is no amount of concentration that would be too high to cover? I mean, that ten thousand parts per million that we read in the newspapers, and there was a reading as high as two hundred thousand parts per million.

A. That could have been.

Q. That could have been out there on this site?

A. Yes.

Q. And you are telling us sitting here today that that concentration is such that you could cover it too?

A. Yes.

Q. If that appeared on the eastern side of I-10, east of the plant and north of 202, you would cover it the way you talked about doing?

A. Yes.

Q. Well, why did you haul it off in New Jersey?

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A. All of these are site by site specifics.

Q. Well, isn't that because there is some requirement in New Jersey by the regulators that you haul off certain --

A. The area that we were excavating, the foundation for that, we were going to pave that area. The foundation for it wasn't adequate to support the pavement, so we were going to have to excavate

material.

Q. And you are saying that is the only reason that y'all hauled it off in New Jersey? There was no regulator that told you you should haul it off?

A. That and the closure requirements in New Jersey required us.

Q. So the closure requirements in New Jersey required y'all to haul it off if it was a certain level of concentration, is that right, in the soil?

MR. PECK: Object to the form.

A. There was a level that we excavated within a certain area. Those that were

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above a certain level were hauled.

Q. What?

A. I don't recall what that was.

Q. Was it above ten parts per million?

A. Again, I don't recall what the number was.

Q. Less than ten parts per million?

A. I don't recall.

Q. Where would we find that information?

A. In the Kearny report.

Q. And where is the Kearny report located?

A. In St. Louis.

Q. And where in that remedial --

A. The closure report.

Q. The closure report in the remedial --

A. Right, in the remedial division.

Q. Of Solutia now or Monsanto?

A. Right, Solutia.

Q. Now, can you tell us what it cost per
square yard for y'all to cap the
landfill on the south side of 202?

A. Not per square yard. But that portion
of the project, I believe, was a million

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and a half to two million.

Q. One and one half million to two million?

A. Yes.

Q. And that covered what, thirteen acres?

A. Yes.

Q. So if we divide one and a half million
by thirteen acres, we could get a --

A. Yeah.

Q. How long do y'all expect to continue the monitoring process during the time that y'all have this plant in place?

A. The permit requires thirty years. At that point it is reviewed and determined if additional monitoring is necessary.

Q. Why would y'all have to monitor it for thirty years?

A. That's the regulation.

Q. That has been set forth by ADEM?

A. Yes.

Q. And how long do y'all expect the plan to work?

A. Forever, indefinite.

Q. The reason I ask that question is you

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were quoted in the newspaper -- And heaven forbid that I would say that would be an accurate quotation, based on my record with the newspaper. But maybe somebody besides Elizabeth or Brandy or Chris wrote it.

MR. STEWART: And you can put that

on the record, Debby.

Q. But you were quoted as saying that you were going to take a look at this system that y'all had in place out there, and you had to make some changes as you went along and that you quite possibly would have to make some additional changes once you got it up and running. What did you mean by that?

A. By requirement, once it's completed, we have to monitor storm water. And if we are still above our monitoring requirements, then we need to determine whether there are areas that we don't know about to date that might be impacting storm water.

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Q. And what was that level that you had to get?

A. In storm water?

Q. Yes.

A. Fourteen parts per trillion.

Q. Fourteen parts per trillion is what y'all try to get the storm water --

- A. That is our monitoring requirement.
- Q. Set up by the plan and by ADEM?
- A. By ADEM through their storm water division.
- Q. And y'all's monitoring to date has indicated no fourteen parts per trillion?
- A. We are still above fourteen parts per trillion.
- Q. You still are above that?
- A. Yes.
- Q. So there are some other sites that might spin off PCBs that you haven't covered --
- A. We are not complete -- As of our last sampling, we weren't complete with all

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the areas.

- Q. And where is this that you are monitoring? Is it around the landfill itself?
- A. No. It is down at Tenth Street between Boynton and Crawford.

Q. How far above that fourteen parts per trillion?

A. I think we are below a part per billion, but I don't know the exact number.

Q. What changes do y'all contemplate making?

A. We don't have any idea.

Q. When y'all started out, you started out with a piping system, with a certain number of pipes. Did you change that at any point in time?

A. No.

MR. STEWART: I believe that's all I have.

MR. PECK: Before we quit, there are a couple of other things to talk about, Donald.

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One thing I wanted to ask you -- Obviously I got your notice for Robert Shapiro. And I told you guys we are going to object to that. Can you tell me why

you guys want to depose

Robert Shapiro?

MR. STEWART: Well, why don't you

object and let us --

MR. PECK: Well, I'm required as

part of filing a protective

order to try to work it out

with you.

MR. STEWART: Well, he knows about

the financial affairs and the

policy matters and certainly

about Monsanto. We asked

Blake Hamilton the other day

about some of these financial

things. And he indicated to

us that he -- at that point

in time it would be best done

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in St. Louis. The documents

we have so far that y'all

have provided to us about the

financial profit and all that

stuff about the company --

what the financial situation
is about Monsanto came from
the annual report. That is
what y'all have been willing
to give us. And that is
signed, as we understand it,
by Mr. Shapiro.

MR. PECK: So your basis for
wanting to talk to
Mr. Shapiro is to talk about
the financial condition of
Monsanto?

MR. STEWART: Not only that, but
we also want to talk about --
mentioned the other day in
connection with what
Mr. Hamilton did, a statement
of purpose and that type

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stuff which was made and what
your policy was toward eco --

MR. CUNNINGHAM: Efficiency.

MR. STEWART: -- eco-efficiency
and what the --

MR. PECK: The Solutia policy on
eco-efficiency?

MR. STEWART: Well, it was
Monsanto policy, as I
understand it. You know, we
have got sort of a
double-edged sword here. As
I understand it, at this
point in time we have
Monsanto sued because they
have assumed the liabilities
and responsibilities for this
thing. And there was a
eco-efficiency statement that
they put together. And they
certainly are liable for it,
as I understand the law, for
the time that they operated

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it, and this exposure was
created for our people and
for the property. So
certainly he would be

pertinent to that.

I mean, we have been
aware of and familiar with
the same thing being explored
with previous CEOs and are
prepared to point out to the
Court that that is exactly
the steps that were taken in
those other cases.

MR. PECK: You are aware of
Mr. Shapiro being deposed on
other occasions?

MR. STEWART: No. I'm aware of
the CEO of Monsanto, the
predecessor for Mr. Shapiro,
being deposed on the very
issues that we are talking
about, which are pertinent to
this case. And in the

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punitive damages phase it is
critical for us to know
certain things.

MR. CUNNINGHAM: I asked Blake

yesterday what -- Yesterday
when we were taking
Mr. Hamilton, I inquired as
to basically the gross and
net profits and income at
just this site. And he
indicated that, much to my
surprise, he is not allowed
to know those kinds of
numbers, that those are all
held in St. Louis.

MR. STEWART: And held in St.
Louis in the very upper
levels of manager, which
would include the CEO,
because they don't want -- It
was my understanding from his
response that they don't want
somebody like Alan or Blake

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Hamilton or anybody at that
level knowing about those
kinds of things because of

insider trading, is what he
said.

MR. CUNNINGHAM: That's right.

That's right.

MR. STEWART: So that is really
basically another reason. He
would be a key person who
would know those kinds of
things based on what we have
talked about, because it's my
understanding from Blake he
can't tell us that. And
those things are certainly
admissible, the profitability
of the corporation in the
punitive damages aspects of
the case.

MR. PECK: Not in Alabama, they
are not.

MR. STEWART: Well, we'll see.

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MR. PECK: You guys are thinking
of Kentucky. You are not
thinking Alabama. They are

admissible in the -- you
know, in the post-judgment
review phase, but they are
not admissible for the jury;
for the judge to review, not
for the jury.

MR. STEWART: While we are doing

the discovery of it, though,
we might as well go ahead.

And then we put up a witness
here who is a person who has
to do with business ethics
and Dr. Windsor from Rice.

And he is going to testify
about certain aspects of the
conduct of Monsanto and how
it fits within that context.

And the reverse of that would
be somebody like Shapiro.

And we have a right to

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take --

MR. PECK: So I take it you are

talking about Monsanto's
environmental policies?

MR. CUNNINGHAM: It seems to me

like we have to at some point
take somebody who is capable
of speaking knowledgeably
about Solutia or Monsanto's
global standing in terms of
their philosophy about this
stuff and economics and that
sort of thing. And that is a
problem.

Alan has a certain piece
of it, Blake has a certain
piece of it, but we don't
have anybody yet who has the
big picture. And you are
certainly correct that a big
chunk of the stuff we might
inquire about will certainly
turn out to never be

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admissible in one phase or
another or maybe no phase of

this litigation. But I think
clearly at some point we
would be less than thorough
in our discovery if we did
not take discovery of
somebody who at least in
theory has, again, a kind of
global concept and
understanding of Monsanto's,
slash, Solutia's --

MR. STEWART: And certain aspects
of his deposition would be
related to what Dr. Windsor
would say, and it also would
be related to the punitive
damages aspect.

MR. FITE: Have you considered
just a 30(b)(6) and we pick
our representative?

MR. STEWART: We think we have a
right to ask based on all

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that we know at this point in

time of the CEO.

MR. CUNNINGHAM: I thought we
would get a nicer lunch if we
had the CEO.

THE WITNESS: Not Shapiro.

MR. PECK: All right. I think,
Donald, you all were going to
get Dennis -- We need -- Go
off the record.

(The deposition concluded at
5:15 p.m.)

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I do hereby certify that the witness

whose attached deposition was taken before me
was by me first duly cautioned and sworn to
tell nothing but the truth in the cause
aforesaid; that the testimony contained herein
was by me reduced to writing in the presence
of said witnesses by means of stenography and
afterwards transcribed by means of computer
aided transcription. The foregoing is a true
and accurate transcript of the whole of the
testimony given by said witness, as aforesaid.

I do further certify that I am not
connected by blood or marriage with any of the
parties or their attorneys or agents and that
I am not an employee of any of them, nor
interested in the matter of controversy.

IN WITNESS WHEREOF, I have hereunto set
my hand and affixed my notarial seal at
Gadsden, Alabama, County of Etowah, this 5th
day of April 1998.

Deborah Salers Garrett
Certified Shorthand Reporter
Registered Professional Reporter
Notary Public, Alabama-at-Large
My Commission expires: 3-7-2001

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