

1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ALABAMA
 3 EASTERN DIVISION

3 JOHN R. SWIFT and
 4 BARBARA SWIFT,

5 Plaintiffs,

6 CIVIL ACTION NUMBER

7 versus

8 CV-97-AR-2430-E

9 MONSANTO COMPANY, INC.,

10 et al.,

11 Defendants.

12 /

13 DEPOSITION OF DIANE HERNDON

14 The deposition of DIANE HERNDON, was

15 taken before Deborah Salers Garrett, Certified

16 Shorthand Reporter, Registered Professional

17 Reporter, as Commissioner, commencing at 10:00

18 a.m. on August 25, 1999, by the Plaintiffs, at

19 the law offices of Lightfoot, Franklin &

20 White, The Clark Building, 400 North 20th

21 Street, Birmingham, Alabama, pursuant to the

22 stipulations set forth herein.

23 Regional Reporting Service, Inc.

755 Walnut Street

Gadsden, Alabama 35901-0755

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17 I N D E X

18 Page

19 Stipulations 4
20 Reporter's Certificate 276

21 E X A M I N A T I O N S

22 Witness: DIANE HERNDON Page
23 By Ms. Malow 5

REGIONAL REPORTING SERVICE, INC.

1 E X H I B I T S

2	Plaintiffs'	Marked	Offered
	One	5	
3	Two	23	
	Three	44	
4	Four	52	
	Five	56	
5	Six	61	
	Seven	65	
6	Eight	67	
	Nine	73	
7	Ten	75	
	Eleven	77	
8	Twelve	84	
	Thirteen	98	
9	Fourteen	120	
	Fifteen	135	
10	Sixteen	147	
	Seventeen	148	
11	Eighteen	150	
	Nineteen	154	
12	Twenty	161	
	Twenty-one	169	
13	Twenty-two	173	
	Twenty-three	176	
14	Twenty-four	192	
	Twenty-five	202	
15	Twenty-six	207	
	Twenty-seven	222	
16	Twenty-eight	225	
	Twenty-nine	227	
17	Thirty	236	
	Thirty-one	238	
18	Thirty-two	240	
	Thirty-three	242	
19	Thirty-four	245	
	Thirty-five	246	
20	Thirty-six	257	
	Thirty-seven	267	
21	Thirty-eight	269	
	Thirty-nine	271	
22	No other exhibits were marked for		
	identification, offered or attached as		
23	exhibits hereto.		

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

2 IT IS STIPULATED AND AGREED by the
3 parties, through their respective counsel,
4 that the deposition of DIANE HERNDON, may be
5 taken before Deborah Salers Garrett, CSR, RPR,
6 as Commissioner and Notary Public, Alabama at
7 Large, at Birmingham, Alabama, on August 25,
8 1999, at 10:00 a.m.

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

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

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

REGIONAL REPORTING SERVICE, INC.

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1 STATE OF ALABAMA, BIRMINGHAM, AUGUST 25, 1999

2

3 (Plaintiffs' Exhibit Number

4 One was marked for

5 identification.)

6

7 DIANE HERNDON,

8 after having been first duly sworn, was

9 examined and testified as follows:

10

11 EXAMINATION

12 BY MS. MALOW:

13 Q. Would you please introduce yourself?

14 A. I'm Diane Herndon with Monsanto Company.

15 Q. Diane, my name is Ellen Malow, and I

16 represent the plaintiffs in a lawsuit

17 that has been filed against Monsanto and

18 Solutia. You understand that we are on

19 opposite sides in this case like we are

20 at the table?

21 A. I do.

22 Q. Have you ever given a deposition before?

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6

1 Q. I'm sure you have had a chance to meet
2 with the lawyers. I don't want to know
3 what you talked about. But you have
4 been prepared for what we are here for
5 today, right?

6 A. We had some time yesterday to talk.

7 Q. Did you review any documents to get
8 ready for your deposition?

9 A. No. The only documents was my order of
10 deposition, and I just saw that
11 yesterday.

12 Q. Is that what has been marked as Exhibit
13 Number One?

14 A. Yeah.

15 Q. Is that yes?

16 A. Yes.

17 Q. Just a few rules so we can make sure the
18 process goes as smoothly as possible.
19 We have a court reporter taking down
20 everything that is said. So you need to
21 make sure you answer out loud rather

22 than shaking your head or giving an
23 incomplete answer. Will you try to do

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7

1 that for me?

2 A. Yes.

3 Q. If at any time I ask you a question that
4 you don't understand, please make sure
5 to get me to repeat it. I'll be happy
6 to do that for you. Okay?

7 A. Okay.

8 Q. If you don't do that, I'm going to
9 assume you understood the question. Is
10 that fair?

11 A. Yes.

12 Q. If at any time you need to take a break,
13 just let me know. We can do that as
14 well.

15 A. Okay.

16 Q. You also understand you have taken an
17 oath to tell the truth and that that is
18 the same oath that you would take if we
19 were down at the courthouse in front of
20 the judge and the jury?

21 A. Right.
22 Q. And you understand that the penalties of
23 perjury apply?

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8

1 A. Right.
2 Q. You are presently employed by Monsanto?
3 A. Yes.
4 Q. When did you start working there?
5 A. 1987.
6 Q. What was your position when you began
7 with Monsanto?
8 A. Community relations manager.
9 Q. Have you remained in that same position
10 since 1987?
11 A. No.
12 Q. Why don't you just give me a thumbnail
13 sketch of your work history at Monsanto
14 from '87 through the present?
15 A. I probably don't have dates to go along
16 with my different responsibilities, but
17 I did community relations for a number
18 of years. That turned into community
19 relations and state government affairs

20 for a number of sites. Then the state
21 government affairs function was taken
22 over by other people. I moved in to a
23 corporate job doing corporate issues

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9

1 management. That was sometime in the
2 early '90s.

3 I've stayed in corporate. I've
4 had some plant responsibility along with
5 a lot of corporate assignments since
6 then. My latest responsibility is a job
7 called the news desk, which sorts
8 through a lot of news stories that come
9 in each day, information from other
10 sources, and then circulates it to the
11 people who need to know about it.

12 Q. Okay. At what time or times during your
13 employment with Monsanto have you had
14 responsibility for the Anniston site?

15 A. Several years in the '90s. I believe
16 '94 to '97.

17 Q. Was that a continuous stint, or was that
18 off and on?

19 A. It was continuous.
20 Q. Have you also during your time with
21 Monsanto had responsibility for
22 Illinois?
23 A. Yes.

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10

1 Q. When was that?
2 A. Now, not for all of Illinois, just the
3 Krummrich plant. We have pharmaceutical
4 and food nutrition business up in the
5 Chicago area, and I didn't have
6 responsibility for them.
7 Q. But Sauget and Krummrich?
8 A. Uh-huh (indicating yes).
9 Q. When was that?
10 A. I started out with community relations
11 responsibility for them when I started
12 with the company. I had state
13 government affairs I think for just one
14 year with Illinois, just for chemicals.
15 And then I've had Krummrich kind of on
16 and off, just stepping in when they
17 needed me, but other people kind of took

18 the lead through a lot of the '90s as I
19 was in other positions.
20 Q. Is your maiden name -- I might butcher
21 this -- Bartolanzo?
22 A. Yes.
23 Q. In looking at Exhibit Number One, did

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11

1 you locate any documents that were
2 responsive to that request?
3 A. All the documents related to Anniston I
4 turned over to the Solutia people at the
5 time of the split, actually even before
6 that, when I was transitioning out.
7 Q. So prior to 1997 or sometime in 1997?
8 A. Early '97 the transition started. And
9 by the time of the split all the
10 documents were with them.
11 Q. So when Solutia spun off from Monsanto
12 you remained with Monsanto?
13 A. Right.
14 Q. And you have never been an employee of
15 Solutia?
16 A. Right.

17 Q. How did you organize the documents
18 relating to Anniston when you had the
19 position for community affairs and
20 government affairs for the Anniston
21 facility?

22 A. How did I organize them?

23 Q. Yeah. How were they kept? In what

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12

1 format did you maintain the documents?

2 A. They were in Anniston files.

3 Q. That's what I'm trying to figure out.

4 Was it an Anniston file, or did you have
5 Alabama?

6 A. No. I only had the Anniston site in
7 Alabama. So anything related to the
8 Anniston site was in the Anniston files.

9 Q. And it wasn't broken up into
10 sub-categories?

11 A. It might have been, but I don't recall
12 what the categories might have been.

13 Q. So in preparation for this deposition
14 you did not make any efforts to locate
15 any documents, correct?

16 A. That's right.

17 Q. And it's your testimony that you did not

18 look at any documents to refresh your

19 recollection in preparation for the

20 deposition?

21 A. That's correct.

22 Q. Tell me about your education, just a

23 brief sketch of that.

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13

1 A. Undergraduate in journalism and MBA.

2 Q. From what university?

3 A. University of Southern Illinois was

4 where I finished it, the MBA. I started

5 at the University of Colorado Denver.

6 And I got my undergraduate at University

7 of Colorado Boulder.

8 Q. Not a bad place to be for four years.

9 A. I know.

10 Q. Let me ask you a little bit about some

11 of this work history at Monsanto. You

12 mentioned a corporate job where you said

13 there were some sort of corporate issues

14 management or something. What does that

15 mean?

16 A. Looking at issues on the horizon that

17 the company might need to deal with.

18 Q. Give me an example of the type of issues

19 you deal with.

20 A. This would go back to the early '90s.

21 So I'm trying to --

22 Q. Were there any environmental issues that

23 you looked at?

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14

1 A. Yeah. There were environmental issues.

2 Q. Give me an example of an environmental

3 issue that you looked at.

4 A. I'm trying to think. Environmental

5 justice was one issue, as an example.

6 Q. What is environmental justice?

7 A. It was the belief that poor minority

8 communities might be unfairly

9 disadvantaged by living near chemical

10 operations or garbage facilities or

11 places like that.

12 Q. And what role did you have in looking

13 into the issue of environmental justice?

14 A. Just looking at what was developing in
15 different parts of the country, what
16 companies were active in issues related
17 to the matter, that kind of thing.

18 Q. What did your investigation reveal?

19 A. I don't recall. This was early '90s.

20 Q. Did you determine in fact for example in
21 Anniston the plant is built in an area
22 where there are a large number of
23 minority people and low income people?

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15

1 A. I didn't have Anniston at the time we
2 started to look at these issues in the
3 early '90s. And I don't think I was
4 really looking at the plants at that
5 point. I was looking at what was
6 developing in different parts of the
7 country.

8 Q. Were you looking specifically at
9 Monsanto facilities?

10 A. The Krummrich site was one because east
11 St. Louis is adjacent to Sauget and has
12 a large minority population. I wasn't

13 familiar with Anniston at that point.
14 Even though I had community relations
15 earlier in my career, I didn't do it at
16 all the sites, so I wasn't familiar with
17 all the sites.

18 Q. But sitting here today in 1999 you are
19 familiar with the Anniston site, aren't
20 you?

21 A. Right.

22 Q. And you know it is in an area that is
23 made up of a large population of

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16

1 minorities and low income families,
2 correct?

3 A. In pockets, yes.

4 Q. And is that a concern for the company,
5 that it may lead to some allegation of
6 environmental racism?

7 A. At the time I think just the community
8 that was adjacent to the site, because
9 it was mainly minority, was seen to be,
10 you know -- the possibility might be
11 raised of environmental justice.

12 Q. During the time you handled community
13 relations for the Anniston facility was
14 that issue ever raised in any fashion,
15 environmental justice or environmental
16 racism?

17 A. I'm not sure what you mean. What do you
18 mean?

19 Q. Was it raised in any fashion, either by
20 anyone at the plant or any members of
21 the community?

22 A. It was an issue that -- I mean, it was
23 just kind of in the background, that

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17

1 that was a possibility that people might
2 raise.

3 Q. And when you say in the background, do
4 you mean that was a concern that
5 Monsanto had, that that was some issue
6 that might be raised?

7 A. Right.

8 Q. And what did Monsanto -- what action did
9 Monsanto take if any to cure that issue?

10 MR. PECK: Object to the form of

11 the question.

12 Q. You can answer.

13 MR. PECK: You can answer. I'm

14 just objecting to the form of

15 the question for the record.

16 A. I don't -- It wasn't something that we

17 addressed specifically. I mean, we were

18 dealing with it as a situation where we

19 needed to do some remediation. We

20 weren't dealing -- We weren't addressing

21 the issue as an issue of environmental

22 justice.

23 Q. When you are talking about dealing with

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18

1 the situation that involved remediation,

2 are you talking about the PCB

3 contamination?

4 A. Uh-huh (indicating yes).

5 Q. Is that a yes?

6 A. Yes.

7 Q. How does that tie into the issue of

8 environmental justice if at all?

9 A. We needed to do remediation in an

10 adjacent community adjacent to the site,
11 and that community was primarily
12 minority residents. And given the
13 nature of environmental justice and the
14 environmental justice movement that was
15 a possibility, that someone might claim
16 that it was related to environmental
17 justice.

18 Q. Well, before you ever even dealt with
19 the remediation issue, when I asked you
20 to define what environmental justice
21 means, you explained that it is a
22 situation where you have minorities
23 living adjacent to a chemical facility

REGIONAL REPORTING SERVICE, INC.

19

1 or a dump site or whatever you want to
2 call it, right?

3 A. Uh-huh (indicating yes).

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

6 Q. Is that a yes?

7 A. Yes. Well, it is a belief that
8 minorities or poor people might be

9 unfairly disadvantaged by living next --
10 by living in close proximity to --
11 whether it be a chemical plant or
12 electrical station or large facility.

13 Q. Separate and apart from the fact there
14 are PCBs that have migrated from the
15 Anniston plant that you guys are going
16 to remediate, long before you discovered
17 that, there were poor people living by
18 the plant, right?

19 A. Right.

20 Q. So understanding that this possibility
21 existed both before and after the
22 remediation efforts, for environmental
23 justice issues to be raised, what steps

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20

1 if any did Monsanto take to cure that
2 problem?

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

5 A. Are you talking about Anniston
6 specifically or the issue in general?

7 Q. Let's deal first with Anniston

8 specifically. I mean, you know it is a
9 concern. It is a possibility that you
10 have testified the company thought of.
11 So what efforts if any did the company
12 take to remedy that situation?

13 A. Well --

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

16 A. Okay. So you are talking about
17 Anniston?

18 Q. Right.

19 A. But it all kind of evolved at the same
20 time.

21 Q. What evolved at the same time?

22 A. When I took over the Anniston site, we
23 were already engaged in discussions with

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21

1 ADEM about remediation. So it wasn't a
2 matter of something else coming first.
3 Q. So you're saying you personally, as far
4 as your involvement goes, didn't have
5 any knowledge about environmental
6 justice issues until the time the

7 remediation was taking place?

8 MR. PECK: In Anniston?

9 MS. MALOW: Yeah. We are talking
10 about Anniston.

11 A. I really didn't get engaged with the
12 Anniston site until I took it over.

13 Q. And you weren't familiar with the fact
14 that the Anniston plant was located in a
15 poor neighborhood made up of minorities?

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

18 A. I really wasn't involved with that site
19 at that time. There were other people
20 that did that.

21 Q. Okay. Let's deal with once the
22 discussions were going on with ADEM
23 about the remediation. What steps if

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22

1 any did Monsanto take to address this
2 possibility of environmental justice in
3 the Anniston area?

4 A. I guess we weren't looking at it as an
5 environmental justice issue. We knew

6 that other people might raise that. We
7 were dealing with the situation at hand
8 and how to be as fair with the residents
9 as possible and give them as many
10 options as possible as we progressed
11 with our remediation plans.

12 Q. Are you familiar with a lawyer named
13 Grover Hankins?

14 A. I've heard his name, but I don't know
15 much about him.

16 Q. In what context have you heard his name?

17 A. I don't recall. I just -- His name
18 sounds familiar.

19 Q. Have you read any articles that Grover
20 Hankins has authored regarding
21 environmental justice or environmental
22 racism issues?

23 A. I don't recall his name being associated

REGIONAL REPORTING SERVICE, INC.

23

1 with articles I've read.

2 (Plaintiffs' Exhibit Number

3 Two was marked for

4 identification.)

5 Q. I'm going to hand you what has been
6 marked as Exhibit Two and ask you to
7 take a look at it and tell me if you
8 have seen this document before.

9 A. No. This is -- This is a Solutia
10 document. I'm not part of Solutia.

11 Q. Have you ever seen a similar document
12 prepared with Monsanto's insignia?

13 A. It doesn't look familiar to me.

14 Q. Let me ask you just in general. I look
15 at this like pitch materials that are
16 prepared either internally or
17 externally. Have you seen similar types
18 of materials that have been prepared for
19 Monsanto?

20 MR. PECK: Object to the form of
21 the question. I've never
22 heard of "pitch materials"
23 before.

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24

1 MS. MALOW: Not like pitch in the
2 trash.

3 A. Well, I guess I don't understand what

4 you mean by pitch materials.

5 Q. What would you call these types of
6 charts and graphs that are comprised in
7 Exhibit Two?

8 A. It looks like a presentation.

9 Q. And have you ever seen any sort of
10 presentation materials on environmental
11 justice issues that were put together by
12 Monsanto or for Monsanto, either one?

13 A. Not in this form, just -- yeah. I mean,
14 people would put internal presentations
15 or -- I'm trying to even remember -- I'm
16 trying to remember -- Well, I know that
17 there -- We were trying to keep people
18 informed about the issue. I don't
19 believe that I put a presentation
20 together, but I think someone did. It
21 didn't look nearly as detailed as this
22 is. And it was just the very start of
23 the issue. And I can't recall who would

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25

1 have put it together. But to say did we
2 ever put any presentations together on

3 environmental justice, I believe we did.

4 Q. Did or does Monsanto ever use outside
5 consultants to put together

6 presentations such as Exhibit Two?

7 A. I don't know who Solutia -- whether

8 Solutia put this together themselves or

9 not.

10 Q. My question, just so I'm clear, is about

11 Monsanto. I'm not going to ask you

12 stuff about a company you don't work

13 for. I'm just asking does Monsanto ever

14 hire outside consultants to put together

15 presentation materials?

16 A. Sure.

17 Q. Such as on issues like environmental

18 justice?

19 A. Well, occasionally, depending on what

20 they are hired to do.

21 Q. We talked specifically about Anniston,

22 and you had -- The way you answered one

23 of my questions, I need to ask you in a

REGIONAL REPORTING SERVICE, INC.

26

1 more broad fashion. What is your

2 familiarity with the issue of
3 environmental justice for any of the
4 Monsanto facilities that you have done
5 work for over the years?

6 A. What is my understanding of
7 environmental justice?

8 Q. No. What --

9 MS. MALOW: Can you read back the
10 question?

11 (Requested portion of record
12 read.)

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

15 Q. Do you need me to restate it?

16 A. Yeah.

17 Q. What I'm getting at, Ms. Herndon, is
18 what experience you have had in terms of
19 any facility, Monsanto facility, where
20 environmental justice was raised as an
21 issue.

22 A. We don't -- We don't do community
23 relations with the thought of

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1 environmental justice in mind. When we
2 put together community relations plans
3 at our sites, we do it with the
4 community in mind, whatever the
5 community looks like, looking at, you
6 know, what are the goals of the
7 community, how can we work together with
8 the community to help them fulfill their
9 goals.

10 MS. MALOW: Objection,
11 nonresponsive.

12 Q. My question was specific about
13 environmental justice. I'm not asking
14 you about what sort of community
15 relations plans you put together.

16 A. And I'm saying we didn't put community
17 relations plans together saying we will
18 do these community relations activities
19 because of environmental justice issues.

20 MS. MALOW: Objection,
21 nonresponsive.

22 Q. Let me come a different way and see if
23 we can get an answer to the question.

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1 In your experience in working with
2 Monsanto have you had any plants you
3 have dealt with where any issues of
4 environmental justice were raised?
5 A. Again, it was just a background
6 knowledge of minority communities at
7 some sites. But it wasn't planned with
8 environmental justice necessarily in
9 mind. It was just the knowledge of what
10 the issue is and the fact that some
11 people might, if they were looking at --
12 they might look at -- You have me
13 confused. Environmental justice as an
14 issue of minorities living adjacent to a
15 chemical site, that some sites had
16 minority populations. And some people
17 might raise that as an environmental
18 justice issue. That is not to say that
19 we managed the sites because of
20 environmental justice in mind.

21 MS. MALOW: I need to object to
22 that as nonresponsive as
23 well.

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1 Q. Maybe I'm not coming at it clear.

2 A. Yeah.

3 Q. All I'm looking for, Ms. Herndon, is

4 during the time you have been handling

5 community relations for any Monsanto

6 facility, if any community raised the

7 issue of environmental justice.

8 A. Not that I can recall.

9 Q. Okay. It didn't come up with respect to

10 Sauget?

11 A. That people accused us of environmental

12 injustice or justice?

13 Q. Right.

14 A. Not that I can recall.

15 Q. Monsanto's a member of the Chemical

16 Manufacturers Association or CMA, right?

17 A. Right.

18 Q. Did any Monsanto representative ever sit

19 on the environmental justice task group

20 or get involved in the environmental

21 justice policies?

22 A. Uh-huh, yes.

23 Q. Who would that be?

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1 A. Kevin Cahill.

2 Q. Is he still involved in that issue?

3 A. I don't know.

4 Q. When do you know about -- What time

5 frame was he involved as far as you

6 know?

7 A. You would have to ask him.

8 Q. And what was his involvement as far as

9 you know? Was he on the environmental

10 justice task group?

11 A. I don't know. I just know he was

12 somehow involved with it.

13 Q. Did he share with you any of the

14 information that he obtained from CMA

15 regarding the environmental justice

16 issue?

17 A. I sat in on a conference call with CMA

18 and Kevin one time. And this -- I can't

19 even remember what all was discussed.

20 It seems it was more bookkeeping at the

21 time -- not bookkeeping per se, but more

22 administrative related. And after that

23 it wasn't worth my time to sit in any

1 more. But beyond that I don't know. I
2 don't know what Kevin's involvement was.

3 Q. If you will flip to -- I think it is the
4 ninth page of Exhibit Two, I have a
5 question for you about that.

6 A. It starts "current litigation"?

7 Q. No. It is the one right before that,
8 environmental justice vulnerability
9 analysis.

10 A. Okay.

11 Q. Can you tell me why Anniston is listed
12 as being vulnerable to the issue of
13 environmental justice?

14 MR. PECK: Object to the form of
15 the question. It is not her
16 document.

17 A. It is not my document.

18 Q. Well, I know. But you are familiar with
19 the Anniston site, and you are familiar
20 with the concept of environmental
21 justice. Can you think of any reason
22 why it would be listed as the first site
23 under vulnerability analysis?

1 MR. PECK: Object to the form of
2 the question, calls for
3 speculation.

4 Q. You can answer.

5 A. During the years I had the Anniston
6 site -- And as I've stated -- I said
7 this before. Because there was a
8 minority community adjacent to the plant
9 and we needed to do remediation in that
10 neighborhood and that neighborhood was
11 primarily minority, we knew that some
12 people might raise the issue of
13 environmental justice.

14 Q. Have you seen any sort of surveys or
15 studies that show what percentage of
16 Monsanto plants are located in low
17 income or minority neighborhoods?

18 A. I've not seen anything like that.

19 Q. At the end of this document, Exhibit
20 Two, there is -- It is actually three
21 pages from the back. There are some
22 environmental justice principles for

23 Solutia. Do you see that?

REGIONAL REPORTING SERVICE, INC.

33

1 A. Uh-huh (indicating yes).

2 Q. Is that a yes?

3 A. Yes.

4 Q. Do you know if Monsanto also issued some
5 environmental justice principles?

6 A. I don't recall. I don't think so, but I
7 don't recall for sure.

8 Q. Are you familiar with any award given to
9 the Sweet Valley, Cobb Town area to deal
10 with issues of environmental justice by
11 the EPA?

12 A. Oh --

13 MR. PECK: You mean award of
14 money?

15 MS. MALOW: Yes.

16 A. One of those community assistance
17 grants?

18 Q. Yes.

19 A. I just know they got it. I don't know
20 much more than that.

21 Q. Do you know what the amount was?

22 A. No. I don't recall.

23 Q. Were you involved in any way with

REGIONAL REPORTING SERVICE, INC.

34

1 respect to that issue?

2 A. To them getting it?

3 Q. Well, just --

4 A. No, I wasn't involved.

5 Q. Do you remember if in 1995 you had

6 responsibility for Anniston? In 1995,

7 March of 1995, did you have

8 responsibilities for Anniston?

9 A. I believe so.

10 Q. How about for -- Strike that.

11 Exhibit Two, that had that list of

12 plants that were vulnerable for

13 environmental justice issues. Can you

14 look at that list of plants and tell me

15 what makes those other plants vulnerable

16 for environmental justice?

17 MR. PECK: Object to the form of

18 the question, not her

19 document.

20 A. At I mentioned earlier, the Krummrich

21 plant had a minority population not too
22 far away in east St. Louis, even though
23 the Krummrich plant is in Sauget.

REGIONAL REPORTING SERVICE, INC.

35

1 Q. Okay. How about the rest?
2 MR. PECK: Same objection.
3 A. I -- I mean, I recognize the plants, but
4 I never studied anything related to
5 environmental justice with them.
6 Q. Have you been to any of the other
7 facilities listed on Exhibit Two?
8 A. Sure. I've been to the Delaware River
9 plant and Augusta. I have never been to
10 Pensacola or Decatur.
11 Q. The Delaware River plant, what sort of
12 neighborhood is that located in?
13 A. It is mostly a farming community.
14 Q. Kind of skipping around, have you ever
15 had media training?
16 A. Uh-huh (indicating yes).
17 Q. Is that a yes?
18 A. Yes.
19 Q. Was that paid for by Monsanto?

20 A. Yes.

21 Q. Who was it through, what organization?

22 A. Fleishman Hillard.

23 Q. When did you have that training?

REGIONAL REPORTING SERVICE, INC.

36

1 A. I can't recall the exact date.

2 Q. Do you think it was in the '90s or the

3 '80s?

4 A. You know, sometime in the '80s or '90s.

5 Q. Can you narrow it down at all as to when

6 it came in relation to when you came

7 with Monsanto?

8 A. I can't.

9 Q. Have you had media training more than

10 once?

11 A. Yeah, but I can't recall -- Yes. I'll

12 just leave it at yes.

13 Q. Have you ever taught media training to

14 Monsanto employees?

15 A. I've -- It has mostly been Fleishman

16 Hillard that did our media training. We

17 had another firm early on that did some

18 media training at our plant sites. I

19 don't recall their name either.

20 Q. Have you done any work with Fleishman

21 Hillard in connection with the Anniston

22 facility?

23 A. The only thing they did for us was a

REGIONAL REPORTING SERVICE, INC.

37

1 search for whether there were any PR

2 firms in the area, in Anniston, and they

3 weren't able to find any firms that were

4 of any size or that we would want to

5 use.

6 Q. And I missed part of your answer. Did

7 you say in the Anniston area?

8 A. Yes.

9 Q. When was that search requested to be

10 performed?

11 A. Well, sometime during the years that I

12 had the site, so sometime between '94

13 and '97, though I can't recall the exact

14 date.

15 Q. Did you personally ask someone at

16 Fleishman Hillard to look for a PR firm

17 in the Anniston area?

18 A. Yes.

19 Q. Why did you want a PR firm in the

20 Anniston area?

21 A. Because there were a lot of issues at

22 the site, and there was a lot of -- Jack

23 Mayausky was the new plant manager at

REGIONAL REPORTING SERVICE, INC.

38

1 the time, and he was trying to get

2 around and meet different people in the

3 community. And it was taking a lot of

4 his time, and he could have used some

5 help in getting some of those meetings

6 set up. I was in St. Louis and had a

7 lot of other responsibilities besides

8 just the plants, and I -- I'm not a

9 local person. A local person would have

10 been better, but we didn't find anyone

11 skilled in the way that we could use

12 them to do that.

13 Q. What sort of skills were you looking

14 for?

15 A. Community relations, good communication.

16 That's pretty much it.

17 Q. And you mentioned before you talked
18 about Mr. Mayausky being the new plant
19 manager that there were a lot of issues
20 at the Anniston site. What issues
21 existed at that time?

22 A. Well, just general community relations
23 issues. It was a site that had been

REGIONAL REPORTING SERVICE, INC.

39

1 downsized significantly over the past
2 several years, so he was trying to
3 re-establish it as a viable small plant
4 rather than the large plant it had been
5 known as. The previous plant manager
6 had spent a lot of time reorganizing the
7 plant to get it down to a smaller size
8 and so had not had the time to spend
9 with the different community groups that
10 we usually try to encourage plant
11 managers to do. So he needed to
12 reconnect and re-establish Monsanto's
13 name in the community, those kinds of
14 things.

15 Q. How about the PCB issue? Was that one

16 of the issues you guys were dealing with
17 from a PR standpoint?
18 A. That was just starting up, and he did
19 want to get around to the community, at
20 least the adjacent communities too.
21 Q. Are you familiar with Steve Bradley?
22 A. The name is not familiar with me.
23 Q. So as far as your role with Anniston,

REGIONAL REPORTING SERVICE, INC.

40

1 you made an effort to get Fleishman
2 Hillard to find a local PR firm, and it
3 was unsuccessful, and that was the last
4 you knew about it?
5 A. Uh-huh (indicating yes).
6 Q. Is that a yes?
7 A. Yes.
8 Q. Specifically regarding Anniston what
9 were your job duties and
10 responsibilities when you had the
11 Anniston facility?
12 A. I worked with Jack Mayausky on his
13 community relations activities related
14 to the plant, just general community

15 relations, and then with the remediation
16 team and Jack on community issues
17 related to remediation.
18 Q. And when you say the remediation team,
19 does that include Alan Faust?
20 A. Not in the early days. He came along a
21 little later.
22 Q. Who was the remediation team you were
23 working with, Jo Hanson?

REGIONAL REPORTING SERVICE, INC.

41

1 A. Yeah, Jo was there early on.
2 Q. Who else?
3 A. Robert -- I forget his last name.
4 Q. Jones?
5 A. Yeah. He was there early on. But he --
6 He wasn't as involved as Jo and then
7 later Alan because he was the
8 environmental superintendent for the
9 plant itself. Of course, you know, Jack
10 was involved too as the plant manager.
11 Q. Anybody else?
12 A. As far as corporate people, Bob Kaley.
13 Q. And he is out of St. Louis?

14 A. Right.

15 Q. And I'll get into that with you in more

16 detail later. For right now I just sort

17 of wanted an overview of what your

18 responsibility was. Does that cover it,

19 working with Jack on community relations

20 type issues and also working on the

21 remediation efforts?

22 A. From a community relations viewpoint.

23 Q. Okay.

REGIONAL REPORTING SERVICE, INC.

42

1 A. And with Prudential too.

2 Q. We will get into that too. We have a

3 lot to cover. At some point did you

4 take over for Beth Rusert?

5 A. Yes.

6 Q. Tell me during that transition where you

7 were taking over for Beth what

8 discussions you and Beth had regarding

9 the Anniston facility. How did she get

10 you up to speed?

11 A. I believe it was just sitting down and

12 discussing where things were. But as

13 far as the details of that, that was a
14 long time ago. I don't recall what she
15 said, what I asked.

16 Q. Do you remember her providing you with
17 any documents for you to read so you
18 would have some information about the
19 Anniston site?

20 A. It was probably just some of the clips,
21 news clips.

22 Q. How about any historical documents
23 regarding the manufacturing of PCBs?

REGIONAL REPORTING SERVICE, INC.

43

1 A. I don't recall. It doesn't ring a bell.

2 Q. Have you at some point in your career
3 with Monsanto looked at historical
4 documents regarding PCBs?

5 A. I wasn't the scientific expert on PCBs,
6 nor did I try to be. So any of the
7 scientific documents, whenever questions
8 were asked, I transferred those over to
9 the scientists in Monsanto who were
10 experts in that.

11 Q. Would that be Bob Kaley?

12 A. Bob Kaley, right.
13 Q. Anybody else you would refer those
14 questions to?
15 A. Mostly just Bob.
16 Q. But in being the PR person and having to
17 address issues regarding PCBs, didn't
18 you have to have some understanding?
19 A. I had a fact sheet that you have
20 probably seen. It is a 1990
21 backgrounder. It just gives the history
22 of Monsanto's involvement with PCBs.
23 That is about as much as I could talk

REGIONAL REPORTING SERVICE, INC.

44

1 from. Anything beyond that I would
2 refer elsewhere.
3 (Plaintiffs' Exhibit Number
4 Three was marked for
5 identification.)
6 Q. Now, I'm handing you what has been
7 marked as Exhibit Three, which is
8 entitled "Monsanto Backgrounder" dated
9 July 1990. Is that the document you
10 just referred to?

11 A. Yes.

12 Q. And the Monsanto Backgrounder was

13 background information on PCBs that you

14 had to look at to answer any questions

15 that you needed to that were not

16 scientific in nature?

17 A. That's right. And in fact, if a

18 reporter wanted it, we would give it to

19 them.

20 Q. Do you know who prepared the Monsanto

21 Backgrounder, Exhibit Three?

22 A. I don't know. I know I didn't.

23 Q. Okay. And you had no knowledge as to

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45

1 who had input into this document,

2 Exhibit Three?

3 A. I believe Bob Kaley had input, but I

4 don't know who the author was.

5 Q. When did you first receive Exhibit

6 Three?

7 A. I don't recall.

8 Q. Do you think it was when you first got

9 responsibility for Anniston or before

10 that time?

11 A. I really don't recall.

12 Q. Have you read any of the studies that

13 are referenced in Exhibit Three, for

14 example, Dr. Renate Kimbrough's 1987

15 review of Human Health Effects of PCBs?

16 A. No. These were scientific, and I

17 wouldn't have been able to interpret

18 them.

19 Q. And there is a reference page which is

20 page seven of the documents. Have you

21 read any of those documents?

22 A. I don't believe so.

23 Q. Other than the Monsanto Backgrounder

REGIONAL REPORTING SERVICE, INC.

46

1 which is Exhibit Three to your

2 deposition, have you examined any other

3 documents regarding PCBs in terms of

4 health effects or toxicity issues?

5 A. No.

6 You are still on page one?

7 Q. Oh, we will be moving along quickly.

8 I've actually covered some things on

9 other pages, believe it or not. We are
10 killing two birds with one stone.
11 Who was your immediate predecessor
12 for the job in Anniston? Is that Beth?
13 A. Uh-huh (indicating yes).
14 Q. Is that yes?
15 A. Yes.
16 Q. Did you know Beth Vanderbeck?
17 A. Yes.
18 Q. Do you know where she is presently
19 residing?
20 A. I believe she is in St. Louis, but I
21 haven't seen her in a long time.
22 Q. Did she have responsibility for Anniston
23 at sometime?

REGIONAL REPORTING SERVICE, INC.

47

1 A. Yes.
2 Q. Do you know what time frame?
3 A. I believe before Beth Rusert, but I
4 don't know the years.
5 Q. Do you know what Beth Vanderbeck did
6 regarding Anniston?
7 A. I don't know.

8 Q. You told me earlier that -- when we were
9 talking about the various reasons you
10 needed a local PR firm that the PCB
11 issue was just beginning at that time.
12 What issues developed regarding PCBs
13 during the time you were handling the
14 Anniston facility?

15 A. By then the PCBs had been discovered in
16 the neighborhood adjacent to the site.
17 A remediation plan was being put
18 together with ADEM. We came to the
19 realization that we were going to need
20 the property where that adjacent
21 neighborhood was located, and so we
22 started talking about a property
23 purchase program. And that involved

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48

1 community issues at least related to
2 that community, the neighborhood.
3 Q. Before that time were you familiar with
4 the fact that the Alabama Power Company
5 had discovered high levels of PCBs on
6 what used to be a landfill owned by

7 Monsanto?

8 A. I heard about it, but that was before I

9 took the site over.

10 Q. What was your understanding in taking

11 over the site as to the discovery of

12 PCBs by Alabama Power Company? I mean,

13 did you for example talk to Jack

14 Mayausky and get some history from him

15 about that event?

16 A. I know that we had some backgrounding on

17 it way back when, but it has been long

18 enough ago that I don't remember the

19 details. I think there was a land swap

20 involved, but beyond that I don't

21 recall.

22 Q. Do you know why it was that Monsanto

23 agreed to take back the land?

REGIONAL REPORTING SERVICE, INC.

49

1 A. I don't remember.

2 Q. Were you involved in any of the

3 negotiations between Monsanto and

4 Alabama Power?

5 A. No.

6 Q. When you took over the Anniston file
7 were there press clippings in the
8 Anniston file from Beth Rusert that
9 talked about the Alabama Power Company's
10 discovery of PCBs at that west end
11 landfill site?

12 A. There may have been, but I don't recall
13 what articles were in that file.

14 Q. So let's talk about this property
15 purchase program. You mentioned you had
16 had some involvement with that issue,
17 right?

18 A. Right.

19 Q. Tell me what your role was with respect
20 to the property purchase program.

21 A. Well, again, looking at what was going
22 to need to be done with the remediation
23 and realizing that we were going to need

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50

1 to purchase property and wanting to be
2 as fair as possible to the residents and
3 give them as many options as possible,
4 we wanted to find a firm that was well

5 experienced in conducting property
6 purchase programs, who could handle the
7 details of such a program with us. And
8 Prudential was one of the firms that we
9 solicited a proposal from. And I don't
10 recall how we came to them in the first
11 place. I know they had done some work
12 with us on a community advisory panel on
13 another site, but as far as property
14 purchase, I don't believe they had done
15 anything like that for us before. And
16 then I think there may be one or two
17 other firms, but I really don't recall
18 who they were. But Prudential seemed by
19 far the best qualified.

20 Q. Where had Prudential -- I'm going to
21 call them a CAP, that's the community
22 assistance panel or community advisory
23 panel?

REGIONAL REPORTING SERVICE, INC.

51

1 A. Right, community advisory panel.
2 Q. Where had Prudential helped Monsanto put
3 a CAP in place?

4 A. At our Carondelet facility in the St.

5 Louis area.

6 Q. Were you involved with them on that CAP

7 at Carondelet?

8 A. No. Someone else was. I don't remember

9 who it was.

10 Q. Are you familiar with a relocation

11 planning committee that worked with EPA?

12 A. A Monsanto committee or who?

13 Q. Well, it is a relocation planning

14 committee, and Michael Pierle seems to

15 be a member of that committee. Are you

16 familiar with that?

17 A. Was that part of NEJAC, National

18 Environmental Justice?

19 Q. Let me show you the document and you

20 tell me if that is what it is.

21 A. I know he was involved with that group,

22 but he was -- and I believe Kevin was,

23 but I don't know if it was during these

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52

1 years.

2 Q. This is 1996. Let me get that marked.

3 (Plaintiffs' Exhibit Number
4 Four was marked for
5 identification.)
6 Q. I've now handed you what has been marked
7 as Exhibit Four. Have you seen this
8 document before?
9 A. I don't remember it. It looks like just
10 an agenda.
11 Q. It is from Yolanda Ting with EPA, and it
12 is to the relocation planning committee,
13 which includes Michael Pierle. Is that
14 right?
15 A. Well, I know he was part of NEJAC. I
16 don't know if he was part of this
17 committee. His name is on it, but I
18 don't know for sure.
19 Q. If you will go to page two of Exhibit
20 Four, there is breakout group number
21 four listed, and it has a woman from
22 Anniston, Alabama, Ms. Cassandra
23 Roberts, and it also has Michael Pierle

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1 from Monsanto Company. Are you familiar

2 with what this breakout group was
3 discussing?
4 A. No.
5 Q. Do you know Michael Lythcott?
6 A. I've heard his name before, but I don't
7 recall in what context.
8 Q. Okay. If you will flip to the sixth
9 page --
10 A. Sharing our stories?
11 Q. No. It is confirmed invitees.
12 A. Okay.
13 Q. At the bottom it says planning committee
14 members, and it lists Grover Hankins of
15 the Thurgood Marshall School of Law, and
16 it says NEJAC. Does this refresh your
17 memory -- it also has Mr. Pierle,
18 Monsanto Company, NEJAC -- that this
19 information is in connection with NEJAC?
20 MR. PECK: Object to the form of
21 the question.
22 A. Well, it is -- is this a planning
23 committee of NEJAC?

REGIONAL REPORTING SERVICE, INC.

1 Q. That is what I'm asking you.

2 A. Well --

3 MR. PECK: Object to the form of

4 the question.

5 Q. If you know. If you don't, you don't

6 have to guess.

7 A. Okay. Good. I don't know. It doesn't

8 look like it is very well marked.

9 Q. Okay. So help me understand. What is

10 NEJAC?

11 A. It is National Environmental Justice

12 Advisory Committee. It was a committee

13 of EPA that EPA formed to look at issues

14 of environmental justice.

15 Q. And it is your understanding that

16 Mr. Pierle served on that committee?

17 A. Yes.

18 Q. Did you ever have any discussion with

19 Mr. Pierle regarding any of the

20 committee meetings that he had?

21 A. I knew he was on it. And we might have

22 talked about, you know, one meeting or

23 another, but nothing stands out in my

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1 mind, and I really don't recall details
2 of what happened.

3 Q. Going back to the property purchase
4 program, who established the terms of
5 the property purchase program?

6 A. There was a lot of discussion, again,
7 with the Prudential people, with the
8 plant folks, meaning mostly Jack -- I
9 think Alan might have been on board by
10 then, but I'm not sure; I'm not positive
11 about that -- and with some of the
12 remediation people about, you know, what
13 property would we need, how to go about
14 finding -- Well, we didn't want to be in
15 a position to tell people where they
16 needed to live. So we wanted to give
17 them options of where to live.

18 So the goal was at least
19 comparable if not better housing than
20 they had, and that could be anywhere
21 they wanted to go. And Prudential had a
22 process that they went through where
23 they did an inventory of the available

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1 homes in Anniston, got kind of a range
2 of what the prices of available homes
3 were going for and what the -- you know,
4 what the estimate of the homes in that
5 adjacent neighborhood were worth. And
6 then they applied a multiple to that to
7 give people enough money so that they
8 could move to one of these comparable
9 homes or anywhere outside of Anniston if
10 they so chose.

11 Beyond that it was just trying to
12 think of what the community's needs
13 would be and how we could make this as
14 easy as possible for them.

15 (Plaintiffs' Exhibit Number
16 Five was marked for
17 identification.)

18 Q. Ms. Herndon, I'm going to hand you
19 what's been marked as Exhibit Five and
20 ask you to take a look at that and tell
21 me if you are familiar with that
22 document.

23 A. Let me just take a minute. Yeah. This

REGIONAL REPORTING SERVICE, INC.

1 I believe was the contract that

2 Prudential wanted to use.

3 Q. And that is what I was going to ask you,

4 who put Exhibit Five together. That was

5 Prudential?

6 A. Yes.

7 Q. Were there any changes made to their

8 suggested contract?

9 A. To this one?

10 Q. Well, to any version of it.

11 A. I don't remember.

12 Q. Were you involved in hammering out the

13 terms of the real estate contract, sales

14 contract?

15 A. I know I was one of the people who

16 looked at it.

17 Q. Do you recall any changes to any drafts

18 of the sales contract?

19 A. I really -- I don't remember. This is

20 years ago.

21 Q. Okay. There is a note from you on page

22 one to Mr. Cooper that says, "Please

23 review this contract for use with the

1 Anniston program. We'll start making
2 offers early next week. Thanks, Diane
3 Herndon." Does that refresh your
4 recollection as to whether or not this
5 is a final version of the sales contract
6 or still in draft form?

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

8 Q. Was Mr. Cooper with Prudential?

9 A. No. But I don't recall who he was with,
10 how we were using him.

11 Q. Who else would have looked at the sales
12 contract besides Monsanto people and
13 Prudential people?

14 A. I don't know.

15 Q. Did you assist Mr. Mayausky with
16 door-to-door efforts to inform the
17 community about this program?

18 A. No. Jack did that.

19 Q. Did you talk with Jack about putting
20 that program into place?

21 A. About going to door to door? We talked
22 about what the best way to let people
23 know about -- Well, first, as part of

1 his community relations responsibilities
2 as plant manager, we thought he needed
3 to get around and at least know his
4 fence-line neighbors. So he did that.
5 When we put the property purchase
6 program together and I think we were
7 setting up a meeting to inform people
8 about the program and we wanted to
9 figure out the best way to make sure
10 that everyone was communicated with, we
11 figured the best way would be for him to
12 knock on doors and tell people about it,
13 so he did that.

14 Q. Whose idea was that?

15 A. I think we were just talking about, you
16 know, how this could be done, whether
17 posting notices in the church or someone
18 in the community would get to all these
19 residents, and we decided the only way
20 was just to knock on doors. I don't
21 remember if it was my idea or someone
22 else's.

23 Q. How was it decided which doors he would

REGIONAL REPORTING SERVICE, INC.

60

1 go to?

2 A. It was the doors of the people living in

3 the houses that we needed.

4 Q. That Monsanto needed for the

5 remediation?

6 A. For the remediation plan, yes.

7 Q. And what was -- what was the -- Strike

8 that.

9 What information was told to the

10 people whose doors Mr. Mayausky knocked

11 on?

12 A. Beyond just informing them about the

13 meeting, I don't know what else he might

14 have discussed with them.

15 Q. Why were you involved from the PR

16 standpoint with respect to the property

17 purchase program?

18 A. Because it involved the community, and

19 so it was -- made sense to have a public

20 affairs, community relations person

21 involved.

22 Q. Why wasn't that an aspect that could be
23 handled by the plant?

REGIONAL REPORTING SERVICE, INC.

61

1 A. They mostly did.

2 Q. So what was your need to be involved?

3 A. Just as an advisor.

4 Q. Did you make my recommendations with
5 regard to remediation efforts?

6 A. No. That wasn't my job.

7 Q. What contact did you have with Brian
8 Hughes regarding the property purchase
9 program?

10 A. Brian Hughes?

11 Q. Of the Alabama Department of Public
12 Health at that time.

13 A. I don't believe I worked with him.

14 (Plaintiffs' Exhibit Number

15 Six was marked for

16 identification.)

17 Q. Ms. Herndon, I'm going to hand you
18 what's been marked as Exhibit Six and
19 ask if you have seen that document
20 before.

21 A. Oh, yeah. These I guess were the
22 third-party experts that if people had
23 any questions they could go to that

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62

1 would be able to offer expert
2 information.

3 Q. Who put together the list of experts
4 which is marked as Exhibit Six?

5 A. It wasn't me.

6 Q. Did you have any conversations with
7 anybody regarding Dr. Brian Forrester,
8 Dr. Renate Kimbrough, or Dr. Brian
9 Hughes and their role with respect to
10 this property purchase program?

11 A. I didn't have contacts with any of these
12 people. In our discussions of who we
13 should use as third-party contacts, we
14 wanted them to be non-Monsanto people,
15 people who were familiar with PCBs, and
16 people who were good communicators. But
17 beyond that I had no input into who
18 those individuals should be because I'm
19 not familiar with who the experts in

20 this area are in Alabama.

21 Q. Were these individuals recommended by

22 Dr. Kaley?

23 A. He had a big part of it.

REGIONAL REPORTING SERVICE, INC.

63

1 Q. Who else did?

2 A. I don't know.

3 Q. And you have told me that you personally

4 have not had any contact with Dr. Brian

5 Forrester; is that right?

6 A. Not that I recall.

7 Q. And you have never had any contact with

8 Dr. Renate Kimbrough?

9 A. Not that I recall.

10 Q. And you have never had any contact with

11 Dr. Brian Hughes? And by contact, just

12 so I'm clear, I'm talking about writing,

13 e-mails, telephone calls, any contact

14 whatsoever.

15 A. I don't believe I did.

16 Q. Why did you want experts, third-party

17 experts, involved regarding the property

18 purchase program?

19 A. So residents or their physicians may
20 call any of these persons.
21 Q. Right.
22 A. I believe it was more related to people
23 who would have any questions about

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64

1 health concerns.
2 Q. Were you in attendance at any public
3 meetings where any of these experts were
4 present?
5 A. No.
6 Q. Have you had discussions with Bob Kaley
7 regarding what areas Dr. Forrester is an
8 expert in regarding PCBs?
9 A. No. I mean, his title is there, but I'm
10 not familiar with what he was an expert
11 in.
12 Q. How about have you had any discussions
13 with Bob Kaley regarding Dr. Kimbrough's
14 expertise?
15 A. I know she is an expert related to PCBs.
16 But as to what she wrote or anything
17 else, Bob's really -- Bob Kaley is the

18 expert on that.

19 Q. How about Dr. Brian Hughes? What

20 familiarity do you have regarding his

21 expertise?

22 A. Other than his title, I don't.

23 Q. Are you aware of the fact that

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65

1 Drs. Forrester, Kimbrough, and Hughes

2 have all been retained and are being

3 paid as expert witnesses in this

4 litigation that we are here for today?

5 MR. PECK: Object to the form of

6 the question. It is not

7 accurate.

8 A. I didn't know that.

9 Q. Would you agree that if someone is

10 retained as an expert witness in

11 litigation by a party -- Strike that.

12 (Plaintiffs' Exhibit Number

13 Seven was marked for

14 identification.)

15 Q. Will you please take a look at Exhibit

16 Seven and tell me if you have seen that

17 document before.

18 A. It looks familiar.

19 Q. Do you know who wrote Exhibit Seven?

20 A. I might have been involved with it, but

21 I don't recall.

22 Q. On the front page it says there R. G.

23 Kaley. Is that -- Did Dr. Kaley

REGIONAL REPORTING SERVICE, INC.

66

1 participate in the authoring of Exhibit

2 Seven?

3 A. Again, he might have. I just don't -- I

4 don't recall.

5 Q. If you need to take some time to read

6 this to answer the question, feel free.

7 What I want to know is whether or not

8 Exhibit Seven is the final terms of the

9 property purchase program or if this is

10 just one iteration of it.

11 A. I don't -- I mean, you must have the

12 final program. I really don't recall --

13 Q. I mean, if you can't answer --

14 A. -- what the prices started at. It looks

15 familiar. But as far as the details or

16 whether these details changed, I can't
17 recall. You probably know more than I
18 do.

19 Q. I doubt that.

20 MR. PECK: Can we take a quick
21 break?

22 (A break was taken.)

23 Q. Are you familiar with the DuPont site at

REGIONAL REPORTING SERVICE, INC.

67

1 Pompton Lakes?

2 A. I remember something about it, but not
3 much.

4 Q. When you were looking into different
5 property value protection firms such as
6 Prudential, do you recall having any
7 contact with a company called PHH Home
8 Equity?

9 A. Yeah, that sounds familiar.

10 Q. What contact do you recall having with
11 them?

12 A. That they might have been one of the
13 other firms that we solicited a proposal
14 from.

15 (Plaintiffs' Exhibit Number
16 Eight was marked for
17 identification.)
18 Q. Let me go ahead and just hand you this.
19 You might need to take a few minutes to
20 read this. I'm hand handing you what
21 has been marked as Exhibit Eight. Have
22 you seen this document before?
23 A. I'm sure, with my name on it, I probably

REGIONAL REPORTING SERVICE, INC.

68

1 have seen it.
2 Q. Does it ring a bell now that you are
3 looking at it?
4 A. Let me -- Can I read it?
5 Q. Sure, absolutely.
6 A. Okay. It looks like there is more to
7 it, but that is fine.
8 Q. Have you had a chance to read Exhibit
9 Eight?
10 A. Yeah.
11 Q. Having read it and reviewing the memo
12 that Larry O'Neill sent you on March
13 16th of 1995, can you recall what work

14 you did in terms of investigating this
15 DuPont situation?
16 A. I don't think we talked to DuPont. I
17 think this was just -- I mean, it was
18 just one company's experience.
19 Q. But Larry specifically says in his memo,
20 "Call the plant manager," question mark.
21 He says "Act on this as you see fit."
22 Did you --
23 A. I didn't call the plant manager, and I

REGIONAL REPORTING SERVICE, INC.

69

1 don't think I talked to anyone at DuPont
2 either about this.
3 Q. How about with PHH Home Equity? Did you
4 call them and talk about it with them?
5 A. Now that you are mentioning their name,
6 I'm remembering that they are one of the
7 firms that we solicited another proposal
8 from. And I think they had just little
9 thumbnail descriptions of a few of the
10 sites where they did property purchase
11 programs. I don't recall if this was
12 one of them or not. It may very well

13 have been.

14 Q. Larry's memo also references that PHH

15 Home Equity did Monsanto company-wide

16 employee relocation programs and had

17 done some work for the Soda Springs

18 plant. Do you know what he is

19 referencing there?

20 A. This wasn't during a time that I had the

21 Soda Springs plant. I know they had

22 some issues up in Soda Springs, but I

23 wasn't the person managing them at the

REGIONAL REPORTING SERVICE, INC.

70

1 time they used PHH.

2 Q. What was the issue in Soda Springs?

3 A. They have low level radioactive slag

4 from the mining operations.

5 Q. Was there in fact a relocation of

6 neighbors in the community?

7 A. Again, that I don't know because that

8 wasn't part of the time I was involved.

9 Q. How about his reference to PHH making a

10 presentation at the Port Plastics plant

11 regarding the Bond Road landfill? Do

12 you know what that regards?
13 A. Again, someone else was managing this
14 particular issue in the Port Plastics
15 plant. So what they were doing with
16 property purchases or relocation, I
17 don't know. I don't think they did
18 anything, but again, I wasn't the person
19 involved.
20 Q. Larry's memo to you indicates that
21 regarding the DuPont situation he is
22 talking about contamination of Pompton
23 Lakes, that there appear to be quite a

REGIONAL REPORTING SERVICE, INC.

71

1 few parallels with our Anniston plant.
2 What parallels were there between the
3 DuPont situation and the Anniston plant?
4 A. Well, I think -- And this is '95, so it
5 was probably about the time we were
6 looking into property purchase programs.
7 That it was just the fact that we were
8 looking for a property relocation
9 company, and here is a chemical
10 manufacturer that was in need of that

11 kind of skill.
12 Q. When you read the article that is
13 attached to Exhibit Eight entitled
14 DuPont and Residents Try to Resolve
15 Contamination Issue, did you see any
16 other similarities between the DuPont
17 situation and the Anniston situation?

18 A. Well, the fact that they voluntarily
19 offered to relocate people, and I know
20 we did that too.

21 Q. How about the fact that there is a
22 comment made by a resident of Pompton
23 Lakes that if she didn't think DuPont

REGIONAL REPORTING SERVICE, INC.

72

1 was dealing fair and square with us, she
2 would be the first in a lawyer's office?
3 Was that an issue you guys wanted to
4 prevent, litigation, by buying these
5 homes?

6 A. That wasn't our motivation for buying
7 homes.

8 Q. How about the fact there were concerns
9 by the neighbors of health effects and

10 environmental issues? Was that a

11 similarity with the Anniston site?

12 A. Yes.

13 Q. How about the involvement of

14 toxicologists and doctors and doctors'

15 visits and laboratory tests? Was that a

16 similarity?

17 MR. PECK: Object to the form of

18 the question.

19 A. Yes.

20 Q. Do you have any recollection of any

21 discussions you had with any

22 representatives of PHH Home Equity

23 regarding the Anniston site?

REGIONAL REPORTING SERVICE, INC.

73

1 A. Other than soliciting a proposal from

2 them.

3 Q. That's it?

4 A. Yes.

5 Q. Have you heard of a document called

6 Getting Organized and Getting Out, a

7 Citizens Guide to Contamination,

8 Compensation and Relocation, written by

9 Lois Gibbs?

10 A. I'm familiar with Lois Gibbs somewhat,
11 and I assume what she wrote might have
12 been related to her experience at Love
13 Canal, but I'm not familiar with the
14 document.

15 (Plaintiffs' Exhibit Number
16 Nine was marked for
17 identification.)

18 Q. Let me just mark it and see if you have
19 seen it before. Have you seen Exhibit
20 Nine before?

21 A. No.

22 Q. You don't know why it was in the PR
23 files for Anniston?

REGIONAL REPORTING SERVICE, INC.

74

1 A. I don't believe I was the one who
2 requested it, and I don't recall seeing
3 this before.

4 Q. Was there anyone else handling PR issues
5 at Monsanto during the time that this
6 property purchase program was being
7 created?

8 A. No. It was during the years when I was
9 the PR, community relations corporate
10 person.

11 Q. What input did Michael Pierle have
12 regarding this property purchase
13 program?

14 A. He -- I believe a presentation was made
15 to him when all the details were
16 finalized, and he needed to approve the
17 money and needed to, you know, be
18 confident that we were acting
19 responsibly with all the provisions we
20 put into the plan.

21 Q. Do you recall Mr. Pierle providing you
22 with some information on Superfund
23 permanent relocations?

REGIONAL REPORTING SERVICE, INC.

75

1 A. I'm not sure what you mean.

2 (Plaintiffs' Exhibit Number
3 Ten was marked for
4 identification.)

5 Q. Have you seen Exhibit Ten before?

6 A. Yeah. I mean, it looks familiar, but I

7 don't recall -- Wait a minute.

8 Q. Do you recall --

9 A. Let me go the rest of the way through

10 it.

11 Q. Sorry.

12 A. What is this? It is hard to read. I'm

13 not sure about this last part. Did the

14 last part come from Mike too?

15 Q. I think so. There is a cover memo dated

16 October 16th from Mr. Pierle to

17 yourself, Mr. Fort, and Mr. Kaley.

18 A. Yeah. This first page about Superfund

19 relocations looks familiar. The rest of

20 it I'm not real sure about. This looks

21 like a separate memo. This is Superfund

22 relocation. It starts off in the middle

23 of a memo, page four of five.

REGIONAL REPORTING SERVICE, INC.

76

1 Q. Well, I didn't organize the documents.

2 A. Well, these two pages in the middle, I

3 don't know what they are all about.

4 Q. Let's just identify for the record the

5 two pages in the middle that you don't

6 know what they are about. At the bottom
7 they say The Lythcott Company Limited,
8 and at the top it looks like CATE
9 relocation feasibility study, September
10 26, 1995; is that correct?

11 A. That's what it says.

12 Q. But you are familiar with the document
13 which is page two of Exhibit Ten, which
14 is entitled "Superfund Permanent
15 Relocation" dated May 15th, 1995?

16 A. I believe I have seen this before.

17 Q. What was the reason or what was your
18 understanding of why Mr. Pierle provided
19 you with the Superfund Permanent
20 Relocation information?

21 A. Probably just to show where other
22 relocation programs have taken place
23 across the country.

REGIONAL REPORTING SERVICE, INC.

77

1 Q. Are you aware of any discussions
2 regarding having the Anniston site
3 handled as a Superfund site?

4 A. I know our discussions were mostly with

5 ADEM, so it was being handled as a state
6 site, state remediation site.

7 Q. Were you personally ever involved in any
8 meetings with ADEM on that issue?

9 A. No.

10 Q. Have you personally been involved in any
11 meetings with EPA on that issue?

12 A. No.

13 (Plaintiffs' Exhibit Number
14 Eleven was marked for
15 identification.)

16 Q. Kind of backtracking, I asked you
17 earlier about Grover Hankins. I'm going
18 to hand you now what has been marked as
19 Exhibit Eleven, which looks like a memo
20 that Dr. Kaley provided, and you were
21 copied as well as Mr. Peck on this
22 document. Do you recall this document?

23 A. Oh, it talks about -- Okay. It doesn't

REGIONAL REPORTING SERVICE, INC.

78

1 stand out in my mind.

2 Q. Do you know why it is that Dr. Kaley was
3 advising you that Grover is on line with

4 his e-mail address?

5 A. Well, it says here see tabs for specific
6 references to Anniston. So I assume
7 that is why he was sending this.

8 Q. Did you check out Grover's web site?

9 A. I don't remember. I really don't
10 remember.

11 Q. The attachment to Exhibit Eleven talks
12 about the environmental justice clinic
13 at the Thurgood Marshall School of Law.
14 Did you examine any information on that
15 clinic?

16 A. This was a while ago. I don't remember
17 whether I did or not.

18 Q. Why were you and Mr. Bistline and
19 Mr. Cahill and Mr. Faust and the rest of
20 these people on Exhibit Eleven
21 interested in the environmental justice
22 clinic at the Thurgood Marshall School
23 of Law?

REGIONAL REPORTING SERVICE, INC.

79

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

3 A. Well, again, there is a reference to
4 Anniston. That seems like it would be
5 the connection. I don't recall any
6 other reason why he might send it
7 around.

8 Q. You told me that you didn't call
9 DuPont's plant manager about the Pompton
10 Lakes events. Did you do anything to
11 investigate the Pompton Lakes issue
12 other than look at the article that
13 Larry gave you?

14 A. I don't think so.

15 Q. Are you familiar with the Rush City
16 property purchase program?

17 A. Yeah.

18 Q. Tell me about your involvement with
19 that.

20 A. Your phrasing of it doesn't sound
21 familiar, but I think you are referring
22 to purchasing property around the
23 Krummrich plant.

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1 Q. Right.

2 A. And we were doing that over a number of
3 years as it became available. So it
4 wasn't an organized property purchase
5 effort. It was just buying property as
6 it became available at tax sales.
7 Sometimes it was a lot; sometimes it was
8 abandoned structures, and it went on
9 over a number of years.

10 Q. What was the time frame involved with
11 Rush City?

12 A. Again, it wasn't just Rush City. Well,
13 there was an area that was called Rush
14 City. There were a couple of other
15 little pockets on the south side of east
16 St. Louis that were closest to the
17 Sauget Industrial Complex, so it wasn't
18 just an area in Rush City. It was a few
19 other places too.

20 Q. What I was trying to figure out is what
21 was the time frame for that.

22 A. You know, I came on in '87, and I
23 believe they were doing it then. I

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1 don't know when it started, but it had
2 been going on for a while, and I think
3 it just continued over the years.

4 Q. And did that arise from allegations that
5 there was PCB contamination in that
6 neighborhood as well?

7 A. There weren't allegations about that.
8 It was just a matter of trying to
9 establish more green space around our
10 site.

11 Q. When you say more green space, you mean
12 provide more distance between the plant
13 and the neighborhood?

14 A. That's right.

15 Q. In fact didn't the Illinois Attorney
16 General's office sue Monsanto about PCB
17 contamination arising out of the Sauget
18 facility?

19 A. I don't recall that.

20 Q. You don't recall that investigation and
21 nine-year lawsuit filed by the Illinois
22 Attorney General?

23 A. When did that take place?

REGIONAL REPORTING SERVICE, INC.

1 Q. In the '80s and '90s. You weren't
2 involved with that? Is that your
3 testimony?
4 A. What is that related to, Rush City or --
5 Q. No. I'm talking about the fact that the
6 Illinois Attorney General sued Monsanto
7 regarding PCB contamination from the
8 Sauget facility.

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

11 Q. Are you familiar with that?

12 A. Where was the contamination?

13 Q. Around the Sauget plant, in Dead Creek.

14 A. So you are probably talking about a
15 Sauget site.

16 Q. Right.

17 A. Well, you have to be more specific.

18 Q. I thought that was a fairly large piece
19 of litigation. Are you familiar with
20 it?

21 A. I'm not familiar with the lawsuit. I'm
22 familiar with the area, the fact there
23 were a number of sites, the fact our

REGIONAL REPORTING SERVICE, INC.

1 remediation guys were working with the
2 Illinois EPA on plans to study the site.
3 That is what I'm familiar with. And as
4 far as the lawsuit, our lawyers would
5 have taken care of that. I'm not
6 familiar with it.

7 Q. From a public relations standpoint, did
8 you have any involvement regarding the
9 media attention that was generated as a
10 result of that lawsuit?

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

13 A. I can't recall media attention that
14 there might have been. I mean, if you
15 have something to refresh my memory --

16 Q. I'm looking for it.

17 A. I don't think it was a hot issue in St.
18 Louis.

19 Q. Well, Bartolanzo, that's your maiden
20 name?

21 A. Bartolanzo.

22 Q. I told you I would butcher it. All
23 right. Perhaps this will refresh your

REGIONAL REPORTING SERVICE, INC.

1 recollection.

2 (Plaintiffs' Exhibit Number

3 Twelve was marked for

4 identification.)

5 Q. Ms. Herndon, I'm going to hand you

6 Exhibit Twelve. If you would, tell me

7 if you have seen those documents before.

8 MR. PECK: What was the question?

9 MS. MALOW: Whether she has seen

10 Exhibit Twelve before.

11 A. I guess I did. I mean, my name's on it.

12 Q. Let's identify it for the record.

13 Exhibit Twelve is a collection of media

14 coverage articles that were transmitted

15 by memo from Kevin Cahill to a whole

16 list of people, including you under your

17 maiden name, correct?

18 A. Uh-huh (indicating yes).

19 Q. Is that a yes?

20 A. That's a yes.

21 Q. And the topic is the Illinois Attorney

22 General Krummrich -- How do you

23 pronounce that?

1 A. Krummrich.

2 Q. And it is talking about the fact that

3 the State of Illinois and Monsanto

4 reached an agreement regarding the

5 cleanup of the chemical dump that has

6 been leaking into the Mississippi River,

7 right?

8 A. The Krummrich landfill is what you are

9 referring to. That is what this is

10 referring to.

11 Q. And what's the connection between the

12 Krummrich landfill and the Sauget

13 facility?

14 A. I believe the Krummrich landfill is part

15 of the Sauget sites. Again there were a

16 number of sites that other industries

17 also used for their industrial waste

18 back in the days when that was an

19 accepted -- commonly accepted in

20 practice.

21 Q. The Sauget facility is a location where

22 Monsanto manufactured PCBs, right?

23 A. I believe so.

1 Q. And in fact there were only two
2 facilities in the United States where
3 Monsanto made PCBs. One was Sauget,
4 Illinois, and the other was Anniston,
5 Alabama?

6 A. Right.

7 Q. Does this document, Exhibit Twelve,
8 refresh your recollection regarding the
9 fact that there was an action by the
10 Illinois Attorney General against
11 Monsanto for cleaning up PCB
12 contamination arising out of the Sauget
13 facility?

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

16 A. Apparently in '91 -- I'm losing track of
17 when I had the site and when I didn't.
18 But from this memo, it looks like these
19 were the years when Kevin had it. So my
20 knowledge and interest of it were just
21 in -- you know, not as someone who had
22 direct hands-on responsibility at that

REGIONAL REPORTING SERVICE, INC.

87

1 Q. Well, why would you be copied on the
2 memo?

3 A. I don't know. As one of the people that
4 had been involved with the plant
5 earlier.

6 Q. Were you aware since -- This lawsuit by
7 the AG actually predates '91, doesn't
8 it?

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

11 Q. I mean, it starts back in the '80s.

12 A. Well --

13 Q. Why don't you flip to -- If you look at
14 the bottom there is a Bate's number. It
15 is Bate's number 136172.

16 A. Okay.

17 Q. In the first paragraph, that's a
18 document that looks like it was a radio
19 news transcript excerpt from 12-4 of
20 '91, and there is a person by the name
21 of Charlie Brown that says the

- 22 settlement ends a 1982 state lawsuit
- 23 accusing Monsanto of dumping chemicals

REGIONAL REPORTING SERVICE, INC.

88

1 for almost twenty years in what is known

2 as Dead Man's Creek and contaminating

3 water supplies.

4 A. Well, that is the way it was recorded.

5 MR. PECK: Object to the form of

6 the question.

7 Q. And you had some responsibility for this

8 site prior to 1991; is that correct?

9 A. That's right.

10 Q. Were you familiar during the time you

11 were handling this site with the fact

12 that there were allegations that

13 Monsanto had contaminated Dead Man's

14 Creek?

15 A. At this point today, trying to go back

16 to the early -- the late '80s, I'm not

17 recalling much about an Attorney General

18 lawsuit. I do recall that there were a

19 lot of discussions over the years about

20 Sauget sites and the different areas

21 within the sites and studies that were
22 going on to characterize those sites and
23 discussions along those lines. So I'm

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89

1 more familiar with the remediation side
2 of the sites than I am with the Attorney
3 General's suit at this point in time. I
4 might have been more familiar with it in
5 the late '80s, but at this point I just
6 don't recall what took place in the late
7 '80s related to a suit.
8 Q. If you will go to the second page of
9 Exhibit Twelve, there is a quote from
10 Bill Boyle, the Monsanto plant manager,
11 that says there is no question that many
12 of those products that we are talking
13 about that were manufactured back in the
14 '50s and '60s were hazardous chemicals.
15 Then he goes on to say there is no
16 public exposure. Is he referring there
17 to PCBs?

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

20 A. I can't tell from this.
21 Q. Well, if you look at the paragraph above
22 it, it is talking about finding traces
23 of PCBs. Isn't that what the issue was,

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90

1 Ms. Herndon?
2 MR. PECK: Object to the form of
3 the question.
4 A. It is my recollection that there were a
5 number of materials in those sites, so
6 it wasn't necessarily PCBs.
7 Q. But the material that Monsanto
8 contributed was PCBs, wasn't it?
9 MR. PECK: Object to the form of
10 the question.
11 A. Well, I believe in the Krummrich
12 landfill it was just waste from the
13 Krummrich site, industrial waste.
14 Q. Which included PCBs?
15 A. I can't tell that from this. I don't
16 have knowledge of what -- I don't know.
17 I don't know.
18 Q. In dealing with remediation, you said

19 you are familiar with the remediation
20 side of this issue. Do you agree that
21 it is more expensive to remove the waste
22 than it to cap it in place?

23 MR. PECK: Object to the form of

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91

1 the question, lack of
2 foundation.
3 A. Well, our remediation managers look at
4 -- When they characterize the site, they
5 usually have outside consultants do that
6 for them. They determine what is there
7 at what levels, what the circumstances
8 are, and what are the appropriate
9 options for remediating. And it is not
10 necessarily cost driven. It is often
11 driven by what is the best option given
12 the circumstances.

13 MS. MALOW: Objection,
14 nonresponsive.

15 Q. My question was is it more expensive to
16 remove waste such as the issue involving
17 the Krummrich landfill or to cap it in

18 place?
19 MR. PECK: Object to the form of
20 the question, lack of
21 foundation.
22 A. Well, in any remediation, removing
23 material is generally more expensive

REGIONAL REPORTING SERVICE, INC.

92

1 than capping it.
2 Q. As a matter of fact, that is what
3 Mr. Slowtag says on Bate's number
4 136172, correct?
5 A. That's right.
6 Q. Other than Exhibit Twelve and having
7 refreshed your recollection with Exhibit
8 Twelve, do you have any other
9 recollection of the contamination of
10 Dead Man's Creek by Monsanto?
11 MR. PECK: Object to the form of
12 the question.
13 A. They called it Dead Man's Creak, but
14 that is not the name of this area. It
15 was called Dead Creek because water no
16 longer flowed through it.

17 Q. Well, call it whatever you want.
18 A. Okay. But for the record, it is an area
19 that water no longer flowed through.
20 And no, I don't recall anything else.
21 Q. Are you familiar with some health
22 studies that were performed on Krummrich
23 employees regarding dioxins?

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93

1 A. I believe the Krummrich site was
2 involved in a NIOSH study.
3 Q. What involvement did you have with that
4 study?
5 A. No involvement with the study itself. I
6 believe when the results came out we
7 informed our employees, as did any of
8 the other participants in the study.
9 Q. And how was that information relayed?
10 A. I can't remember if it was letters to
11 employees or exactly how it was done,
12 but it was -- It was either letters to
13 employees or meetings at the site.
14 Q. But you didn't have any involvement in
15 determining what the study would consist

16 of or who would participate or anything
17 like that?
18 A. No, no.
19 Q. Are you familiar with any
20 epidemiological studies performed of
21 Anniston workers?
22 A. I believe a number of the workers had
23 blood samples drawn, but I don't know if

REGIONAL REPORTING SERVICE, INC.

94

1 that was a part of an epidemiological
2 study.
3 Q. What time period was that?
4 A. It was sometime during the period when I
5 was involved with the site, 1994 to
6 1997.
7 Q. Was that the first time you were aware
8 of that blood was drawn from the
9 employees of the Anniston site, or was
10 that a periodic --
11 A. I don't know because I didn't have the
12 site before 1994, so I don't know if
13 that was done before.
14 Q. What was done with those results?

15 MR. PECK: Object to the form of
16 the question.
17 A. They were sent out for analysis, but I'm
18 not the person that was handling them,
19 so I don't know what was involved with
20 that.
21 Q. Who was handling that?
22 A. I don't know. It was -- I don't know.
23 Q. What prompted the blood to be drawn of

REGIONAL REPORTING SERVICE, INC.

95

1 the Anniston workers?
2 A. I think it was just for information that
3 the employees would want to have.
4 Q. Was it in connection with litigation?
5 A. I don't believe so.
6 Q. Do you remember what the results were?
7 A. No.
8 Q. When you had contacted Fleishman Hillard
9 to find a local PR firm, was one of your
10 goals to establish a certain image for
11 Monsanto in the community?
12 A. It wasn't related to image building. It
13 was purely related to communication,

14 one -- Well, part of it was I guess
15 community relations and getting Jack
16 around and helping him connect with the
17 different community groups that the
18 previous plant manager had not been able
19 to do, and then part of it was helping
20 with the general communications related
21 to the remediation issues. But again
22 nobody in the Anniston area was found.
23 Q. What was your understanding at the time

REGIONAL REPORTING SERVICE, INC.

96

1 frame that you got involved with
2 Anniston as to Monsanto's reputation in
3 the community?
4 A. Periodically we did community attitude
5 surveys at a good number of our sites.
6 And we had done them in Anniston too.
7 But it has been a long time since I
8 looked at what those survey results
9 showed, so I wouldn't want to speculate.
10 Q. I may just have one. Do you know the
11 Adams Research group?
12 A. Yes, Bill Adams.

13 Q. Is that who performed the survey during
14 the time period you have reference to?
15 A. Right. They did all of our community
16 attitude surveys on sites.
17 Q. How often was a community survey
18 performed for Anniston?
19 A. I don't know. I know we did one during
20 my watch. I don't recall whether they
21 had had one before that. We would do
22 these at plants on a rotating basis
23 because we didn't have the funds to do

REGIONAL REPORTING SERVICE, INC.

97

1 every site every year, and it really
2 wasn't necessary to do them that
3 frequently. And usually the interval
4 was about three to four years.
5 Q. What was the rationale for conducting a
6 community survey?
7 A. Just to get a feel for level of
8 awareness of the site, whether we were
9 perceived as good neighbors, whether
10 people were familiar with our products,
11 and whether they were familiar with the

12 other activities.

13 Q. Why was it important to Monsanto to be
14 perceived as a good neighbor?

15 A. Because we operated in these
16 communities, and we wanted to be part of
17 the long-term success of the community
18 alongside the success of the plant.

19 Q. Isn't one of the reasons that you want
20 to be perceived as a good neighbor to
21 impact the way litigation plays out?

22 A. No. That usually doesn't play a role.

23 (Plaintiffs' Exhibit Number

REGIONAL REPORTING SERVICE, INC.

98

1 Thirteen was marked for
2 identification.)

3 Q. Would you identify what Exhibit Thirteen
4 is for the record?

5 A. A community attitude survey for Anniston
6 conducted in January of '95.

7 Q. Was that survey conducted while you had
8 responsibility for the Anniston site?

9 A. Yes.

10 Q. Did you work with Bill Adams --

11 A. Yes.

12 Q. -- on this issue?

13 A. Yes.

14 Q. Did you have any role in formulating the

15 questions that would be used for the

16 survey?

17 A. These questions are standard questions

18 that we ask at all our sites. And it is

19 important to keep the instrument pretty

20 standard from one year to the -- one

21 interval to the next so you can compare

22 responses across time and also compare

23 plants to each other, although you can't

REGIONAL REPORTING SERVICE, INC.

99

1 always compare plants to each other

2 because of their size and circumstances.

3 But if you keep changing the questions,

4 you are not going be able to benchmark

5 how things might be changed over time.

6 Q. But in terms of a specific plant, are

7 there ever questions that are tailored

8 to that particular plant?

9 A. Occasionally.

10 Q. Do you know of any particular questions
11 that were tailored for the Anniston
12 facility?

13 A. Is there -- Let me see the list of
14 questions. These all look standard.

15 Q. Do you -- Strike that.
16 After you received the results
17 from Adams Research group from the 1995
18 survey, what if anything was done by
19 Monsanto?

20 A. Let me refresh my mind about the
21 results.

22 Q. Okay.

23 A. I remember we talked about the odor

REGIONAL REPORTING SERVICE, INC.

100

1 issue because that's related to
2 processes that were no longer in
3 operation at the site. But the
4 reputation still remained as that site
5 having an odor. And as far as what we
6 could do about it, about the only thing
7 was when people complained invite them
8 over to the site, give them a tour of

9 the site and let them smell for
10 themselves. You know, that doesn't
11 change a whole community's attitude.
12 Q. In reviewing the executive summary and
13 good news, bad news of the Adams
14 Research group, would you say that this
15 survey was overall positive, negative,
16 or otherwise for Monsanto?
17 A. Let me read the good news, bad news. As
18 far as contributions, you know, was part
19 of the bad news because nobody recalls
20 any contributions that the plant made.
21 And if I'm recalling right, I think they
22 were kind of scatter-gun in making
23 contributions in the past. This is

REGIONAL REPORTING SERVICE, INC.

101

1 before my time. And so I think one of
2 the things that we did -- and Jack was a
3 lot tighter about this too -- was
4 instead of giving nickels and dimes to a
5 lot of little organizations, to focus
6 the contributions more on areas where we
7 might be able to have an impact, like

8 science education, and just pick a few.
9 And I think the traveling museum was one
10 of the ones where Jack felt we could
11 have an impact. There were a few like
12 that where we could stand out a little
13 more.

14 Q. And isn't that one of the
15 recommendations on page thirty-seven of
16 this 1995 survey, to target youth and
17 education?

18 A. That's an overall focus of Monsanto as a
19 whole. Science education had been kind
20 of a theme that we have supported at
21 most of our sites over the years.

22 Q. So after receiving the results of this
23 survey did you guys step up the efforts

REGIONAL REPORTING SERVICE, INC.

102

1 in that regard?

2 A. Well, I don't remember that we changed
3 the giving levels. We just focused it
4 more.

5 Q. Meaning larger numbers were given to
6 places?

7 A. To a few, a smaller number of
8 organizations.

9 Q. This survey references that there was a
10 prior survey done in 1989. Are you
11 familiar with that 1989 survey?

12 A. I'd have to look at it to recall what it
13 said.

14 Q. Although it says the plant had edged up
15 slightly since 1989, the plant's
16 standing was still below average for
17 Monsanto; is that right?

18 A. That's what it says.

19 Q. Do you recall any conversations that you
20 had with Mr. Adams regarding the results
21 of this community survey from January of
22 '95?

23 A. Not so much with Bill Adams. I do

REGIONAL REPORTING SERVICE, INC.

103

1 recall that we did talk about it at the
2 plant.

3 Q. What discussions were had?

4 A. It was, you know, just looking at the
5 recommendations, the findings, looking

6 at what are some of the things we could
7 do. And I just mentioned the areas we
8 talked about. Odors were a big area.
9 What do we do? The odors really aren't
10 here any more. How do we change that
11 perception? The only thing we could
12 come up with is as people complained,
13 bring them out here and let them smell.
14 And focusing contributions better is the
15 other area.

16 Q. Do you remember any residents taking you
17 up on the offer to go smell for
18 themselves?

19 A. I think Robert was involved in that. I
20 think he did that a few times, but I
21 don't know who those people were. I
22 really don't know how often that
23 happened.

REGIONAL REPORTING SERVICE, INC.

104

1 Q. Had you used Adams Research before for
2 any other facility that you had worked
3 on?

4 A. Oh, yeah.

5 Q. How about for any facility in Illinois?

6 A. Sure. Well, they did the whole St.

7 Louis area. So when they did St. Louis

8 they did kind of subsets around

9 Krummrich, Queeney, Carondelet,

10 headquarters, and the research center.

11 MR. PECK: Can we --

12 (Discussion held off record.)

13 MR. PECK: Want to stop now and

14 come back at one?

15 (A break was taken.)

16 Q. A couple of background questions that I

17 forgot to ask. Before going to work for

18 Monsanto where did you work?

19 A. Manville corporation.

20 Q. John Manville?

21 A. Well, it was called Manville Corporation

22 when I worked there.

23 Q. What did you do there?

REGIONAL REPORTING SERVICE, INC.

105

1 A. General public relations.

2 Q. How long did you work there?

3 A. Three and a half years.

4 Q. How about before Manville?
5 A. Coors Ceramics, a part of the Coors
6 Brewery Company.
7 Q. Did you do PR for Coors as well?
8 A. Yes.
9 Q. Is that in Colorado?
10 A. Yes, Golden.
11 Q. And before Coors?
12 A. I was in school.
13 Q. Do you know who was Beth Vanderbeck's
14 predecessor?
15 A. On Anniston?
16 Q. Yeah.
17 A. I don't.
18 Q. Okay. We talked about a little bit your
19 contact with Jack Mayausky in connection
20 with, one, helping him establish himself
21 in the community as the new plant
22 manager in Anniston and also with
23 respect to the remediation. Other than

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106

1 Jack Mayausky, were there any other
2 plant managers that you dealt with at

3 the Anniston facility?

4 A. No. I know Bill DeFer was the plant
5 manager before Jack, but he was gone by
6 the time I came on.

7 Q. How about Blake Hamilton? Have you had
8 any contact with him?

9 A. No. I think Jack and I left about the
10 same time.

11 Q. What contact if any have you had with
12 Kevin Cahill regarding the Anniston
13 facility?

14 A. I think when I transferred my files I
15 transferred them over to Beth, so not
16 much with Kevin.

17 Q. Kevin Cahill testified in his deposition
18 that there was one occasion where an
19 article came out -- I believe it was in
20 The Anniston Star, and rather than
21 referencing Solutia it referenced
22 Monsanto and that you and he had a
23 discussion about that. Do you recall

REGIONAL REPORTING SERVICE, INC.

107

1 that event?

2 A. Do you have the article?

3 Q. I don't have the article. I don't think

4 I do.

5 A. Was it right after I had left?

6 Q. I don't remember the timing of it. I

7 just remember that he testified that you

8 had expressed some concern about why it

9 was that the Monsanto name was being

10 used in the article and not Solutia's.

11 Does any of that ring a bell with you?

12 A. Not that specific conversation, but I

13 know that has kind of been a running

14 discussion between Monsanto and Solutia.

15 Q. Okay. And what was the concern on the

16 part of Monsanto that its name was still

17 being referenced in connection with the

18 Anniston site after the Solutia spinoff?

19 A. Because Solutia was managing the

20 remediation on-site at that point.

21 Q. And what was the concern from Monsanto's

22 perspective about the use of their name

23 in the press as opposed to Solutia's

REGIONAL REPORTING SERVICE, INC.

1 name? Why did it matter to Monsanto?
2 A. Other than that we didn't own the site
3 any more and weren't responsible for the
4 remediation any more, those are pretty
5 much the reasons.
6 Q. Was it that there was some negative
7 press that Monsanto didn't want
8 associated with its name?
9 A. Well, I don't recall what the interview
10 was about or what the article was going
11 to be about, so I can't speculate
12 whether that was the case in the
13 occasion of that article.
14 Q. Just as a general proposition, you said
15 there was a running discussion between
16 Monsanto and Solutia about the fact that
17 Monsanto's name continued to appear in
18 connection with the Anniston site after
19 the spin. And my question is was there
20 a concern on Monsanto's part that their
21 name might be associated with some
22 negative publicity?
23 A. Yes. And part of the concern too is I

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1 guess Monsanto's name appears on
2 lawsuits, and so the company keeps
3 coming up in the press or with people
4 that are referring to the lawsuit versus
5 Solutia, which is defending the lawsuit.
6 So the discussion is not so much image
7 as it is who has the responsibility and
8 who should be the spokesperson and which
9 company should be addressed. And it is
10 still not very clear.

11 MS. MALOW: I just need to object
12 to everything after yes as
13 nonresponsive, for the
14 record.

15 MR. PECK: I thought it was
16 responsive.

17 Q. I asked you earlier about Steve Bradley,
18 and I take it from your answer that you
19 have no knowledge whatsoever regarding
20 any work that Steve Bradley or his PR
21 firm did for the Anniston facility. Is
22 that accurate?

23 A. Right. I don't. I don't even know who

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1 he is.

2 Q. And you haven't heard of the Bradley

3 Townsend public relations firm?

4 A. Uh-uh (indicating no).

5 Q. That's a no?

6 A. That's no.

7 Q. Make sure we get the record. Are you

8 familiar with a general PCB file that

9 existed at Monsanto that would have had,

10 for example, articles any time that PCBs

11 were mentioned, whether it be in

12 connection with Anniston or Sauget?

13 A. Whose file? I mean, different people

14 probably had files. Bob Kaley probably

15 had files. I probably transferred over

16 some files that had articles to the

17 Solutia folks.

18 Q. Well, I guess I was speaking more

19 generally in terms of whether or not you

20 were aware of Monsanto keeping just a

21 general PCB file.

22 MR. PECK: Object to the form of

23 the question.

REGIONAL REPORTING SERVICE, INC.

1 A. Again, whose file?

2 Q. It would be broken up in terms of PR

3 might have a file that deals with PCB

4 issues, and Bob Kaley might have a file

5 that deals with PCB issues. Is that

6 what you are saying?

7 MR. PECK: Object to the form of

8 the question.

9 A. Right, and from each of our own

10 perspectives. For instance, my interest

11 would be media and would probably have

12 clips in it. Bob Kaley's would be more

13 scientific, so his might have more

14 technical related articles.

15 Q. Do you know when Monsanto first

16 established a public relations

17 department?

18 A. I don't know.

19 Q. When you came to Monsanto in '87 do you

20 have any familiarity with how long that

21 department had existed that you were in?

22 A. No.

23 Q. Just from historical discussions?

1 A. I can't put a date on it. I don't know.

2 Q. When was it that Monsanto first began
3 using Fleishman Hillard for any purpose?

4 A. Boy, I don't recall when we started. We
5 had a corporate contract with them, but
6 I don't remember when that was first
7 negotiated.

8 Q. What types of PR efforts was Fleishman
9 Hillard retained to handle?

10 A. General public relations, counsel to our
11 executives on whatever issues came up of
12 a corporate nature. They helped the
13 businesses when they had work that was
14 beyond the -- beyond the -- when we
15 didn't have enough people to handle the
16 workload, depending on what was going on
17 at the time. And they were also
18 advisors just on a general basis.

19 Q. And you mentioned earlier that the only
20 role that they had as far as you're
21 aware of with connection to Anniston was
22 your request for them to help you find a
23 local PR agent?

1 A. That's the only activity I can recall

2 them engaging in related to Anniston.

3 Q. Are you familiar with a story that was

4 done by a New York Times reporter in

5 which Fleishman Hillard was also

6 involved? I think that reporter's name,

7 if you will give me a second, is Rick

8 Bragg.

9 A. Yes. I remember working with Rick

10 Bragg. I don't remember what

11 Fleishman's role in that was, but I do

12 remember that interview.

13 Q. Tell me what your contact was with Rick

14 Bragg regarding the Anniston facility.

15 A. I don't remember exactly how the

16 interview request came in, but somehow

17 it came to me. I don't remember where

18 the first point of contact was. But I

19 remember talking to Rick Bragg,

20 determining what his interest was,

21 looking at who would be the appropriate

22 people to answer the questions and

23 address the issues that he wanted to

REGIONAL REPORTING SERVICE, INC.

114

1 talk about, and then coordinating

2 schedules to set up the interview.

3 Q. Did you in fact determine what his

4 interest was in the Anniston site?

5 A. Yes.

6 Q. What was his interest?

7 A. It was related to the remediation and

8 the property purchase program.

9 Q. Was your contact with Rick initially

10 over the telephone or in person?

11 A. Over the phone.

12 Q. Was anyone else involved in that

13 discussion with Rick other than you and

14 Rick?

15 A. You mean the phone, the initial phone

16 conversation?

17 Q. Right.

18 A. No. That was just me and him.

19 Q. And did you in fact set up interviews

20 for him to conduct?

21 A. Yes.

22 Q. Of whom?

23 A. It was one interview. He came out to

REGIONAL REPORTING SERVICE, INC.

115

1 the Anniston site, and it was with Jack
2 Mayausky and Bob Kaley, and I was there.
3 But I wasn't one of the people being
4 interviewed. I don't remember if Alan
5 was part of the team then or not.

6 Q. Did you guys have any legal counsel
7 present for that meeting?

8 A. I don't believe so.

9 Q. And how long did that interview last?

10 A. I think a couple of hours.

11 Q. Prior to the interview, did you meet
12 with Kaley, Mayausky, and Faust to talk
13 about -- to prepare them for the
14 interview process?

15 A. Well, we had phone conference call -- at
16 least a conference call because we were
17 in different locations. And it was a
18 matter of me relaying what Rick Bragg
19 said he wanted to talk about, making
20 sure we had the right documents, and

21 that the people were prepared to handle
22 the issues that he said he wanted to
23 talk about.

REGIONAL REPORTING SERVICE, INC.

116

1 Q. Do you remember what documents if any
2 were compiled for this interview with
3 Rick Bragg?

4 A. I remember they laid out a map for him
5 that showed the different areas where --
6 the areas where the remediation was to
7 take place, what the remediation looked
8 like, what homes were going to be
9 affected by remediation, that kind of
10 thing.

11 Q. During the interview that Rick Bragg
12 conducted, do you -- did he ask any
13 questions regarding health effects of
14 PCBs?

15 A. I don't recall. He might have, and Bob
16 Kaley is the expert in that area. So
17 that is a question you should ask of
18 him.

19 Q. Right. I'm just trying to understand

20 your recollection, since you were in
21 attendance at the meeting, as to whether
22 or not Mr. Bragg asked questions about
23 PCB health effects.

REGIONAL REPORTING SERVICE, INC.

117

1 A. And I don't recall that specifically
2 being -- It might have been part of the
3 interview. I just don't recall.
4 Q. How about with respect to --
5 A. If you read the article, it is probably
6 in there, but I haven't read it in a
7 long time.
8 Q. Sometimes the interview and article
9 aren't exactly the same.
10 A. That's true.
11 Q. What about questions by Mr. Bragg about
12 the characteristics of PCBs, that is,
13 their persistence in the environment?
14 A. I believe he did ask questions related
15 to that.
16 Q. Do you recall the answers that were
17 given to him regarding those questions?
18 A. I believe they were pretty much what is

19 contained in the fact sheet.

20 Q. And you know from that backgrounder and

21 from your familiarity with PCBs that

22 they are persistent in the environment.

23 That is not something that Monsanto

REGIONAL REPORTING SERVICE, INC.

118

1 contests, is it?

2 A. Right.

3 Q. Did Mr. Bragg then write a story based

4 on those interviews?

5 A. I believe he did.

6 Q. Do you know when that came out?

7 A. No. I don't remember.

8 Q. Do you recall if the story was as you

9 expected it would be?

10 A. I think it was pretty balanced.

11 Q. Why would Bob Steyer --

12 A. Steyer.

13 Q. -- of the St. Louis Post Dispatch need

14 to be briefed about this story that Rick

15 Bragg was doing?

16 A. Because he liked to be on top of

17 anything that Monsanto was involved in.

18 He was the local, you know, St. Louis
19 reporter, which is our major St. Louis
20 newspaper, and covered Monsanto. And if
21 he got scooped by the New York Times and
22 hadn't been aware of activities that we
23 were engaged in from us -- it wasn't

REGIONAL REPORTING SERVICE, INC.

119

1 something we had to do, but it is a
2 courtesy that we often extended to him.
3 Q. And does PD stand for Post Dispatch?
4 A. Usually.
5 Q. Do you recall Mr. Pierle questioning you
6 regarding this article that Mr. Bragg
7 was doing, asking you some questions
8 about that article?
9 A. Before or after that article?
10 Q. I think it was before. Let's see. I
11 don't have the exact date of the
12 article.
13 A. He was the vice president of
14 environmental safety and health. Given
15 that the reporter was the New York
16 Times, it wouldn't have been unusual for

17 him to want to know about major news
18 stories that involved any of the sites.
19 Q. Let me just give you this, and we can
20 talk about it more clearly.
21 (Plaintiffs' Exhibit Number
22 Fourteen was marked for
23 identification.)

REGIONAL REPORTING SERVICE, INC.

120

1 Q. Take a look at Exhibit Fourteen, and if
2 you would, identify what that is,
3 please.
4 A. It looks like it is an e-mail from Mike
5 Pierle to me, or to a number of people
6 it looks like.
7 Q. What is the date of that e-mail?
8 A. 1-22-97.
9 Q. Do you know if that is before or after
10 the story? I think it is before.
11 A. I don't recall.
12 Q. Based on -- If you want to take a minute
13 to read the whole thing, maybe you can
14 tell.
15 MR. PECK: Can I look at it?

16 MS. MALOW: Sure.
17 A. It sounds like it is before.
18 Q. Okay. If you will go back to page one
19 of Exhibit Fourteen in Mr. Pierle's
20 e-mail, he asks won't this bring the PD
21 in immediately? And you have told me
22 that PD stands for Post Dispatch.
23 A. Post Dispatch.

REGIONAL REPORTING SERVICE, INC.

121

1 Q. What was your understanding of that
2 statement?
3 MR. PECK: Object to the form of
4 the question.
5 A. It sounds like he's thinking that the
6 Post Dispatch will probably do their own
7 story once they read the New York Times
8 story.
9 Q. Okay. And is that something that you as
10 the PR person at that time for Anniston
11 would have encouraged or discouraged?
12 A. Them doing a story? It is up to them to
13 do a story. I don't have control over
14 what a reporter wants to write a story

15 about.
16 Q. He is asking you as the person who has
17 responsibility for Anniston won't this
18 bring Post Dispatch in immediately. And
19 my question is what is your
20 understanding of him raising that issue
21 with you?

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

REGIONAL REPORTING SERVICE, INC.

122

1 A. Well, I'm not sure at that point if we
2 had briefed Bob Steyer about our
3 activities in Anniston. And if this
4 story was going to appear in the New
5 York Times and we hadn't given Bob
6 Steyer any background about our
7 activities out there, they would be
8 interested in wanting to do a story
9 themselves.
10 Q. Is it the case that because Monsanto is
11 based in St. Louis that they have a
12 long-standing relationship with Post
13 Dispatch and specifically Bob Steyer?

14 A. Yes.

15 Q. And based on that long-standing
16 relationship you have some idea as to
17 the way he is going to write articles
18 about Monsanto?

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

21 A. We don't know how he is going to write
22 stories, but we do know he likes to
23 cover anything major the company is

REGIONAL REPORTING SERVICE, INC.

123

1 involved in.

2 Q. And you guys don't have a concern with
3 him that it is going to have a negative
4 spin, do you?

5 A. He is usually a balanced reporter. We
6 don't always like what he writes, but at
7 least he is fair.

8 Q. He also asks you if the plant is
9 checking with the state people to find
10 out if they have been contacted. Who
11 was he referring to there?

12 MR. PECK: Object to the form of

13 the question.

14 A. I don't know. I probably did at the

15 time, but I'm not sure who he is

16 referring to there.

17 Q. What is your understanding of what state

18 people would have been involved with the

19 Anniston plant?

20 A. I can't tell from this. I mean, it is

21 probably people in the State of Alabama,

22 but that's just what I think.

23 Q. Well, by state people could it mean

REGIONAL REPORTING SERVICE, INC.

124

1 ADEM?

2 MR. PECK: Object to the form of

3 the question.

4 A. It could mean ADEM.

5 Q. Did you answer Mr. Pierle's question

6 about whether the plant was checking

7 with ADEM to find out if they had been

8 contacted?

9 A. That's probably something that Bob Kaley

10 would have been involved with or would

11 have responded to because he had contact

12 with the state. I didn't.

13 Q. And then he also says are we prepared to

14 give the New York Times references to

15 the health officials who are watching

16 this from a public health perspective.

17 To whom does that refer?

18 MR. PECK: Object to the form of

19 the question.

20 A. Again, I can't tell from this memo

21 specifically who he is talking about. I

22 don't --

23 Q. Well, I understand this is '97, but it

REGIONAL REPORTING SERVICE, INC.

125

1 is two years ago. And given the fact

2 that you handled this site for a number

3 of years, aren't you familiar with what

4 public health officials were involved

5 with respect to the PCB issue?

6 MR. PECK: Object to the form of

7 the question. You are asking

8 her about some other person's

9 thinking. That is why she

10 can't answer it.

11 A. That's true.

12 Q. I'm asking you to identify --

13 A. If you are asking me who are the third

14 party experts that we referred people to

15 related to PCBs in Anniston, it was the

16 three people on the list that you showed

17 me earlier.

18 Q. Okay. Forrester --

19 A. Whether that is who Pierle was referring

20 to or not, I can't confirm that.

21 Q. Forrester, Kimbrough, and Hughes were on

22 the list. But you are telling me you

23 can't say specifically if those are the

REGIONAL REPORTING SERVICE, INC.

126

1 three that Mr. Pierle --

2 A. That he had in mind.

3 Q. Do you know any others besides --

4 A. No, I don't.

5 Q. You have to let me get my whole question

6 out.

7 A. Okay.

8 Q. I know you know where I'm going, but I

9 have to make a record. Do you know of

10 any individuals other than
11 Dr. Forrester, Dr. Hughes, and
12 Dr. Kimbrough that were public health
13 officials that may have had information
14 about PCBs?
15 A. Those are the ones that I'm familiar
16 with.
17 Q. Okay. He then asks you what is our
18 overall strategy. Do you know how you
19 responded to Mr. Pierle's questions
20 about the overall strategy with respect
21 to this article that Mr. Bragg was
22 doing?
23 A. Does it say further back here? Could

REGIONAL REPORTING SERVICE, INC.

127

1 you ask the question again?
2 Q. How did you respond to Mr. Pierle's
3 question about the overall strategy you
4 had to the Bragg article?
5 A. I don't recall how I responded
6 specifically to him, but I know the
7 preparation that we did related to the
8 interview was to discuss the areas that

9 Bragg was interested in, make sure that
10 we had the material available and the
11 people available to respond to those
12 issues and questions. We did brief Bob
13 Steyer, and I don't remember whether
14 that was before or after the New York
15 Times story came out. I think it was
16 right before, several days before, but
17 that was as soon as we could coordinate
18 schedules. And that was about the
19 extent of it.

20 Q. Did Steyer do a subsequent article after
21 the Bragg article came out?

22 A. Yes. Well, I don't know if it was after
23 or before. I don't remember whether it

REGIONAL REPORTING SERVICE, INC.

128

1 was directly after or directly before.

2 Q. Was the focus of the Steyer article the
3 same as the Bragg article?

4 A. I believe so.

5 Q. One of the things that you mention in
6 your reply to Pierle, which is on
7 Exhibit Fourteen at the bottom of the

8 first page, is that in talking to the
9 intern in the Atlanta office of the New
10 York Times that she wanted to interview
11 a representative, and one of the things
12 she wanted to interview on was related
13 health effects and lawsuits. Do you see
14 that section?

15 MR. PECK: It is not -- Just for
16 the record, it is not a
17 reply. That is the way
18 e-mail works. That is the
19 original message. That is
20 the start.

21 Q. With respect to health effects, I
22 believe I asked you earlier if you
23 recalled if Mr. Bragg had asked any

REGIONAL REPORTING SERVICE, INC.

129

1 questions at the interview that he
2 conducted, that you attended, about the
3 health effects of PCBs. Does that
4 refresh your memory?

5 A. Again, this was before the interview, so
6 I don't remember if that specifically

7 came up. In most likelihood it probably
8 did. But any responses to those kinds
9 of questions would be handled by Bob
10 Kaley.

11 Q. I understand that. And my question is
12 as we sit here now, do you have any
13 recollection of any of the answers that
14 Dr. Kaley gave to any of those
15 questions?

16 A. No, I don't remember.

17 Q. Do you recall Rick Bragg asking any
18 questions about lawsuits when he did the
19 interview?

20 A. Again, he might have. But I can't
21 recall specifically the give and take of
22 what questions -- specific questions
23 came up.

REGIONAL REPORTING SERVICE, INC.

130

1 Q. Was the interview recorded?

2 A. No. I don't usually record media
3 interviews.

4 Q. Did you take any notes?

5 A. Yes.

6 Q. Where would those notes be?
7 A. I don't know that I kept them. That is
8 usually just for my own memory, to
9 report back about what happened, and
10 then I usually pitch them.
11 Q. Are you familiar with any other e-mails
12 other than the ones that are marked as
13 Exhibit Fourteen that you wrote or
14 responded to regarding this story?
15 A. I don't recall any others.
16 Q. If you will look at your e-mail of 2-20
17 of '97, which is part of Exhibit
18 Fourteen, at the bottom, the last
19 paragraph, you indicate the reasons that
20 you wanted to brief Bob Steyer. And one
21 of the things you mention is that the
22 annual report will include several
23 footnotes about the lawsuits. What are

REGIONAL REPORTING SERVICE, INC.

131

1 you talking about there?
2 A. If there is anything material, which
3 lawsuits might have the potential to be,
4 they need to be included in footnotes in

5 either the annual report or the ten Qs.
6 And Bob Steyer, being a very complete
7 reporter, would always read our
8 documents from cover to cover, including
9 footnotes, and sometimes found story
10 material from what he read in footnotes.

11 Q. And at the end you say I'm trying to
12 coordinate the team's schedule to pin
13 down dates. What is the team you are
14 referencing?

15 A. The same people that briefed or talked
16 to Rick Bragg. It would have been Jack
17 Mayausky, Alan -- Actually I don't know
18 if Jack came up for that or not. And
19 Bob Kaley would have been there.

20 Q. If you could, please, for me,
21 Ms. Herndon, go back to the first e-mail
22 and just tell me who each of the people
23 are that are listed as receiving this

REGIONAL REPORTING SERVICE, INC.

132

1 e-mail. Just give me their name and
2 title at the time they received this
3 e-mail.

4 A. Tom Bistline was one of our attorneys.
5 Mike Foresman was a director of
6 remediation. Garth Fort was in the
7 environmental area. I don't know what
8 his title was at that point. He did
9 public relations for a while, but I
10 don't remember that happening. Virginia
11 Weldon was the vice president of public
12 policy. She is no longer with the
13 company. Dennis Cavner I think was
14 related to operations, like possibly an
15 operating director. Scarlett Foster was
16 another woman in public affairs who
17 handled the media too. Thomas McDermott
18 was a public affairs person, and he is
19 in our Brussels office. I'm not sure if
20 he was at the time. But it looks like
21 from the e-mail that is a Brussels
22 e-mail location, so he probably was.
23 Larry O'Neill was in public affairs.

REGIONAL REPORTING SERVICE, INC.

133

1 Christy Beckmann was in public affairs.
2 Jack of course was plant manager. Alan

3 was in charge of the Anniston
4 remediation. Pat Hyland was one of the
5 environmental people. Robert Jones was
6 the environmental superintendent at the
7 plant. Rita Hartmann was involved in
8 state government affairs. I don't know
9 whether she had Anniston or not. Jo
10 Hanson was involved in the remediation.
11 Rashmi Nair I think was a toxicologist,
12 but I'm not sure about that. Bruce Eley
13 was involved in the remediation. Kevin
14 was in public affairs.

15 Q. Okay. Is Scarlett Foster still with
16 Monsanto?

17 A. Yes.

18 Q. Did Scarlett ever have responsibilities
19 for Anniston?

20 A. I think she did in the early days.

21 Q. By early days, what time frame --

22 A. When we started the community relations
23 function, which would have been in '87,

REGIONAL REPORTING SERVICE, INC.

134

1 for the first couple of years.

2 Q. And how about Thomas McDermott? Is he
3 still with Monsanto?
4 A. Yes. He is still in the Brussels
5 office.
6 Q. What was the -- Larry O'Neill, what is
7 his title presently?
8 A. Retired.
9 Q. What was his title back in '97?
10 A. He has gone through a number of
11 transitions too. I don't remember if he
12 was still part of the chemical company
13 at that point.
14 Q. Was he your boss?
15 A. He was my boss just before he retired.
16 No. Well, yeah, I guess -- See, we have
17 had so many transitions at Monsanto that
18 it is hard to remember who we reported
19 to when. And there have been large
20 periods of time when we didn't really
21 have a person that we reported to. We
22 just did our jobs and let the people who
23 needed to know know what we were doing.

REGIONAL REPORTING SERVICE, INC.

1 The last probably six to eight months
2 that Larry was with the company he
3 managed the news desk, which I took over
4 in February when he retired. Prior to
5 that I think he headed up the
6 environmental group, public affairs
7 group. So in that capacity he would
8 have been my boss, and that might have
9 been in '97.

10 Q. The last page of Exhibit Fourteen, I'm
11 not even sure if it is connected. Is
12 that document connected with the other
13 documents?

14 A. No.

15 Q. All right. Let's mark it as something
16 else, then.

17 (Plaintiffs' Exhibit Number
18 Fifteen was marked for
19 identification.)

20 Q. Ms. Herndon, I'm handing you Exhibit
21 Fifteen, which is entitled Anniston area
22 influentials. Have you seen that
23 document before?

REGIONAL REPORTING SERVICE, INC.

1 A. Yes.

2 Q. Who prepared this document?

3 A. Jack Mayausky.

4 Q. Why was it prepared?

5 A. When he first came on as plant manager

6 he started, well, first talking to the

7 people at the plant about who they

8 thought the key leaders were in the

9 community that he should get to know.

10 And then as he branched out and got more

11 people he added to the list. So this

12 was his list that he developed.

13 Q. And what was this list utilized for?

14 A. Again, community relations purposes.

15 Initially that is what it was used for,

16 as to who he should keep informed about

17 what the plant was doing. I think when

18 we were talking about Michael Elliott,

19 this was provided to him so that he

20 could decide who he wanted to interview

21 related to the potential for a community

22 advisory panel.

23 Q. And Michael Elliott is with a company

REGIONAL REPORTING SERVICE, INC.

1 called Bourne Elliott?

2 A. Something like that.

3 Q. And he is someone you contacted about

4 the possibility of creating a CAP for

5 Anniston?

6 A. Right.

7 Q. We will get back to that. I just wanted

8 to make sure we had the right person in

9 mind.

10 Did you have any input at all in

11 preparing Exhibit Fifteen?

12 A. No. This was Jack's list.

13 Q. Have you met any of the people on

14 Exhibit Fifteen?

15 A. I don't believe so, no.

16 Q. Have you had any contact either in

17 writing or over the telephone, in person

18 with any of the people on Exhibit

19 Fifteen?

20 A. No, uh-uh, no.

21 Q. Okay. Do you know if Michael Elliott

22 interviewed any of the Anniston area

23 influentials in connection with the CAP?

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1 A. I know he did interview a number of
2 people. I don't recall which people
3 those were and whether or not they were
4 people from this list or not.

5 Q. Other than what -- Let me back up a
6 little bit. With respect to this
7 article that Rick Bragg did in the New
8 York Times, prior to the time you set up
9 the interviews for him, did you do any
10 investigation on Mr. Bragg?

11 A. Yeah, which is common whenever we set up
12 interviews with a reporter, just to find
13 out what their beat is, whether they
14 have a scientific background, or what
15 they usually cover, whether their
16 stories are usually balanced.

17 Q. And what did your investigation about
18 Mr. Bragg reveal?

19 A. That he was a news reporter, and I think
20 he was also kind of a slice of life
21 reporter that kind of gave the color of
22 the area.

23 Q. Did you find from your investigation

1 that he generally wrote balanced

2 articles?

3 A. I believe so.

4 Q. And is that why you were willing to

5 offer your folks to be interviewed?

6 A. I believe so.

7 Q. If you had found out otherwise, you

8 probably wouldn't have set it up, would

9 you?

10 A. We would have to evaluate.

11 Q. Are you familiar with any other stories

12 that the New York Times has contemplated

13 doing or has done regarding the Anniston

14 facility?

15 A. I'm not familiar with any others.

16 Q. How about the Wall Street Journal? Are

17 you familiar with any articles that the

18 Wall Street Journal has either talked

19 about writing or has written regarding

20 the Anniston site?

21 A. I don't recall any that they were

22 interested in. I don't think so, but I

23 can't say for sure.

1 Q. In fact, Mr. Cahill has testified about
2 some contact he had with a reporter
3 named Mollenkamp from the Wall Street
4 Journal. Do you have any knowledge of
5 that?

6 A. No, and that name is not familiar to me.

7 Q. Do you know of any other media contacts
8 that you have had either in Alabama or
9 on a national level regarding the
10 Anniston site?

11 A. For the most part Jack was the media
12 contact.

13 Q. Let me ask it more directly. Did you
14 have any contacts with any reporters at
15 The Anniston Star?

16 A. Not in person. And there might have
17 been some -- For the most part, no.
18 There might have been a conversation or
19 two I think with Shawn Riley, not of
20 substance that I can recall. But for
21 the most part Jack was the media
22 contact.

23 Q. Do you recall any articles that Shawn

REGIONAL REPORTING SERVICE, INC.

141

1 Riley wrote about the Anniston site
2 while you had jurisdiction?

3 A. He wrote a lot of the stories that
4 appeared in The Anniston Star about the
5 plant and remediation.

6 Q. Did you ever have Shawn Riley come out
7 to the site for an inspection?

8 A. I believe he did.

9 Q. Was that common practice, to have the
10 reporters come and inspect the site?

11 A. If it is going to be a reporter who is
12 going to cover the beat for a while,
13 yes. It is usually helpful for them to
14 see what they are writing about.

15 Q. Were you present at any time when any
16 reporters came to inspect the Anniston
17 site?

18 A. No.

19 Q. Have you had contact with Jonathan
20 Lifland of The Anniston Star?

21 A. No.

22 Q. How about Elizabeth Pazullo?

23 A. No. I know she came after Shawn, but

REGIONAL REPORTING SERVICE, INC.

142

1 I --

2 Q. How about Phil Sanguinetti?

3 A. That name is not familiar.

4 MR. PECK: It is familiar to me.

5 Q. Tom Spencer?

6 A. I didn't have contact with him, but his

7 name sounds familiar. Was he with The

8 Anniston Star?

9 Q. I believe so. How about Chris Waddle?

10 A. No.

11 Q. How about Brandy Ayers?

12 A. I think he was the publisher, wasn't he?

13 But I didn't have contact with him.

14 Q. Have you ever provided or instructed

15 anybody to provide documents to any of

16 The Anniston Star reporters?

17 A. When reporters were starting a beat with

18 Monsanto, it was general practice to

19 provide them background information on

20 the company as well as whatever issues

21 they were interested in. So they
22 probably received an annual report,
23 maybe an environmental report. And

REGIONAL REPORTING SERVICE, INC.

143

1 those are the general materials that we
2 would pass along to people.

3 Q. How about the PCB backgrounder document?

4 A. That might have been part of the
5 materials, but I don't know for sure.

6 Q. Are you familiar with the GE funded
7 study that Dr. Renate Kimbrough was
8 involved in recently?

9 A. No.

10 Q. Have you had any contact with any
11 reporters from the Birmingham News
12 paper?

13 A. I don't recall that I did. Again, Jack
14 was the main media contact, and we
15 tried, you know, to have the plant
16 answer whatever media questions were
17 related to the plant rather than have
18 the calls come up to St. Louis.

19 Q. Do you know Rose Livingston?

20 A. I think she was involved in some of the
21 articles from Birmingham. But I don't
22 remember much about her.
23 Q. Are you familiar with a book written by

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144

1 Carrick Mollenkamp on big tobacco?
2 A. No.
3 Q. I may have asked this before. If I did,
4 I apologize. But other than Rick Bragg,
5 have you had any contact with any other
6 reporters from the New York Times?
7 A. No.
8 Q. Have you ever been involved regarding
9 any letters to the editor that were
10 written regarding the Anniston facility?
11 A. I don't recall.
12 Q. Are you familiar with a letter to the
13 editor written by Lonnie Coker?
14 A. Her name is not familiar.
15 Q. Or his?
16 MR. PECK: What did you say? I'm
17 sorry?
18 MS. MALOW: Isn't it a he?

19 MR. PECK: I thought you said
20 somebody else's name.
21 Q. Your name was listed on a memo dated
22 April 2nd, 1997, regarding PCB inquiry
23 referral updates as being a secondary

REGIONAL REPORTING SERVICE, INC.

145

1 contact for press, radio, TV, and media
2 inquiries. Are you aware of that?
3 A. Uh-huh (indicating yes).
4 Q. Is that a yes?
5 A. Yes.
6 Q. Did you in fact receive any contacts as
7 a result of you being the contact person
8 in that regard?
9 A. We occasionally get media calls or even
10 calls from the public related to PCBs,
11 since we were one of the manufacturers
12 of PCBs.
13 Q. Do you recall any phone calls that you
14 received from the public about PCBs?
15 A. Occasionally. It was usually
16 contractors that were in a situation
17 that were dealing with PCBs. And when

18 those kinds of calls came in, I just
19 sent them right over to Bob Kaley.
20 Q. And those contractors had questions
21 about what sort of protective equipment
22 they should use if they are removing
23 PCBs or things along those lines?

REGIONAL REPORTING SERVICE, INC.

146

1 A. Various questions.
2 Q. Would that be the type of question?
3 A. Yeah, but not -- Some of them were
4 related to remediation. Others were
5 just related to, you know, electrical
6 uses and current use of the product.
7 Q. Okay. How about contacts that you
8 received from press, radio, TV, or media
9 regarding PCBs? Can you recall any of
10 those?
11 A. I can't recall specific media inquiries,
12 specific calls. I know I was the
13 contact, and I know we occasionally get
14 them. If they wanted -- In they wanted
15 background, I sent them the
16 backgrounder. If they wanted more

17 information than is on the backgrounder,
18 I sends them to Kaley.
19 Q. Do you know about how many phone calls
20 or contacts you received during the time
21 period you were the secondary contact on
22 PCB inquiries?
23 A. It wasn't very frequent. It might have

REGIONAL REPORTING SERVICE, INC.

147

1 been one or two a quarter.
2 MS. MALOW: And just for the
3 record let's go ahead and
4 mark this.
5 (Plaintiffs' Exhibit Number
6 Sixteen was marked for
7 identification.)
8 Q. Can you identify for the record what
9 Exhibit Sixteen is?
10 A. A PCB inquiry referral update.
11 Q. Does that confirm at the bottom that you
12 were secondary contact for press, radio,
13 TV, and media?
14 A. Yes.
15 Q. Do you recall any contact that you had

16 with Connie Hancock of Channel 40 in
17 Anniston, Alabama?
18 A. Do you have something I can look at?
19 Q. Sure.
20 A. Her name is familiar. But I can't
21 remember what her interest was.
22 (Plaintiffs' Exhibit Number
23 Seventeen was marked for

REGIONAL REPORTING SERVICE, INC.

148

1 identification.)
2 A. I don't remember what the thirty-second
3 TV spots were about. I think we got
4 them automatically as a result of
5 something else we did. I don't remember
6 what that was. And I do remember one of
7 the philanthropic giving activities was
8 a donation to the birds of prey or --
9 what was it called -- the World Bird
10 Sanctuary that would take birds of prey
11 around to locations around the country.
12 And since we were a contributor, part of
13 our contribution was to have them go to
14 different plant communities and put on

15 these educational shows for the children
16 in the school systems of those
17 communities.

18 Q. And just for the record, Exhibit
19 Seventeen is a letter that you wrote on
20 May 1st, 1995, to Connie Hancock
21 regarding or thanking her for her
22 assistance with respect to these TV
23 spots that aired on the channel?

REGIONAL REPORTING SERVICE, INC.

149

1 A. Right.
2 Q. And you indicate you are attaching a
3 copy of that science education that can
4 be narrated over footage of the birds of
5 prey flying around a gymnasium with the
6 kids enthusiastically pointing,
7 laughing, and learning?

8 A. They had a good time. The kids loved
9 that.

10 Q. All right. Were you involved with the
11 Wall Street Journal article regarding
12 the Illinois EPA issues with the
13 Krummrich plant?

14 A. I remember the Wall Street Journal doing
15 a story. I was familiar with it, but I
16 don't remember whether I had the lead at
17 that time or not.

18 Q. All right. Let me give you one that you
19 were copied on and see if that refreshes
20 your recollection.

21 (Plaintiffs' Exhibit Number
22 Eighteen was marked for
23 identification.)

REGIONAL REPORTING SERVICE, INC.

150

1 Q. I'm going to hand Exhibit Eighteen. If
2 you could, just identify that first, and
3 take whatever time you need to read it.

4 A. It is a note from Kevin, potential Wall
5 Street Journal story on the Krummrich
6 landfill, April of '92, in '92, April of
7 '92.

8 Q. Have you had a chance to read Exhibit
9 Eighteen?

10 A. Just a minute. I'm looking at the last
11 page.

12 Q. Sorry.

13 A. Okay.

14 Q. Do you recall now, having read Exhibit

15 Eighteen, receiving Kevin's memo dated

16 April 21st, 1992, about the Krummrich

17 landfill?

18 A. Yes.

19 Q. At the bottom he indicates there is

20 another reporter, Marc Levinson with

21 Newsweek, who is going to be given a

22 tour and conducting interviews at the

23 Krummrich plant and that you are

REGIONAL REPORTING SERVICE, INC.

151

1 handling that effort. Do you recall --

2 A. On the topic of global competition and

3 production efficiencies.

4 Q. That had nothing do with the PCB issue?

5 A. Right.

6 Q. What was your involvement if any

7 regarding Scott McMurray of the Wall

8 Street Journal's interviews regarding

9 the Krummrich facility?

10 A. I don't think I was involved in setting

11 it up. I know I was informed about it,

12 but I don't think I had any input into
13 what he saw or who he talked to or
14 anything like that.

15 Q. Are you aware of the fact there was some
16 concern as to whether or not this
17 article by McMurray was going to be
18 favorable or unfavorable?

19 A. Well, as Kevin states in this notice, at
20 the time it was unclear which way he was
21 going to go with it. I don't recall
22 anything else.

23 Q. Do you recall Mr. Potter being alerted

REGIONAL REPORTING SERVICE, INC.

152

1 about this story?

2 A. That is very likely since he was the
3 president of the chemical group, and
4 anything related to any of the chemical
5 company sites he would have been
6 interested in.

7 Q. In fact didn't Larry O'Neill inform
8 Mr. Potter that he wanted to flag this
9 story for him because you all might wake
10 up jolted by a front page Wall Street

11 Journal story on problems at Krummrich?
12 A. Well, our executives hated to be
13 surprised, and it was part of our job to
14 bring these kinds of things to their
15 attention.
16 Q. Certainly if it was going to be
17 favorable, it wouldn't really shock
18 them?
19 A. Well, even if it was favorable, they
20 should have heard from us that these
21 interviews were taking place and that a
22 story was expected before they read it
23 in the morning paper.

REGIONAL REPORTING SERVICE, INC.

153

1 Q. And in fact what Mr. O'Neill informed
2 Mr. Potter is that he certainly hoped it
3 wasn't the case that they were jolted
4 awake but that many people at the plant
5 and in corporate and chemical's PR have
6 done their best to prevent or soften
7 such an occurrence. Isn't that what was
8 going on?
9 MR. PECK: Object to the form of

10 the question.

11 A. That we were going to prevent an

12 occurrence of what?

13 Q. Of this article --

14 MR. PECK: Jolting them awake.

15 A. You can't prevent a reporter from doing

16 a story. All you can do is present your

17 facts and what you know about the issues

18 they are interested in

19 Q. And wasn't part of PR's job to soften

20 the story, to make sure it came out in a

21 favorable light to Monsanto?

22 A. Our job is to ensure that they provide

23 the positive side of the story in

REGIONAL REPORTING SERVICE, INC.

154

1 addition to whatever facts they are

2 interested in so that the story might

3 have more balance, especially if they

4 are talking to people who would probably

5 give them a negative impression of what

6 was going on.

7 Q. Well, I found one with your name on it

8 about this story. Let's ask you about

9 that.

10 (Plaintiffs' Exhibit Number

11 Nineteen was marked for

12 identification.)

13 (A break was taken.)

14 Q. Have you had a chance to read the

15 collection of documents that are marked

16 at Exhibit Nineteen?

17 A. I just did.

18 Q. The first one was the one I was asking

19 you about earlier which was sort of the

20 alert memo from Larry O'Neill to

21 Mr. Potter about the fact that although

22 they try to soften the occurrence, they

23 wanted to make sure he wasn't jolted

REGIONAL REPORTING SERVICE, INC.

155

1 awake by this front page article. Have

2 you seen that document before?

3 A. I don't recall this one, but I'm

4 familiar with the circumstances around

5 this.

6 Q. Okay. What were the circumstances

7 around it?

8 A. Just that this reporter was going to do
9 a story, and we didn't know what angle
10 he was taking, and it had the potential
11 to be a front page story, and we didn't
12 want our management to be surprised.
13 Q. And it also had the potential to be a
14 negative story; is that right?
15 A. Had the potential.
16 Q. You authored a memo May 8th, 1992; is
17 that right?
18 A. Right.
19 Q. This seems to indicate that you did in
20 fact have some knowledge about this
21 potential McMurray story; is that right?
22 A. Well, looking at this correspondence, at
23 that time we were still organized in

REGIONAL REPORTING SERVICE, INC.

156

1 operating companies and then the
2 corporate cap that kind of went over the
3 companies. And Kevin I think had
4 primary responsibility for Krummrich at
5 the time, reporting to Larry O'Neill,
6 who was informing the chemical company

7 management. And this -- and I believe I
8 was copied on this because I was the
9 corporate contact from the chemical
10 company, and it was my responsibility to
11 inform executive -- corporate executives
12 about this, the potential for this
13 story. So my information would have
14 come from the chemical group, and all of
15 these people on the receiving list were
16 executives for the overall corporation.

17 Q. And yet you indicate in your May 8th,
18 '92, memo that McMurray is very evasive
19 about the angle of his story. Is that
20 just secondhand information you are
21 relaying? Is that what you are telling
22 me?

23 A. Yes. That was from Kevin.

REGIONAL REPORTING SERVICE, INC.

157

1 Q. When you get into talking about who he
2 has interviewed and what type of
3 questions he has asked, is that just
4 information you are passing along from
5 Kevin?

6 A. From the chemical people.

7 Q. Do you recall now that you have read

8 these documents who he interviewed, who

9 McMurray interviewed?

10 A. I don't recall.

11 Q. Okay. Do you recall the article that

12 came out?

13 A. I think it was on the front page, but I

14 don't remember what it looked like,

15 whether it was balanced or not.

16 Q. Let's see if I can find it. I'll find

17 it at a break, and we'll come back to

18 it. I know it is here.

19 Have we now covered all of the

20 contacts you can recall that you have

21 had on any PCB related issues?

22 A. Related to Anniston?

23 Q. Well, I'm going to make it broader, just

REGIONAL REPORTING SERVICE, INC.

158

1 any PCB related issues. So if there are

2 others regarding Sauget or some other

3 context, let me know what those are.

4 MR. PECK: Object to the form of

5 the question.

6 A. Well, as I said, we would get various

7 PCB inquiries that would come in to us

8 from time to time from different

9 sources. I can't identify specifically

10 the source at this time, but I just know

11 they would come in periodically and we

12 would respond.

13 Q. Well, let me be a little more focused in

14 my question. What I'm getting at is we

15 have talked about the Rick Bragg story

16 on Anniston. We talked now about this

17 story by the Wall Street Journal guy

18 McMurray. What I'm interested in

19 knowing is if there are any other

20 contacts you have had with press

21 regarding stories about PCBs.

22 A. Ever?

23 Q. Ever.

REGIONAL REPORTING SERVICE, INC.

159

1 A. You know, there may have been, but

2 nothing is coming to mind.

3 Q. After reviewing the documents on this

4 McMurray story regarding Krummrich, do
5 you recall that as being a fairly
6 significant event at that time for the
7 company?

8 A. Any time you get a story in the New York
9 Times or the Wall Street Journal,
10 executives in the company are interested
11 in it, even stories in the St. Louis
12 Post Dispatch because it was a hometown
13 paper. And at the time a good
14 percentage of our executives lived in
15 St. Louis, that became something that we
16 would want to make sure they knew about
17 and weren't surprised about.

18 Q. Do you remember -- I got on to all of
19 this because I wanted to know if
20 Fleishman Hillard had any role regarding
21 the Rick Bragg story. Do you remember
22 that a long time ago when I asked about
23 their involvement?

REGIONAL REPORTING SERVICE, INC.

160

1 A. And I don't recall them being involved,
2 no.

3 Q. And I may have been a little off. But
4 my question should have been do you
5 recall Fleishman Hillard being involved
6 with the Wall Street Journal article
7 with respect to Krummrich?

8 A. Again, if that was handled during the
9 time that Kevin was responsible for the
10 site, I don't know who he brought in to
11 help him. I know at a certain point in
12 time -- I don't know related to the Wall
13 Street Journal story, but we did some
14 work related to Sauget sites involving
15 setting up some community meetings,
16 which were part of the remediation
17 program.

18 Q. Were they also involved in helping to
19 draft a media plan for responding to the
20 Wall Street Journal story?

21 A. I don't recall that.

22 (Plaintiffs' Exhibit Number
23 Twenty was marked for

REGIONAL REPORTING SERVICE, INC.

161

1 identification.)

2 Q. Can you identify Plaintiffs' Exhibit
3 Twenty?
4 A. It is a memo from Kevin to Bob Peirce
5 and Marjorie Brooks of Fleishman
6 Hillard. I don't recall seeing this.
7 Q. I'm going to ask you some questions. If
8 you want to take a few minutes to read
9 it, just let me know when you are
10 finished.
11 A. Okay.
12 Q. Have you now read Exhibit Twenty?
13 A. Yes.
14 Q. Does it refresh your recollection
15 regarding the role that Fleishman
16 Hillard played with respect to this Wall
17 Street Journal article that was being
18 written by Mr. McMurray?
19 A. I don't recall seeing this plan before,
20 and I'm kind of surprised at how
21 extensive it is. But then again, that
22 is probably what they were asked to do,
23 to prepare a plan, and the agency is

REGIONAL REPORTING SERVICE, INC.

1 trying the cover all bases.

2 Q. According to this plan, your name is

3 referenced a couple of times as being

4 both a member of the communications team

5 and also being a person with

6 responsibility to prepare spokespersons

7 for briefing.

8 A. And I believe that's because I was the

9 corporate contact to the chemical group,

10 so whatever came out of that story, I

11 would need to communicate with senior

12 management.

13 Q. Do you recall in fact prepping any

14 spokespeople after this article came out

15 in the Wall Street Journal?

16 A. I don't recall doing that, no.

17 Q. How about this communications team

18 meeting? Did that take place when the

19 story came out?

20 A. I don't recall. I mean, there might

21 have been a debriefing, but I don't

22 recall us doing any kind of emergency

23 response. I really don't recall how the

REGIONAL REPORTING SERVICE, INC.

1 article turned out to remember what kind
2 of action was necessary if any.

3 Q. And you commented yourself that this
4 plan of Fleishman Hillard, which is
5 Exhibit Twenty, is a fairly extensive
6 plan, isn't it, for responding to this
7 type of story?

8 A. Very.

9 Q. I mean, this seems like an all-out
10 blitz to make sure and diffuse this
11 story.

12 A. But again, this is an agency, and this
13 is what they are paid to do.

14 Q. How often do you guys get outside
15 agencies to put together media plans
16 when you are concerned that an article
17 that is coming out in a major
18 publication may be detrimental to the
19 company?

20 A. Well, it depends on the circumstances.
21 It depends on what the relationship is
22 with the agency, and it depends on
23 whether the PR team with primary

REGIONAL REPORTING SERVICE, INC.

1 responsibility has the resources to
2 handle something themselves.
3 Q. Are you aware of any similar internal
4 media plans being put together by
5 Monsanto regarding anticipated press
6 with respect to either Anniston or
7 Sauget?

8 A. Not while on my watch. I don't recall.
9 You know there might have been others on
10 other people's watches, but I can't
11 speak to that.

12 Q. I guess what I'm trying to figure out is
13 even if you guys don't hire outside PR
14 firms such as Fleishman Hillard, is a
15 practice of Monsanto to come up with a
16 media plan such as what is in Exhibit
17 Twenty to prepare for the possibly of
18 negative press?

19 A. It is not normal. In fact, with the
20 Rick Bragg article, which is the New
21 York Times article which had the same
22 potential that this might have, we
23 didn't have that kind of preparation.

REGIONAL REPORTING SERVICE, INC.

1 But we didn't ask an outside agency to
2 put together a plan either. If we had,
3 we might have come up with something
4 very much like this.

5 Q. Okay. Who is Max McCombs?

6 A. He is one of the environmental people.

7 He had responsibility for Krummrich, I
8 believe, for a certain period of time.

9 I don't recall which years.

10 Q. Was he actually located at Krummrich, or
11 was he in St. Louis?

12 A. He was St. Louis.

13 Q. But he was involved in the Dead Creak
14 issues?

15 A. In the early days. I don't know if he
16 still is.

17 Q. Do you know how much money Monsanto
18 spent paying Fleishman Hillard for all
19 this media plan with respect to this
20 Wall Street Journal story?

21 A. No, I don't. I know we had a corporate
22 contract with them, so they were on
23 retainer for any of our PR needs. But I

1 don't know whether the Krummrich work
2 was part of that contract or whether it
3 was a separate contract or work over and
4 above what the corporate contract
5 entailed.

6 Q. Do you know what the annual budget was
7 for monies allocated for outside PR
8 efforts such as Fleishman Hillard during
9 the years you had the Anniston site?

10 A. No. I don't know what our contract with
11 Fleishman Hillard -- what the amount
12 was. That wasn't part of my
13 responsibility.

14 Q. Did you ever have responsibilities for
15 budget when you had the Anniston site?

16 A. Corporate PR budget, no.

17 Q. Who had that responsibility?

18 A. It would have been people more senior
19 than me in public affairs.

20 Q. Who would have been the equivalent of
21 Christy Beckmann over at Monsanto that
22 would have had that responsibility?

23 A. From '94 to '97?

1 Q. (Counsel nods head affirmatively.)

2 A. Dan Bishop was the overall corporate PR

3 director. I don't know that -- He

4 retired at a certain point, and I don't

5 recall which year that was, because he

6 had cancer and subsequently passed away.

7 But he was probably the person who

8 negotiated the corporate contract, and

9 it could very well have been during

10 those years.

11 Q. Okay. I guess my question is a little

12 bit broader than that. Who would have

13 had responsibility for determining what

14 the budget was for philanthropic giving

15 for the Anniston site?

16 A. Well, the Monsanto Fund president was

17 John Mason, who is now retired. And he

18 reported to a board of people that

19 governed the Monsanto Fund. And the

20 Monsanto Fund gave corporate donations

21 to certain causes, be they cultural,

22 entertainment, science and education.

23 But a portion of the fund was reserved

REGIONAL REPORTING SERVICE, INC.

168

1 for plant site community relations.

2 Q. Did you ever sit on the Monsanto Fund?

3 A. No.

4 Q. As part of your responsibility for PR

5 efforts for Anniston, would you see the

6 numbers that were allocated to the

7 Anniston site?

8 A. Yes.

9 Q. Do you know why it is that those numbers

10 increased from year to year?

11 MR. PECK: Object to the form of

12 the question.

13 A. It is my memory -- and I can't remember

14 what the amounts were, but I think they

15 stayed pretty consistent.

16 Q. Okay. Let's see.

17 A. Again, you know, the community relations

18 plan underwent some overhaul in the late

19 Beth Rusert days and my early days, just

20 to focus it better, get it more in line

21 with the kinds of donations that the

22 corporation wanted to be known for,
23 i.e., science, education. So I don't

REGIONAL REPORTING SERVICE, INC.

169

1 know if the amount changed as a result
2 of that. I don't recall that. But I
3 don't remember there being big jumps.

4 Q. Okay. Let's take a look at it.

5 (Plaintiffs' Exhibit Number
6 Twenty-one was marked for
7 identification.)

8 Q. I'm going to hand you what has been
9 marked as Exhibit Twenty-one. Can you
10 identify that document?

11 A. Fund budgets by location, 1994.

12 Q. If you will, keep looking through and
13 tell me what other years we have fund
14 budgets by location.

15 A. '95, '96, '97, '98, and '99.

16 Q. And you had responsibility for Anniston
17 from '94 to '97?

18 A. Early '97. I started transitioning out
19 as the split started to take effect.

20 Q. Okay. So in '94 the budget for Anniston

21 was 24,800, is that correct?
22 A. That's what it says.
23 Q. Okay. And the next page, which is the

REGIONAL REPORTING SERVICE, INC.

170

1 '95 budget, shows that it more than
2 doubled to 54,575?
3 A. Which seems more in line with the size
4 plant it was. The 24,000 seems awfully
5 low, so again that might have just been
6 part of the overhaul of getting that
7 site in line with our other sites.
8 Q. And then if you look at '96, it goes up
9 again to 72,400. Do you have an
10 explanation for why that increase took
11 place?
12 A. No. I don't recall. And then it looks
13 like in '97 it is back down to sixty.
14 Was there a one-time donation made in
15 '96 that might have resulted in a boost?
16 Q. You don't get to ask me questions.
17 A. Well, okay. I don't know, then.
18 Q. All right. If you look at the very last
19 page --

20 A. It looks like in '98 it is back down to
21 forty-one.
22 Q. But look at the very last page. In 1999
23 it is up to \$189,000. Does that seem a

REGIONAL REPORTING SERVICE, INC.

171

1 little bit out of line?
2 MR. PECK: Object to the form of
3 the question, no foundation.
4 A. This is during the Solutia years, so I
5 don't know what this is about.
6 Q. Okay. But clearly that is significantly
7 higher than any of the years prior to
8 1999?
9 A. Well, yes. But there is probably a
10 reason. But I'm not part of Solutia, so
11 I don't know what that reason might have
12 been.
13 Q. In fact in 1999 the only location that
14 received more monies is the St. Louis
15 headquarters; isn't that right?
16 A. It looks that way.
17 Q. Look at the bottom. There are some
18 things that says matching plus fund plus

19 plants. Do you know what each of those
20 categories represents?
21 A. No. I mean, I would just be speculating
22 if I said.
23 Q. Okay.

REGIONAL REPORTING SERVICE, INC.

172

1 A. Monsanto does have a matching giving
2 program where employees can give
3 donations to --
4 Q. Like United Way?
5 A. Well, yeah. I don't know if United Way
6 is part of the match program because
7 United Way funds are given directly to
8 the communities as well as corporate,
9 but at least to universities to a range
10 of areas where employees could do it.
11 So that is probably what matching is
12 about. And I don't know what they mean
13 by breaking fund apart from plants,
14 because it was all part of the Monsanto
15 Fund.
16 Q. That was the part that was confusing.
17 A. They might have broken away the plant

18 from that, but I couldn't say.
19 Q. Okay. Let me show you --
20 A. Even the matching gifts would have been
21 part of the Monsanto Fund.
22 (Plaintiffs' Exhibit Number
23 Twenty-two was marked for

REGIONAL REPORTING SERVICE, INC.

173

1 identification.)
2 Q. Can you identify Exhibit Twenty-two for
3 the record?
4 A. It is a memo from Marilyn Hartnett to --
5 Oh, it's is to Marilyn Hartnett.
6 Q. From Bill DeFer?
7 A. S. A. Gardner. I'm not sure who that
8 is. Oh, from Bill DeFer, yes. I don't
9 know who -- this is a part --
10 Q. That is dated January 6, '94?
11 A. Right.
12 Q. And it regards the 1994 Monsanto Fund
13 budget?
14 A. Uh-huh (indicating yes).
15 Q. Is that a yes?
16 A. Yes.

17 Q. And that seems to be DeFer's listing of
18 the allocation of the monies for the
19 1994 year, and he says that request for
20 \$24,800 is level with the '93 budget?

21 A. That is what he says.

22 Q. That is contrary to your concern that
23 the 24,800 seemed to be low.

REGIONAL REPORTING SERVICE, INC.

174

1 A. It seemed to be low for the size of
2 plant that it was in relation to the
3 amounts given at other sites.
4 Q. But apparently according to the plant
5 manager, Bill DeFer, the '94 fund budget
6 request was in line with the previous
7 year?

8 A. But it might have been out of line with
9 other Monsanto sites in '93 as well.

10 Q. Okay. Fair enough.

11 Have you heard the phrase
12 "environmental philanthropy"?

13 A. It might have referred to environmental
14 giving.

15 Q. Is there a reason that the term that was

16 used by Monsanto or the term that is
17 used is philanthropic giving as opposed
18 to environmental philanthropy?
19 A. I'm not sure what the distinction is.
20 Q. Do you know Lisa Drake?
21 A. Uh-huh (indicating yes).
22 Q. Who is she?
23 A. She is one of the public affairs people

REGIONAL REPORTING SERVICE, INC.

175

1 with the agricultural group in Monsanto.
2 Q. Are you familiar with the fact that she
3 recommended to Larry O'Neill that that
4 phrase not be used because it implies
5 that Monsanto's business practices are
6 not sustainable and that they have to
7 give money away in order to get
8 environmental credit?
9 MR. PECK: Object to the form of
10 the question.
11 A. I'm not familiar with her saying that.
12 I know we formed an environmental giving
13 team because we had a lot of pockets in
14 Monsanto that was giving contributions

15 to different groups at different times,
16 and it was formed so we could coordinate
17 efforts better.

18 Q. Did you receive copies of public and
19 government affairs marketing service
20 budgets?

21 A. Marketing?

22 Q. Yes.

23 A. I don't think so.

REGIONAL REPORTING SERVICE, INC.

176

1 Q. Let me show you one. This is not the
2 year you are on it, but you can tell me
3 if you have seen a document like it.

4 (Plaintiffs' Exhibit Number
5 Twenty-three was marked for
6 identification.)

7 A. Public and government affairs, marketing
8 services, 1999 budget.

9 Q. Have you seen a similar document for
10 prior years?

11 A. It seems like just an overall department
12 budget.

13 Q. Right. That is why I'm trying to figure

14 out whether or not, with you being in
15 that department, you would be privy to
16 those type of documents.
17 A. Usually we would just get a breakout for
18 our own group to see where we stood
19 related to budget, so we could be sure
20 we didn't go over budget. I usually
21 didn't see the overall corporate budget
22 for public affairs.
23 Q. So what group would you have been in at

REGIONAL REPORTING SERVICE, INC.

177

1 the time you had Anniston as part of
2 your responsibility?
3 A. Public affairs.
4 Q. And that is separate from public and
5 government affairs?
6 A. Well, it -- at the time I had the
7 Anniston plant it was separate. The
8 government affairs group was a different
9 set of people that handled either state
10 government affairs or federal government
11 affairs. And marketing services would
12 have been the people that supported the

13 products, the businesses, rather than
14 the operations.
15 Q. I understand from taking Ms. Rusert's
16 deposition that you were involved in
17 trying to establish a CAP at the
18 Anniston site. Is that accurate?
19 A. Right.
20 Q. In connection with that, how many
21 different companies did you either get
22 information from or contact to establish
23 this CAP?

REGIONAL REPORTING SERVICE, INC.

178

1 A. I know Michael Elliott was one of them,
2 and I don't remember who else I might
3 have talked to.
4 Q. Let me ask you this: What is the
5 purpose of CAP?
6 A. It is a group of citizens that are
7 representative of the community in which
8 you are doing business that are kind of
9 your window into the community for
10 questions, concerns. And it is also a
11 sounding board for the company.

12 Q. And do you know the history of CAPs,
13 that is, how it is that the chemical
14 industry started to get involved in
15 establishing CAPs?

16 A. Pretty much.

17 Q. What is that history?

18 A. The EPA right-to-know laws went into
19 effect I think in '88, the summer of
20 '88. And so manufacturers were
21 disclosing to their communities
22 information about their emissions and
23 discharges for the first time. As part

REGIONAL REPORTING SERVICE, INC.

179

1 of that effort, communities became more
2 interested in the plants in their
3 neighborhoods. So a number of
4 activities took place to educate
5 communities, including open houses to
6 let them behind the fence and show them
7 what was going on and what kind of
8 products were made. And out of that
9 effort came community advisory panels as
10 a way to continuously keep the

11 communities informed about the
12 activities of the plant.
13 Q. I was provided with a fairly voluminous
14 stack of documents -- believe it or not,
15 these are not all of them -- about CAPs
16 that came from all sources such as other
17 chemical companies like Dow and -- I
18 mean, just bunches and bunches. Are you
19 the person that gathered up all that
20 information on CAPs?

21 A. I probably wasn't the only one.

22 MR. PECK: That was Beth Rusert's
23 file. You asked her for it,

REGIONAL REPORTING SERVICE, INC.

180

1 so it got thrown in when you
2 deposited her.
3 MS. MALOW: No. Beth Rusert
4 brought that one little
5 Bourne Elliott document.
6 MR. PECK: You asked her for it.
7 You said where did it come
8 from. She said it came from
9 my CAP file. You said I want

10 the CAP file. So that is
11 what you got. She may have
12 inherited some of that from
13 others.

14 THE WITNESS: I mean, forming CAPs
15 was kind of an evolution. We
16 started with our first one I
17 believe in 1989 and went from
18 there.

19 Q. Which site was that first one
20 established?

21 A. That was the Krummrich site.

22 Q. What was the reason the Krummrich site
23 was selected to form a CAP?

REGIONAL REPORTING SERVICE, INC.

181

1 A. We wanted to get started. The plant
2 manager there was eager to try it out.
3 They were willing. It seemed like a
4 good plant to begin the learning
5 process.

6 Q. In fact, wasn't it because the Krummrich
7 site by 1989 was already involved in
8 this investigation by the Illinois AG?

9 A. That wasn't the foremost reason for
10 beginning a CAP. It was a chemical
11 plant that had a diverse community
12 living north of the Sauget industrial
13 area. It was more than just Monsanto.
14 And it was soon after the right-to-know
15 laws went into effect, so there were
16 issues of emissions that we wanted to
17 explain more fully, and we also wanted
18 to find out more of what was on the
19 minds of the community.

20 Q. Let's get back to the history, because
21 in reading these materials, there is
22 some indication that the Chemical
23 Manufacturers Association, of which

REGIONAL REPORTING SERVICE, INC.

182

1 Monsanto and Solutia are both members,
2 has what is known as responsible care.
3 Isn't that right?

4 A. Right.

5 Q. And responsible care was an effort by
6 the Chemical Manufacturers Association
7 to bolster the image of chemical

8 companies. Isn't that right?

9 A. Right.

10 Q. And the reality of it is that there were

11 a lot of lawsuits and incidents,

12 including Bhopal, India, and the

13 Phillips explosion, and ARCO explosion

14 and Monsanto's own problems. And those

15 were the kinds of things that were

16 creating a negative image for the

17 chemical industry.

18 A. Right.

19 Q. And the reality of it is responsible

20 care and the concept of CAPs grew out of

21 trying to fix that image. Isn't that

22 what was going on?

23 A. That wasn't -- From our point of view,

REGIONAL REPORTING SERVICE, INC.

183

1 community advisory panels were the next

2 step in developing a relationship with

3 the community, particularly around the

4 right-to-know laws and what the

5 community was going to want to know

6 about these new numbers they were

7 delivering to them that had never been
8 measured or made public before. So,
9 yes, it was promoted by CMA, but it
10 wasn't an image-building tool from our
11 point of view. It was a tool to have
12 better relationships with the
13 communities with which we did business.

14 Q. So are you saying that you disagree with
15 the literature that has been published
16 by CMA that CAPs are a way to gain trust
17 because of the poor reputation of
18 chemical companies?

19 A. CMA put an overall program together.
20 Community advisory panels were part of
21 it. Advertising was a part of it. We
22 did a lot of things on our own and in
23 fact were more aggressive than the CMA

REGIONAL REPORTING SERVICE, INC.

184

1 was in what we did with our plant
2 communities. For instance, the ninety
3 percent air emission reduction program
4 of toxic air emissions, we did that
5 actually at the same time we reported

6 our first release of emissions. And
7 that was revolutionary for a chemical
8 company to do. It was a lot more
9 aggressive than CMA or many member
10 companies had envisioned and in fact
11 forced other companies to follow its
12 lead.

13 MS. MALOW: I need to object to
14 that as nonresponsive.

15 Q. The question was whether or not you
16 disagree with the literature that CMA
17 has published that one of the purposes
18 of a CAP is to gain the trust of the
19 public because of the poor reputation of
20 chemical companies.

21 MR. PECK: Object to the form of
22 the question, asked and
23 answered.

REGIONAL REPORTING SERVICE, INC.

185

1 A. They had their own motivations for what
2 they were trying to accomplish, and that
3 was one of their strategies, I suppose.
4 We had our own.

5 Q. Isn't it the case that responsible care
6 is actually mandatory for all CMA
7 members?

8 A. Yes. You have to sign a contract as
9 part of being a member of CMA.

10 Q. And don't CMA members also have
11 mandatory self-audits they need to
12 complete?

13 A. Yes.

14 Q. Are you familiar with self-audits that
15 have been done by Monsanto?

16 A. I believe we did them, but I don't
17 recall -- I don't remember who did them
18 or what kinds of scores we gave
19 ourselves.

20 Q. Where are those self-audits kept? Is
21 there a file on self-auditing?

22 A. I don't have it. I don't know who does.

23 Q. Who would be responsible for that?

REGIONAL REPORTING SERVICE, INC.

186

1 A. Whoever the responsible care coordinator
2 is. And at Monsanto I'm not sure who
3 that is any more. We are not nearly as

4 involved with CMA as we used to be.

5 Q. Who was it in the past, let's say in the

6 1994 time frame?

7 A. I believe Mike Pierle was the primary

8 contact -- Well, Bob Potter sat on the

9 board for a while. But as far as the

10 responsible care program, I believe that

11 was Mike Pierle.

12 Q. Are there certain protocols that CMA

13 requires its members to follow?

14 A. Related to responsible care?

15 Q. Yes.

16 A. Yes.

17 Q. Are you familiar with those?

18 A. I was at one time. It has been a while.

19 Q. Is a CAP a way for industry to

20 circumvent regulatory pressure by

21 creating local goodwill to be drawn on

22 during permit application processes?

23 A. It is not a way to circumvent the

REGIONAL REPORTING SERVICE, INC.

187

1 regulatory process at all.

2 Q. Who referred you to Bourne Elliott?

3 A. I believe it was Diane Sheridan, and I
4 think I got her name from someone else.

5 Q. And Diane Sheridan is a facilitator that
6 acts for certain CAPs; is that right?

7 A. Yes. I think she was out of Texas, and
8 I don't recall who she facilitated for.

9 Q. Did you ever meet Ms. Sheridan?

10 A. I spoke with her on the phone. I don't
11 think I met her in person.

12 Q. What did she tell you regarding
13 Elliott's firm?

14 A. I think it was a center for conflict
15 management and just that he had a lot of
16 experience in this area, that he has
17 created CAPs for other companies and has
18 facilitated them, the fact that he was
19 in Georgia which wasn't that far away
20 from Anniston, so he would be somewhat
21 local to the area, and that he seemed to
22 fit the qualifications we were looking
23 for and be in the right geographic

REGIONAL REPORTING SERVICE, INC.

188

1 location.

2 Q. What was it that made you decide you
3 wanted to create a CAP for the Anniston
4 site?

5 A. As I said before, we were trying to
6 create community advisory panels at
7 whatever sites seemed appropriate. It
8 was an evolution. We didn't start them
9 all at once. We started with one and
10 kind of grew from there. We didn't have
11 a mandate that we had to have a CAP in
12 place at every site, and we really just
13 took sites on a one-by-one basis looking
14 at their circumstances and as we had the
15 time to work with the sites to develop
16 them.

17 Q. And was there anything in particular
18 going on at the Anniston site at the
19 time frame you contacted Michael Elliott
20 that made it the right timing to look at
21 Anniston?

22 A. Well, I was fairly new to having that
23 plant as part of my community relations

REGIONAL REPORTING SERVICE, INC.

1 responsibilities, so it was something
2 that I wanted to at least investigate.
3 And as far as what was happening at the
4 time, yes, the remediation was underway
5 and the litigation had started as well.

6 Q. And in general is it preferable to have
7 a CAP in place before litigation ensues?

8 A. You can't control what is going to
9 happen with litigation. It is helpful
10 to have community advisory panels in
11 place at sites for a number of reasons,
12 which I have mentioned before.

13 Q. In fact doesn't the literature talk
14 about the fact that if you have a CAP in
15 place that it may prevent litigation?

16 A. I don't believe that's necessarily the
17 case.

18 Q. Was there ever any criticisms leveled on
19 you or anyone at the public relations
20 department for not getting this CAP in
21 place at Anniston?

22 A. At different points in time people --
23 more senior people of the Mike Pierle

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1 level would ask which sites do we have
2 CAPs at, which ones don't we, and have
3 we looked at the sites that didn't have
4 them as to whether we could start them
5 or not. Again, you know, it wasn't a
6 matter of them saying you must have CAPs
7 at every site by a certain time. For
8 some locations it just wasn't
9 appropriate to have a CAP. And I'm not
10 sure where Anniston fell in that.

11 Q. Well, the reality of it is the CAP never
12 got put in place at Anniston, right?

13 A. Right.

14 Q. And you were the person that was trying
15 to get the CAP established?

16 A. Right.

17 Q. And what I need to know is whether or
18 not any criticism was ever leveled at
19 you not getting that CAP established.

20 A. No, because of the reasons we couldn't
21 establish a CAP.

22 Q. Which were what?

23 A. That a number of the people that Michael

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1 Elliott interviewed as potential members
2 of the CAP were either litigants or had
3 relatives or friends who were litigants
4 or potential litigants, and that very
5 much complicated the ability to form a
6 CAP, so we decided to put it on hold.

7 Q. Okay. Let me back up and ask you a
8 little bit more about Michael Elliott's
9 role. Had you ever used or had Monsanto
10 ever used Elliott's firm for any other
11 facility?

12 A. Not that I'm aware of.

13 Q. Was the contact with Michael Elliott the
14 only time that you are aware of that a
15 CAP was considered for the Anniston
16 site, meaning either before or after
17 your contact with Michael?

18 A. I really don't recall whether it was
19 looked at before my watch. I know they
20 didn't have one when I took the site on.

21 Q. And since you've left that
22 responsibility are you aware of there
23 ever being a CAP in place?

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1 A. I don't know. Since I left I don't know

2 what happened.

3 Q. Do you know when in time it was that you

4 first contacted Michael Elliott?

5 A. The exact date?

6 Q. Time frame.

7 A. I know it was during '94 to '97.

8 Q. Okay. Let me see if I can find

9 something that might help.

10 (Plaintiffs' Exhibit Number

11 Twenty-four was marked for

12 identification.)

13 Q. Can you identify Plaintiffs' Exhibit

14 Twenty-four please?

15 A. Proposal from -- Or I guess it is a

16 bill, rather, from Bourne Elliott

17 Associates to me for -- It says for

18 personal services and expenses related

19 to community advisory panel.

20 Q. Why don't you go ahead and look through

21 the collection of documents that are

22 marked as Exhibit Twenty-four and

23 identify the rest of the documents.

1 A. Okay.

2 Q. Have you now looked at all of Exhibit

3 Twenty-four?

4 A. Yes.

5 Q. You have identified for me the first

6 page is a bill from Bourne Elliott. Can

7 you identify the remaining documents for

8 the record?

9 A. There is a cover note from me to Jo

10 Hanson, who is paying the bills related

11 to the remediation, and this was part of

12 the work for the site. So it was

13 submitting the bill to her for payment.

14 And then the contract for Michael

15 Elliott to Monsanto for doing

16 preliminary work on a CAP and then just

17 background on the southeast negotiation

18 Network and his resume.

19 Q. And based on Mr. Elliott's letter to you

20 of May 8 where he sent you his resume

21 brochure, does that help put in

22 perspective when it was that that

23 contact was made? Would it have been

1 sometime in April or May of '95?

2 A. Wait. This is a bill from '96.

3 Q. Right. His letter --

4 A. I see, May 8th, '95.

5 Q. And he references there is going to be a

6 meeting on May 30th.

7 A. Uh-huh (indicating yes).

8 Q. Did that meeting take place?

9 A. Yeah. I believe he came out to the site

10 once at that meeting that I participated

11 in. And it was just a preliminary

12 meeting with us to kind of lay out the

13 community issues, the issues that we had

14 going on at the time. And then he went

15 about interviewing different community

16 leaders, and you might have that

17 document. And then I think the next

18 time I saw him was at his office, and it

19 was Jack Mayausky and myself, and it was

20 to kind of get the results of what he

21 had found so far.

22 Q. Let's back up to that May 30th meeting.

23 Who else was present other than

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195

1 Mr. Elliott and yourself?

2 A. I don't recall. Alan Faust might have
3 been there to talk about the remediation
4 program, but I don't recall for sure.

5 Q. And was that meeting held at the
6 Anniston plant?

7 A. Yes.

8 Q. And what issues did you apprise
9 Mr. Elliott of or did anybody in that
10 meeting apprise him of?

11 A. General community background and also
12 the remediation issues that we were
13 beginning.

14 Q. Was there a discussion with Mr. Elliott
15 about PCB health effects or PCB
16 environmental contamination?

17 A. The environmental contamination and the
18 remediation program that we had
19 underway.

20 Q. Was one of the things that you wanted
21 him to interview potential CAP members

- 22 about health effects of PCBs or concerns
23 the community had regarding that issue?

REGIONAL REPORTING SERVICE, INC.

196

1 A. I'm trying to remember the nature of the
2 interviews. It was trying to assess who
3 are the community leaders and who would
4 make potentially good CAP members.
5 Health effects might have been part of
6 it. I don't remember.

7 Q. Your note, which is page two of Exhibit
8 Twenty-four, I can't read your
9 handwriting. Can you read that for me?

10 A. "Here is Michael Elliott's last bill for
11 the community advisory panel work he did
12 for us. The project is on hold, but
13 Pierle and Redding are eager for all
14 sites to have CAPs, so it might be
15 reactivated again in some form."

16 Q. Okay. I know who Michael Pierle. Who
17 is Redding?

18 A. Nick Redding was vice chairman of the
19 company, and he had overall
20 environmental responsibility. He was

21 over Mike. Mike had more of the
22 day-to-day dealing with the
23 environmental matters, but Nick was the

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197

1 executive over a number of areas,
2 environmental being one.

3 Q. Is Mr. Redding still with Monsanto?

4 A. No. He is retired.

5 Q. Is he still living in the St. Louis
6 area?

7 A. Yes.

8 Q. This indicates to Jo, your message, that
9 the project is on hold. Is that again
10 based on the fact that the contacts that
11 Mr. Elliott did make revealed there was
12 -- there were people involved in
13 litigation and he didn't think it was
14 going to work?

15 A. That's right.

16 Q. Okay. And so there was still this
17 desire, though, to maybe reactivate this
18 idea with respect to Anniston, you said,
19 in some form?

20 A. Well, as I said before, we put it on
21 hold. We didn't totally give up on the
22 idea. At some point we might be able to
23 do it. Again, it is a good idea for

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198

1 plants to have CAPs if it is
2 appropriate. At that point in time it
3 wasn't appropriate, but it may be
4 sometime in the future.
5 Q. If you will look at the third page on
6 one of Mr. Elliott's invoices he
7 indicates at the bottom that as we
8 discussed on February 21st we will not
9 proceed with the formation of the
10 community advisory panel until such time
11 as the issues associated with PCBs can
12 be addressed within the context of a
13 panel or until such issues become less
14 relevant to the functioning of a panel.
15 Did I read that correctly?
16 A. Yes.
17 Q. Based on that statement it is apparent
18 that the issue of PCBs was one of the

19 reasons that you wanted to form the CAP.

20 Is that right?

21 MR. PECK: Object to the form of

22 the question.

23 A. We wanted to form a community advisory

REGIONAL REPORTING SERVICE, INC.

199

1 panel because we wanted to know what was

2 on the community's mind, and PCBs might

3 have been a part of what was on their

4 mind. But it might be been a number of

5 things. We just wouldn't know until the

6 CAP was functioning.

7 Q. Do you recall, based on your discussions

8 with Mr. Elliott on February 21st, why

9 it was that this issue of PCBs could not

10 be addressed within the context of the

11 panel?

12 A. Because of the litigation.

13 Q. Okay.

14 A. And the fact there were even some people

15 we couldn't even approach because they

16 were litigants and represented by an

17 attorney who wouldn't allow us to

18 contact them.

19 Q. Right. Because you know, ethically you

20 are not allowed to talk to someone that

21 is represented by counsel, right?

22 A. Right.

23 MR. PECK: Lawyers can't talk to

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200

1 people that are represented

2 by counsel. Clients do it

3 all the time.

4 MS. MALOW: Well, you are not

5 supposed to do that either.

6 MR. PECK: I disagree with that.

7 There is a world of people

8 suing each other who talk to

9 each other.

10 Q. He references five point four hours of

11 personal services, and he says summarize

12 outcomes of community assessment and

13 stakeholder interviews. What is a

14 stakeholder interview?

15 A. That's where he talked to members of the

16 community that were potential CAP

17 members or could lead us to other people
18 to interview that may be potential CAP
19 members and just kind of giving us an
20 overview of, you know, what transpired
21 in those interviews, what the highlights
22 were.
23 Q. I don't see that we actually got the

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201

1 interviews that he conducted. Were
2 there in fact notes provided to you or
3 summaries of interviews provided to you
4 that Mr. Elliott's conducted?

5 A. They weren't -- We never got a full
6 transcript of what transpired during the
7 interviews. I think we had a list of
8 who he talked to, more in the form of a
9 grid, who he talked to, the date he
10 talked to them, whether they referred
11 him to anyone else. And that was pretty
12 much it as far as documents from him.

13 MS. MALOW: Do you guys have that?

14 MR. PECK: You have everything we
15 have.

16 MS. MALOW: Okay.
17 MR. KELLY: I don't recall seeing
18 notes of his.
19 MR. PECK: I recall notes of Diane
20 talking to them but that is
21 all. That is in there too.
22 MS. MALOW: I don't see that
23 either.

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202

1 MR. PECK: I mean, I have seen
2 notes. I didn't read them
3 because I have a hard time
4 with her handwriting too, but
5 I thought that is what they
6 were.
7 MS. MALOW: Maybe we can figure it
8 out here. Let me ask you
9 what this one is.
10 (Plaintiffs' Exhibit Number
11 Twenty-five was marked for
12 identification.)
13 Q. Can you identify Exhibit Twenty-five?
14 A. Yeah. This is pretty much what we got

15 from him. It is from Michael Elliott,
16 and it is the people that he had
17 identified as wanting to interview. And
18 some he was able to talk to. That is
19 where the contact date is. And the ones
20 that are blank I don't think he was able
21 to meet with or talk to or hadn't gotten
22 to.

23 Q. Okay. Where did this list come from?

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203

1 Who compiled this list of names?
2 A. I'm pretty that sure it was Michael
3 Elliott.
4 Q. And do you know how it was that he went
5 about compiling this list?
6 A. Yeah. He talked to the plant staff at
7 the plant to find out who they thought
8 the community leaders were and then in
9 those interviews, the ones he was able
10 to conduct, he would ask those people
11 who they thought the community leaders
12 were. And it didn't have to be a person
13 like the mayor. It was more like who

14 were the stakeholders in the community.
15 So it could have been from any walk of
16 life or any kind of agency, and that is
17 how the list was put together.

18 Q. Do you know, based on Exhibit
19 Twenty-five, how many of these people
20 were environmental activists versus
21 pro-industry types?

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

REGIONAL REPORTING SERVICE, INC.

204

1 A. I don't recall what the backgrounds were
2 of the people. I mean, it says
3 association here, but that's about all I
4 know.

5 Q. Do you know why it is that you are on
6 the list?

7 A. Well, it has the initial date that we
8 met with him, so I guess he considered
9 me as one of the people he talked with
10 at Monsanto related to the community
11 advisory panel project.

12 Q. But you wouldn't be the type of person

13 that should be on the CAP?

14 A. No. But that -- A lot of -- A number of

15 the people here were plant staff. I

16 think Robert Jones was on the list. He

17 wouldn't necessarily be on the CAP

18 either, but he would be able to identify

19 who the community leaders were. I

20 wouldn't be able to identify who the

21 community leaders, but he did talk to me

22 about the CAP at our initial meeting.

23 Q. You are telling me that other than

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205

1 Exhibit Twenty-five you didn't get any

2 materials from Mr. Elliott as to

3 specifics regarding the meetings that he

4 did conduct?

5 A. No. You know, I think he went over that

6 verbally when we met with him, not

7 necessarily in a lot of detail. It was

8 generalized. But this is all I remember

9 getting from him.

10 Q. Let me see if I can jog your memory. If

11 you will look at the second page, it

12 looks like he had a meeting with a
13 gentleman named Phillip Corn, who owned
14 Corn Construction. Do you remember
15 anything that he may have indicated
16 Mr. Corn and he discussed?

17 A. No.

18 Q. Okay. As you sit here now, do you have
19 any recollection of any information that
20 he related to you, he being Mr. Elliott,
21 about his discussions with any of these
22 individuals on Exhibit Twenty-five?

23 A. Nothing in particular comes to mind, you

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206

1 know. I know he said a number of the
2 people he wanted to talk to he wasn't
3 able to or that our lawyers informed him
4 he couldn't talk to because of the
5 notice we got as to who the latest list
6 of litigants were. But as far as
7 specific discussions with these people,
8 I don't recall.

9 Q. And I have crossed-checked that with
10 Exhibit Fifteen, which we went over

11 earlier, which is the Anniston area
12 influentials, and it appears that some
13 of the people are on here and some
14 aren't. Do you know if there is any
15 connection between Exhibit Fifteen and
16 Exhibit Twenty-five?
17 A. I'm pretty sure that Jack provided that
18 list to Michael Elliott, but Michael
19 Elliott also got a number of his
20 recommendations from the plant staff.
21 So why he chose who he chose to put on
22 this list, I don't know.
23 Q. When you say Jack provided that list,

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207

1 you are referring to Exhibit Fifteen?
2 A. That's right.
3 (A break was taken.)
4 (Plaintiffs' Exhibit Number
5 Twenty-six was marked for
6 identification.)
7 Q. I'm handing you what has been marked as
8 Exhibit Twenty-six. If you could, take
9 a look at that and identify it for us.

10 A. It is an agenda.

11 Q. Is that your handwriting?

12 A. Yes. I'm trying to figure out what it

13 was. Okay.

14 Q. Have you now looked at Exhibit

15 Twenty-six?

16 A. Yes.

17 Q. Can you identify what those handwritten

18 notes are referencing?

19 A. Yeah. They look like my notes relating

20 to a meeting with Michael Elliott about

21 forming a CAP for the Anniston site.

22 Q. Now, do you know when in relation to the

23 meeting those notes were made? Was that

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208

1 before, after, or during?

2 A. The agenda was probably done before the

3 meeting, but I can't say how far. It

4 might have been that morning and then

5 the notes -- most of the notes seem to

6 be from the meeting with him.

7 Q. Okay. Let's start with the last page,

8 which is your letter dated May 17, 1995,

9 to Mr. Elliott which basically just
10 tells him you are looking forward to
11 your visit with him on May 30th. You
12 also indicate you are attaching a
13 brochure regarding the Anniston plant.
14 And I was going to just see if I can
15 determine if it is the same brochure
16 that I have. Do you remember the title
17 of the brochure, by any chance? Does
18 that look --

19 A. No. That is Solutia. As I recall,
20 probably the brochure we gave him was
21 like -- what were the years. It seemed
22 to be pretty early on in my career with
23 Monsanto that we identified a need that

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209

1 a lot of plants had for a community
2 brochure. Very few of them had one. I
3 can't think of any of them that had it.
4 A few of them might have. It was just
5 to talk about the plants. None of them
6 had a budget to do that. So we set
7 about a way to try to figure out how to

8 do community brochures for all the sites
9 in the most cost-effective manner.
10 So what we did was contract out of
11 the corporate budget to pay for a common
12 design that all the plants could use
13 with specific areas for copy blocks that
14 the plants would then fill in with their
15 own copy. And the areas included the
16 products made at the site, the history
17 of the site, the safety programs at the
18 site, the environmental programs at the
19 site, and then maybe some Monsanto
20 background about the corporation. And
21 that Monsanto background was standard in
22 all of them. The other copy they
23 tailored to their own circumstances.

REGIONAL REPORTING SERVICE, INC.

210

1 They provided photos. So some had to go
2 out and take their own photos, and some
3 just did it with their own personal
4 cameras.

5 And then we printed the brochures
6 all at once. And I think they split the

7 cost with us, with corporate. So it was
8 a pretty cost-effective way to get a lot
9 of brochures done at once, and I think
10 that is the brochure, even though it was
11 out of date by '95.

12 Q. Do you know when that brochure for
13 Anniston was first developed?

14 A. Like I said, I believe it was sometime
15 in the late '80s.

16 Q. Okay. And then you also explain in your
17 letter of May 17th, '95, that during the
18 visit Jack Mayausky was going to give
19 him some background on past and current
20 operations as well as the current PCB
21 remedial issue.

22 A. Uh-huh (indicating yes).

23 Q. Can you recall from the meeting -- and

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211

1 perhaps your notes can refresh your
2 memory -- as to what specific
3 information you gave Mr. Elliott about
4 the PCB remedial issue?

5 A. I think it was just the background on

6 what was going on with the area adjacent
7 to the plant and the fact that we were
8 probably -- we probably already had a
9 plan with ADEM by then that we were
10 going to be executing. I don't remember
11 whether the property purchase program
12 was in effect. I don't remember what
13 the dates of the property purchase
14 program were. But just kind of laying
15 out the issues.

16 Q. Okay. And then you say you are going to
17 review what we, meaning Monsanto, hopes
18 to get out of the CAP at the facility.
19 Do you recall what it was that Monsanto
20 wanted to get out of the CAP at the
21 facility that was discussed at the
22 meeting?

23 A. Most likely what we wanted to get out of

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212

1 any community advisory panel is to
2 understand what the questions and/or
3 concerns of the community might be. So
4 it is kind of a window into the

5 community.

6 Q. All right. And then you ask about, you
7 know, the process of forming a CAP,
8 reasonable expectations of members,
9 timetable, and costs, right?

10 A. Uh-huh (indicating yes).

11 Q. Yes?

12 A. Yes.

13 Q. Go back to the first page of Exhibit
14 Twenty-six, which are your handwritten
15 notes. Under background one of the
16 items is PCB off site issues. Is this
17 also related to the remediation aspect?

18 A. Right.

19 Q. Do you -- Strike that.

20 What was your understanding at
21 this time frame as to how far or how
22 widespread the contamination was off
23 site, what areas it included?

REGIONAL REPORTING SERVICE, INC.

213

1 A. At this point in time I don't remember
2 how far along the testing program was.
3 I know we had remedial issues in the

4 area adjacent to the site. But I don't
5 know that -- I don't remember how much.
6 Q. Do you recall what the levels were of
7 PCBs that had been found off site either
8 on property of residents or in ditches
9 or streams?

10 MR. PECK: At that time?

11 MS. MALOW: Yes.

12 A. I know they varied.

13 Q. Were there in fact high levels that had
14 been found off site?

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

17 A. I believe in a couple of locations there
18 were high levels found.

19 Q. And then on page one of Exhibit
20 Twenty-six, at the bottom you say
21 conflict resolution versus public
22 participation. What does that mean?

23 A. I don't know what I meant. I don't

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214

1 remember.

2 Q. Well, in terms of a CAP what role does a

3 CAP play with represent to conflicts
4 resolution, just as a general
5 proposition?
6 A. It doesn't really play a role for
7 conflict resolution. Again, if issues
8 are identified by the CAP as being of
9 concern to the community, they would
10 bring that to the attention of the
11 company. That would in turn give the
12 company an opportunity, where we might
13 not otherwise have known that an issue
14 existed, to communicate whatever the
15 issue was to the community and what we
16 were doing about it. But I don't know
17 why I wrote conflict resolution.
18 Q. Okay. On the next page it looks like
19 you list out some documents in that
20 second paragraph, the PCB backgrounder,
21 EAR?
22 A. Environmental annual review.
23 Q. Environmental what?

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1 A. Annual review.

2 Q. And The Anniston Star clips. Do you
3 recall specifically what press clips
4 were provided to Mr. Elliott?

5 A. Probably some recent ones. I don't
6 recall which ones those were.

7 Q. The timetables or time frames that are
8 listed with respect to community leaders
9 and plant managers, what do those
10 represent?

11 A. I think that was the amount of time that
12 he was going to need to spend with each
13 of those parties.

14 Q. Okay. And is it three hours a month
15 or --

16 A. Yes, per month.

17 Q. Is that for a period of several months
18 or just in a given month he needed three
19 hours?

20 A. I think it was over some length of time,
21 and I don't know what that lengths would
22 have been.

23 Q. Okay. If you will, skip down where it

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1 says next steps, talk with Robert Jones.

2 Does that say wage person?

3 A. Yes.

4 Q. Who is a wage person?

5 A. That would be an hourly employee. And

6 Robert Jones being the superintendent

7 would have been a member of the

8 management, and then another person

9 would have been an hourly person so you

10 would get two perspectives of who you

11 thought the community leaders were.

12 Q. It says under that section issues of

13 interest, do you -- what issues of

14 interest did Mr. Elliott identify once

15 he did his interviews of these various

16 folks?

17 A. I don't recall what these people said in

18 the individual interviews.

19 Q. And rather than specifically recalling

20 that, just in general did he identify

21 for you guys some issues of interest

22 based on his interviews that he

23 conducted?

REGIONAL REPORTING SERVICE, INC.

1 A. I think PCBs were an issue of interest.
2 I don't know that I would say of
3 concern. It probably depended on whom
4 he talked to. But beyond that I don't
5 know.

6 Q. All right. And then toward the bottom
7 you have some numbers that I guess are
8 just estimates on the cost. One of the
9 things you reference is that part of the
10 expense is research which will be useful
11 in itself. What research was he
12 suggesting to conduct?

13 A. Well, I think just in his interviews
14 with community leaders that information
15 in itself would have given us kind of a
16 feeling for what the community's level
17 of interest and what their issues are.
18 So in and of itself, if we didn't go
19 forward with the full CAP, these
20 interviews would have provided useful
21 information.

22 Q. And that brings me to a good question.
23 Did y'all take any of the information he

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1 gathered and use it for any purpose
2 aside from the CAP which we know didn't
3 get established?

4 A. I think -- You know, going back to that
5 list, there weren't really that many
6 interviews he was able to conduct. One,
7 two, three, four -- and Jerry Brown is a
8 Monsanto person, so that probably
9 doesn't count. One, two, three four,
10 five, six, seven -- that doesn't count
11 -- eight -- Robert doesn't count.
12 Jack's doesn't count -- nine, ten,
13 eleven. No, he was a no. I'm not sure
14 what that was. So ten or eleven. You
15 know, out of some thirty or forty names
16 that he has here, so he really wasn't
17 able to get that far.

18 What was your question again?

19 Q. My question was whether or not you guys
20 were able to take any of the information
21 that Michael Elliott obtained through
22 this process and use it despite the fact
23 that the CAP was never established?

REGIONAL REPORTING SERVICE, INC.

1 A. I don't recall what if anything we did
2 with the information. It wasn't
3 anything earth-breaking.

4 Q. At the very end there you say need to
5 okay with lawyers. Why is that?

6 A. The overall plan probably just to make
7 sure we don't get crosswise with the
8 litigation.

9 Q. Who is Eric Brimer?

10 A. You know, I saw that there, and I was
11 trying to remember. I don't remember.

12 Q. Okay. Did you ever attend any ADEM
13 sessions with Robert Jones?

14 A. No.

15 Q. Well, I'm reading this wrong. It was
16 Jack. Did you obtain information from
17 Jack Mayausky or Robert or anyone else
18 at the Anniston site regarding their
19 meetings with ADEM on the remediation
20 issues?

21 A. Occasionally when they had meetings or
22 after they would have meetings, when we
23 were getting together to talk about, you

1 know, whatever the issues in front of us
2 were, they would give kind of a recap of
3 what had happened in previous meetings,
4 not only with ADEM but any other
5 meetings they might have had.

6 Q. Did Diane Sheridan provide you with
7 information on CAPs?

8 A. It looks like you are looking at
9 something.

10 Q. I'm just wondering if it went to you or
11 if you remember getting stuff
12 specifically from Diane Sheridan. I'm
13 not trying to trick you.

14 A. I do remember I talked with her on the
15 phone. I don't remember if she sent
16 anything at that point.

17 Q. Was the only reason that the CAP did not
18 get formed in Anniston due to the issue
19 of litigants, or were there any others
20 reasons?

21 A. We were just running into a dead end.
22 We just couldn't recruit from the
23 community to have a proper

1 representation that we needed because of
2 the litigation.

3 Q. Were you involved in establishing a CAP
4 for the Krummrich site?

5 A. Yes.

6 Q. Is that CAP -- Did that CAP get
7 established?

8 A. Yes, in '89.

9 Q. Is it still in place?

10 A. Yes, as far as I know. It is Solutia
11 now, so I guess I can't say that
12 definitively, but I believe it is. At
13 least it was before the split.

14 Q. What outside consulting firm assisted
15 with that CAP?

16 A. They were our first one, and I think the
17 firm that we talked to in the early days
18 was Pat Delbridge and Associates out of
19 Toronto, because there weren't that many
20 people doing it at that point. They
21 were kind of the leaders. I don't
22 remember if they had hands-on experience

23 in helping us out or if we just kind of

REGIONAL REPORTING SERVICE, INC.

222

1 followed the guidelines they were
2 setting out. But I know they were about
3 the only firm out there doing this kind
4 of thing.

5 Q. The agenda with respect to the Sauget
6 site and the utilization of a CAP in
7 that area, part of the objective was to
8 minimize negative attention; is that
9 right?

10 A. Is that something that you are reading
11 from? I don't know. I mean, the idea
12 behind a CAP is to understand what is on
13 the minds of the community members. In
14 fact, I think they had a member of the
15 media on the CAP, so if anything it was
16 fair game for him to print. So I don't
17 recall that that was one of the goals.

18 (Plaintiffs' Exhibit Number
19 Twenty-seven was marked for
20 identification.)

21 Q. Can you identify Exhibit Twenty-seven?

22 A. An agenda to start development of a
23 public and community relations strategy

REGIONAL REPORTING SERVICE, INC.

223

1 for Sauget sites remediation and
2 determine how best to continue the
3 process of strategy development and
4 execution.

5 Q. And you're listed on there as being part
6 of the public affairs group; is that
7 right?

8 A. That's what it looks like.

9 Q. And under strategy development it lists
10 an objective. What does that say?

11 A. To complete remediation of Sauget sites
12 with open, positive community relations,
13 constructive communications, and a
14 minimum of negative attention.

15 Now, this looks like it is to try
16 to establish a community advisory panel
17 specific to Sauget sites remediation.
18 That would have been separate and apart
19 from the community advisory panel for
20 the plant which we did establish in '89.

21 Q. This would have been more targeted to --
22 A. The remediation. So it would have been
23 issue specific.

REGIONAL REPORTING SERVICE, INC.

224

1 Q. Are you familiar with literature from
2 ATSDR on community assistance programs?
3 A. Not specifically.
4 Q. Okay. Did Anniston have an LEPC?
5 A. Uh-huh (indicating yes). Oh, wait a
6 minute. I think they did.
7 Q. A local emergency planning committee, is
8 an LEPC also a suggestion or mandate by
9 CMA?
10 A. No. It is a requirement of EPA related
11 to the community right-to-know laws that
12 every community form a committee or plan
13 a committee.
14 Q. And there was one in place in Anniston?
15 A. I believe so. You know, it was required
16 by law, so I'm sure they had it in some
17 fashion. In some locations it was the
18 Emergency Management Agency that was
19 already in place. In other situations

20 it was a newly formed committee to
21 comply with those laws.

22 MR. PECK: When you say Anniston,
23 do you mean Anniston city?

REGIONAL REPORTING SERVICE, INC.

225

1 MS. MALOW: I mean the Anniston
2 plant.

3 THE WITNESS: No. It is the city.

4 It is not something Monsanto
5 would have formed. It is a
6 requirement of the community.

7 (Plaintiffs' Exhibit Number
8 Twenty-eight was marked for
9 identification.)

10 Q. I'm going to hand you Exhibit
11 Twenty-eight. If you want to take a few
12 minutes to review those, I can then ask
13 you some questions about it.

14 A. Okay.

15 Q. Can you identify Exhibit Twenty-eight
16 for the record?

17 A. The first page is a cover note from me
18 to Jack Mayausky about next steps with

19 the community advisory panel. The next
20 couple of pages are communications from
21 Michael Elliott to me about his progress
22 of the CAP, his suggested makeup of the
23 CAP, and some discussion of who a

REGIONAL REPORTING SERVICE, INC.

226

1 facilitator maybe should be and then a
2 cover note from him that I guess
3 accompanied this communication to me.
4 Q. And actually the cover note, the back
5 says there are seven pages, and that
6 other document is two, so they may not
7 be connected. I don't know.

8 With respect to this issue of
9 identifying who the facilitator should
10 be, it seems to indicate from both
11 Mr. Elliott's letter as well as your
12 note to Jack Mayausky that there was
13 some suggestion that a plant person be
14 used as the facilitator. Isn't that
15 unusual in a CAP?

16 A. Uh-uh (indicating no). It is not
17 unusual. Some plants have plant staff

18 as a facilitator. It depends on the
19 skills of the people on the staff,
20 whether anybody is appropriate or not,
21 whether they can take kind of -- well,
22 play a facilitator role to make sure
23 that everyone is heard from and no one

REGIONAL REPORTING SERVICE, INC.

227

1 personality dominates. Sometimes it is
2 useful to have an outside person do it,
3 one, because they are trained in
4 facilitation, and two, because the
5 Monsanto member who participates in this
6 are freer to participate. If you are a
7 facilitator you really can't
8 participate, can't interject yourself
9 into the conversation if you are playing
10 a facilitator role.

11 Q. Isn't there also the idea that a
12 facilitator should be a neutral person?

13 A. Usually, yes. And a plant person is of
14 course able to play that role. But you
15 have to be aware that if they play that
16 role they are taken out of the

17 conversation. Again, that is the reason
18 for an outside facilitator.
19 (Plaintiffs' Exhibit Number
20 Twenty-nine was marked for
21 identification.)

22 Q. You want to take a minute to look at
23 Exhibit Twenty-nine?

REGIONAL REPORTING SERVICE, INC.

228

1 A. Okay.
2 Q. Can you identify what Exhibit
3 Twenty-nine is?
4 A. The first two pages are my notes. And
5 it seems to be -- it is not identified
6 very well.
7 Q. It looks like notes relating to the
8 overview of issues, but correct me if
9 I'm wrong. I'm just guessing.
10 A. Yeah. And I -- it seems -- It might be
11 related to Anniston, but really it could
12 be -- Coldwater Mountain, is that --
13 Okay. That is Anniston, then.
14 Q. Okay. Let me ask you. On this overview
15 of issues, which is the last page of

16 Exhibit Twenty-nine, who prepared that?
17 A. I'm not sure who prepared this document.
18 It looks like it could have been
19 something from Michael Elliott's
20 interviews, but I'm not sure about that.
21 Q. Do you recall preparing it?
22 A. I don't recall.
23 Q. At the bottom there is a section on

REGIONAL REPORTING SERVICE, INC.

229

1 PCBs, and the first bullet point is old
2 persistent problem. What does that
3 mean?
4 MR. PECK: Object to the form of
5 the question.
6 A. I can't speculate. I don't remember.
7 Q. I'm not asking you to speculate. You
8 were involved in this meeting on
9 February 21st, 1996, were you not?
10 A. Yes.
11 Q. So based on your participation and your
12 conversations with Mr. Elliott, what was
13 the context of this bullet point of old
14 persistent problem?

15 A. And I don't recall what was meant by
16 that line. I don't remember.
17 Q. Okay. Is it your understanding that
18 PCBs were a long-standing problem for
19 this Anniston site?
20 A. I don't remember that it was a long-term
21 concern for the community, but I don't
22 remember the context this was in.
23 Again, I had the site from '94 to '97,

REGIONAL REPORTING SERVICE, INC.

230

1 so -- These are notes apparently of what
2 the community said to us.
3 Q. And I'm just trying to get your best
4 recollection of what was relayed to you
5 based on Mr. Elliott's work that he did
6 in talking to the various people in the
7 community.
8 A. I know, and I don't recall anything more
9 about this.
10 Q. How about with respect to the bullet
11 point under PCBs that says general
12 pollution of waterways? Do you know
13 what that references?

14 A. Well, by '96 --

15 MR. PECK: Object to the form of

16 the question.

17 A. -- there was probably a good number of

18 articles about the remediation and

19 testing of different waterways, and so

20 people probably had some level of

21 knowledge about that.

22 Q. Okay. The next one says uncertainty and

23 fear over how widespread, and then it

REGIONAL REPORTING SERVICE, INC.

231

1 has a comma and says possible impact.

2 Do your recall what that discussion was

3 about?

4 A. You know, again, it is notes from the

5 community apparently, I guess. And it

6 is related to PCBs, so how -- people

7 were wondering how widespread the PCBs

8 were and what the possible impact might

9 be.

10 Q. Did Mr. Elliott go into any of the

11 possible impacts that they were

12 concerned about in the community?

13 A. I don't recall at this point.

14 Q. The last section under PCBs says past
15 mistake, and the word "mistake" is in
16 quotes, but what will Monsanto do about
17 it now. What is your understanding or
18 your recollection of that discussion?

19 A. I'm not recalling a discussion, so I'm
20 just looking at what the statement says.
21 And that's certainly a legitimate
22 thought that people in the community
23 might have.

REGIONAL REPORTING SERVICE, INC.

232

1 Q. Did you guys formulate, either with
2 Mr. Elliott or separate and apart from
3 Mr. Elliott a plan for how Monsanto was
4 going to handle the issue, knowing that
5 was an issue for the community?

6 A. I know as part of just, you know, Jack's
7 general community relations activities,
8 when he would have conversations with
9 different community leaders, he would
10 let them know what the status of the
11 remediation was. So he would keep them

12 informed over time about what was
13 transpiring. And you know, as far as
14 communication about specific issues and
15 the effects of communities, that was
16 done on an ongoing basis depending on
17 what point in the remediation we were
18 at.

19 Q. If you will go back to the first page of
20 Exhibit Twenty-nine, there is a phone
21 number at top. Do you know whose phone
22 number that is?

23 A. I don't remember. I guess we could call

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233

1 it and find out.

2 Q. If you skip down it says incineration
3 issue different. What is that
4 regarding?

5 A. I saw that too. And I couldn't
6 remember. That is what made me think
7 maybe it wasn't Anniston because I don't
8 remember them having an incinerator.
9 Make they did and I'm just not
10 remembering that. I don't know what

11 this different upper, middle class -- I
12 just don't recall.

13 Q. What does MTC stand for?

14 A. Monsanto, that is our stock ticker.

15 Okay. Adam was pointing out on the last
16 page the nerve gas incinerator, which
17 wasn't ours, but it was a community
18 issue that was of interest to the
19 community. I'm not sure why it is in my
20 notes related to our site and our
21 issues, but I guess that is something
22 that was in people's minds.

23 Q. And if you will skip down, it says a few

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234

1 MTC issues of concern. One of them is
2 impact on ground water, landfills, how
3 do aquifers work. Can you recall any
4 further information on that issue?

5 A. Not really.

6 Q. And then you have written down in your
7 notes PCB question, what does that refer
8 to?

9 A. Beyond that, I don't know. I don't

10 remember the specifics.

11 Q. Then go to the next page of your

12 handwritten notes. I just can't -- I

13 don't know what your abbreviations stand

14 for. It says get --

15 A. People.

16 Q. -- people interested in PCBs?

17 A. Oh, yes. I guess because we aren't able

18 to approach people that were close

19 enough to the PCB issue to know what it

20 was always about, because often they

21 were litigants or knew people who were

22 litigants, then we wouldn't have

23 representation on the panel of anyone

REGIONAL REPORTING SERVICE, INC.

235

1 who was familiar with PCB issues. And

2 if you ignore that issue the community

3 advisory panel is of limited value.

4 Q. Okay. And then the next comment just

5 says PCB specific, can't -- and I don't

6 know what that means. Do you?

7 A. It looks like I started to write more

8 and then just cut off.

9 Q. Does it jog your memory about anything?

10 A. No.

11 Q. But the bottom line was if you couldn't

12 get people on the panel to talk about

13 the bigger issue of PCBs, the panel was

14 never going to work?

15 A. Right.

16 Q. Do you know John Mitchell?

17 A. Yeah.

18 Q. Is he with Prudential?

19 A. Right.

20 Q. Did Prudential make a pitch to handle

21 this CAP for you guys in Anniston? I

22 have some documentation from the

23 Prudential Community Interaction

REGIONAL REPORTING SERVICE, INC.

236

1 Consulting Group.

2 A. For a community advisory panel?

3 Q. I'm trying to figure out is that related

4 to a CAP or is that related more to the

5 property purchase program?

6 A. I remember they worked with us on the

7 property purchase program. I can't

8 remember whether we talked to them about
9 a CAP. If we did, it would have been
10 before we engaged Michael Elliott.
11 Q. Do you remember a company named Yonce
12 and Associates?
13 A. Are they a local Anniston firm?
14 Q. They are actually in Birmingham.
15 A. Are they like a PR agency?
16 Q. Let me you show you this.
17 (Plaintiffs' Exhibit Number
18 Thirty was marked for
19 identification.)
20 A. I'm trying to remember. Okay. They are
21 a PR agency, communications organization
22 management.
23 Q. What was your contact or why did you

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237

1 contact Yonce and Associates?
2 A. I think this was a firm that Fleishman
3 Hillard identified as being a potential
4 PR agency. But we decided Birmingham
5 was just too far away. I did contact
6 them to find out if they had community

7 relations capabilities, and it looks
8 like they did, but we decided they
9 wouldn't be familiar enough with the
10 Anniston community.

11 Q. Well, I think you just said you think it
12 was Fleishman Hillard that referred you
13 to Yonce?

14 A. I believe so.

15 Q. In Mr. Yonce's letter to you of March
16 19th, '96, which we have marked as
17 Exhibit Thirty, he indicates before we
18 begin any kind of media campaign we
19 learn who the influentials are?

20 A. Yeah. And I don't recall why they would
21 have said that because that wasn't our
22 interest in using a PR firm.

23 Q. But based on his letter it seems to

REGIONAL REPORTING SERVICE, INC.

238

1 indicate there was some thought at least
2 on his part that there was a media
3 campaign that you guys wanted to start.

4 A. Apparently on his part, but I don't
5 recall it on our part.

6 Q. And it is your testimony that your
7 desire to get Fleishman Hillard to
8 provide you with local PR firms had
9 absolutely nothing to do with trying to
10 start a media campaign?

11 A. We weren't in that mode. We weren't
12 trying to gain visibility for ourselves
13 or get acquainted. It was more to help
14 Jack with the community meetings that
15 needed to take place and just with
16 general community relations.

17 Q. So Yonce and Associates had nothing do
18 with a CAP, correct?

19 A. Right.

20 (Plaintiffs' Exhibit Number
21 Thirty-one was marked for
22 identification.)

23 Q. Can you identify Exhibit Thirty-one?

REGIONAL REPORTING SERVICE, INC.

239

1 A. Community interaction consulting
2 agreement with Prudential.

3 Q. Does this pertain to the property
4 purchase program?

5 A. It looks like it.

6 Q. Okay. And at the bottom it says signed

7 agreement, P five change initialed,

8 8-11-95. Is that your handwriting?

9 A. Uh-huh (indicating yes).

10 Q. Is that a yes?

11 A. Yes, which I guess is page five.

12 Q. And there is a little -- it looks like

13 on page five, under section F there are

14 some words missing, and then there is a

15 handwritten note that sayings "out." Do

16 you know what that is about?

17 A. I don't know that. I'm not sure.

18 Q. Do you know why it is that Monsanto

19 wanted to keep confidential the

20 information that it shared with

21 Prudential Interaction Consulting?

22 A. Is that in here someplace?

23 Q. No. It is actually a separate letter

REGIONAL REPORTING SERVICE, INC.

240

1 from Mr. Bistline.

2 A. Is that a copy of the document?

3 Q. I can give you a copy of that.

4 (Plaintiffs' Exhibit Number
5 Thirty-two was marked for
6 identification.)

7 Q. Have you seen Exhibit Thirty-two before?

8 A. It looks like just a general
9 confidentiality agreement that we have
10 with a number of our contractors.

11 Q. Just for the record --

12 A. It is a letter to John Mitchell from Tom
13 Bistline, who was the assistant general
14 counsel for Monsanto at the time.

15 Q. And it is your testimony that in general
16 when you guys hired consultants you
17 request that there be a confidentiality
18 agreement?

19 A. That's right.

20 Q. And what is the reason for that?

21 A. There might be competitive information
22 that might be disclosed that we wouldn't
23 want to have made public. There could

REGIONAL REPORTING SERVICE, INC.

241

1 be a variety of reasons.

2 Q. How about with respect to buying

3 property in a neighborhood? What
4 confidentiality issues would be of
5 concern?

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

8 A. I really don't know. Most of our
9 dealings with them, the information
10 would have been confidential. I don't
11 know.

12 Q. Yeah. I'm just trying to figure out
13 why. You are just buying property in
14 the neighborhood. You can't explain
15 that for me?

16 A. (Witness shakes head negatively.)

17 Q. Is that a no?

18 A. That's a no. Sorry.

19 Q. Okay. Did you guys also use Prudential
20 community consulting services -- Let me
21 start that over.

22 Did Monsanto use Prudential
23 community consulting services to

REGIONAL REPORTING SERVICE, INC.

242

1 establish the Carondelet CAP?

2 A. Yes. I wasn't part of that, but I know

3 we did.

4 Q. Did you share with Jack Mayausky

5 information about the Carondelet CAP?

6 A. I believe so, as much as I knew.

7 Q. Let me show you this.

8 (Plaintiffs' Exhibit Number

9 Thirty-three was marked for

10 identification.)

11 Q. Can you identify Exhibit Thirty-three?

12 A. It looks like a note to Jack from me.

13 Q. I can't -- It looks like it is maybe

14 3-14 of '95 on the top.

15 A. That looks right.

16 Q. And this is I guess before the time that

17 you actually got in touch with Michael

18 Elliott, based on the last paragraph.

19 A. Let me read it. This was rather

20 elaborate. Okay.

21 Q. So it is accurate that this memo from

22 you to Jack would have taken place

23 before -- would have been written before

REGIONAL REPORTING SERVICE, INC.

1 you talked to Mr. Elliott?

2 A. Right.

3 Q. And the question I have for you relates

4 to the second to last paragraph, where

5 you indicate that at Anniston you don't

6 have the luxury of taking nine months

7 just to establish bylaws, a number of

8 these steps will have to be compressed,

9 like the community choosing panel

10 members. What do you mean by that? Why

11 don't they have the luxury of taking

12 nine months?

13 A. Well, first of all, this was very

14 unusual in the formation of a CAP to

15 have this long of a lead time before the

16 plant even held their first meeting. A

17 certain amount of research was

18 necessary, but nine months' worth or

19 maybe even a year before they held their

20 first meeting, it was just -- it is not

21 the usual case.

22 Q. By them are you talking about

23 Carondelet?

REGIONAL REPORTING SERVICE, INC.

1 A. Carondelet and Prudential. And I think
2 at the time we were interested in
3 getting a CAP up and running because of
4 the issues that the plant faced, that
5 they wanted -- it would have been very
6 helpful to understand what the
7 community's interests, concerns, and
8 questions were.

9 Q. Meaning the remediation was on --

10 A. Well, any issues. We just didn't know
11 because we didn't have a CAP in place,
12 and it would have been helpful for a lot
13 of reasons. We had the Adams research,
14 but we didn't really have any ongoing --
15 except for Jack's conversations with
16 different community leaders, but we
17 didn't really have an ongoing formal
18 group that we could discuss what was on
19 their minds with.

20 Q. And one of the key events that was
21 taking place during that time frame was
22 the remediation?

23 A. Right.

REGIONAL REPORTING SERVICE, INC.

1 Q. One of the things I was going to ask you
2 is it talks about the fact that with
3 respect to the Carondelet facility, that
4 another community survey was done by
5 Prudential that was more detailed than
6 the Adams Research survey. Did you guys
7 do that for Anniston?

8 A. That is the process that Michael Elliott
9 was starting.

10 Q. By a community survey, is that separate
11 and apart from his interview process?

12 A. No. I believe that is what the research
13 meant.

14 Q. I think you told me before that you
15 thought it was Diane Sheridan that may
16 have given you Elliott's name. I need
17 to show you this and see if you know
18 where this came from.

19 (Plaintiffs' Exhibit Number
20 Thirty-four was marked for
21 identification.)

22 Q. Exhibit Thirty-four is a resource list.
23 If you will go to I guess the third

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1 page, it lists Southeast Negotiation
2 Network. I was just trying to figure
3 out where this document -- Actually, it
4 answers it at the top. It says Diane
5 Sheridan on the fax line.

6 A. And it says to Beth Rusert.

7 Q. Yes, but on that specific page it has
8 Diane's name, so that confirms it. Is
9 that right?

10 A. Yes.

11 Q. All right.

12 (Plaintiffs' Exhibit Number
13 Thirty-five was marked for
14 identification.)

15 Q. Can you identify Exhibit Thirty-five?

16 A. It looks like a presentation.

17 Q. Do you recall who prepared these
18 presentation materials?

19 A. This looks like a presentation -- We had
20 a -- kind of a mini conference. I think
21 it was only one day or maybe two half
22 days with plant managers and/or the
23 communication person if they had one

1 from various sites. And part of what
2 was discussed was community advisory
3 panels. And I don't remember what else
4 we put into that agenda. I think Beth
5 Rusert prepared this, but I couldn't
6 swear to that.

7 Q. Were you present at the meeting at which
8 this presentation was given?

9 A. Yes.

10 Q. Where did that presentation take place?

11 A. It was in St. Louis. I think it was at
12 our headquarters in a meeting room on
13 campus.

14 Q. And what was the purpose of this
15 presentation?

16 A. It was to share stories about community
17 advisory panels from those of us who had
18 them in place. It was to help introduce
19 them. One of the problems at some of
20 the plants that had them for a long
21 period of time is trying to keep
22 attendance going. The CAP members got
23 bored after a while and attendance

1 would wane. So there was some thought
2 as to how we keep these invigorated, so
3 sharing stories among the plants about
4 what kind of agenda items they covered,
5 could even have some people from other
6 companies come in and talk about their
7 experiences with CAPs. There was a
8 speaker -- I don't know from what
9 company -- who talked about a small site
10 that maybe wouldn't warrant a CAP but
11 how they would make sure that they had
12 some kind of ongoing dialogue with the
13 community that was appropriate to their
14 circumstances. And all this was also to
15 help facilities that didn't have CAPs
16 get ideas of maybe what they could do.

17 Q. If you will go to -- at the bottom it is
18 Bate's number 137343.

19 A. Okay.

20 Q. It is the strength and weaknesses of
21 community advisory panels.

22 A. Yes.

23 Q. If you will look on the weaknesses side,

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249

1 is one of the weaknesses that a CAP can
2 create the perception that a facility is
3 attempting to manipulate the community
4 opinion?

5 A. That is what it says under weaknesses.

6 Q. Just so the record is clear, what we
7 have marked as Exhibit Thirty-five is
8 entitled Community Dialogue, Community
9 Advisory Panels?

10 A. That's right.

11 Q. And then if you will go to the next
12 page, which is entitled Community
13 Advisory Panels Can Add Value By, it
14 says providing some insurance. What
15 does that mean?

16 A. I'm not really sure. I can't speculate.

17 Q. And you don't have a recollection as to
18 what insurance CAPs can provide to
19 companies like Monsanto?

20 A. I would rather not speculate.

21 Q. And I'm not asking you to speculate.

22 I'm asking you based on your attendance
23 at this meeting if you recall. If you

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250

1 don't, that's fine.

2 And if you will continue on a few
3 more pages, a page called anecdotes.

4 And listed on there is the Anniston,
5 Alabama facility; is that right?

6 A. Right.

7 Q. Do you recall what anecdotes were told
8 about the Anniston site?

9 A. I'm not really sure who presented this.
10 I know I didn't, but I believe it was
11 just our experience with trying to form
12 a CAP and not being able to. Again, it
13 was to give a range of experiences with
14 CAPs, some that worked extremely well,
15 the Chocolate Bayou CAP, and some that
16 we ran into roadblocks and couldn't get
17 going.

18 Q. If you will go all the way toward the
19 back, there is a section on anecdotes.
20 And it is the second to last page, and

21 let me know when you get there. It
22 references Anniston, Alabama. Are you
23 there?

REGIONAL REPORTING SERVICE, INC.

251

1 A. Uh-huh (indicating yes).
2 Q. Is that a yes?
3 A. Yes.
4 Q. It says Anniston, Alabama is an example
5 of a site without a CAP. As I'm sure
6 you are aware Anniston is experiencing
7 some challenges. What was being
8 referenced there?
9 A. I believe that was related to the
10 remediation.
11 Q. What challenges were they experiencing?
12 A. That we couldn't form a CAP because of
13 the litigation related to the
14 remediation.
15 Q. And then it says I'm not here to
16 second-guess past decision. Hindsight
17 is always twenty-twenty. But if a CAP
18 had been in place before things became
19 difficult, it might have been easier for

20 the plant to continue a dialogue with
21 the community.
22 A. Yes.
23 Q. What does that mean?

REGIONAL REPORTING SERVICE, INC.

252

1 A. We couldn't form a CAP because of not
2 being able to have appropriate
3 representation on the CAP because of
4 litigation related to the PCB
5 remediation. If we had had a CAP in
6 place before these issues arose, we
7 would have known what the issues,
8 concerns, questions of the community
9 might be. Now, whether or not we were
10 able to continue talking to people who
11 were members of the CAP if they were
12 involved in the litigation, I don't
13 know.
14 Q. Again, doesn't this get back to the idea
15 that you put a CAP in place to prevent
16 litigation?
17 A. No. I disagree with that.
18 Q. It goes on to say while a CAP would not

19 have solved Anniston's problems, having
20 an open dialogue in place would have
21 certainly been beneficial.
22 A. Right. Again, so that we would know
23 what questions were on people's minds,

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253

1 what issues they were interested in or
2 concerned about or would want to know
3 more about before we were kind of shut
4 down by the litigation.

5 Q. In fact, the literature on CAPs when it
6 talks about timing says it is best to
7 form of a CAP before a screw-up. Isn't
8 that what the literature says?

9 MR. PECK: Before a what?

10 MS. MALOW: A screw-up.

11 A. What literature are you referring to?

12 Q. All the CAP literature that your lawyer
13 provided to us about CAPs.

14 MR. PECK: I object to the form of
15 the question. If you have a
16 document, show it to her.

17 Q. You can answer.

18 A. The reason for forming a CAP is to give
19 you a window into what the community is
20 thinking, what their concerns are, what
21 their questions are, what their issues
22 are.

23 Q. It has nothing to do with screw-ups that

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254

1 chemical companies make?

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

4 A. You know, I can't answer in general
5 terms, you know.

6 Q. Other than Mr. Elliott speaking with
7 Mr. Mayausky and Mr. Jones and Mr. Brown
8 and yourself, do you know of any other
9 plant contacts that he had?

10 A. Did you say Jones?

11 Q. Yes. Faust maybe as well.

12 A. I don't know. All the Monsanto people
13 were on that grid about who he talked
14 to.

15 Q. Okay. Did Mr. Elliott ever talk with
16 anyone in St. Louis other than you, such

17 as like Bob Kaley or anybody else?
18 A. I don't believe so, but I can't say for
19 sure. I was his main contact.
20 Q. Are you familiar with a company called
21 Meridian? There was some documentation
22 from a company called Meridian.
23 A. I don't know. I'd have to have more

REGIONAL REPORTING SERVICE, INC.

255

1 information.
2 Q. How about Ann Green?
3 MR. PECK: Who?
4 MS. MALOW: Ann Green.
5 Q. Does that ring a bell?
6 A. Same thing. I'd need to have something
7 to jog my memory. It doesn't come to
8 mind.
9 Q. Okay. Were you involved in putting
10 together any of the community relations
11 programs for Anniston?
12 A. From the years that I took the site on,
13 it was something that was worked out
14 with the plant, so it wasn't something I
15 drafted on my own. They were the ones

16 that were closer to the community, with
17 knowledge of the community, so it was a
18 joint effort in working up their
19 programs.

20 Q. Was there already at the time you took
21 over the site an existing community
22 relations plan in place?

23 A. Yes.

REGIONAL REPORTING SERVICE, INC.

256

1 Q. Do you recall what changes if any you
2 made to that community relations plan
3 once you got the site?

4 A. I don't remember. I think Beth had done
5 one the year before I took it over, but
6 I don't remember what if anything
7 changed other than maybe tightening up
8 the fund budget. And I think Beth might
9 have even started that.

10 Q. Were you also involved with a community
11 relations plan for the Krummrich plant?

12 A. Yes, again, in cooperation with the
13 plant.

14 Q. So is the situation such that --

15 A. Now, wait. No, wait a minute. I would
16 have been involved in forming their
17 community relations plan during the
18 years I had responsibility for the
19 plant, so not always.

20 Q. Not ongoing?

21 A. Right.

22 Q. Were these community relations plans
23 filled out, then, by the plant manager

REGIONAL REPORTING SERVICE, INC.

257

1 and then shared with you?

2 A. Usually. We would sit down and talk
3 about it after they had done a first
4 draft.

5 Q. For some reason, I have '96 and '98 but
6 not '94 or '95. Let me show you '96.

7 (Plaintiffs' Exhibit Number
8 Thirty-six was marked for
9 identification.)

10 Q. Can you identify Exhibit Thirty-six?

11 A. Anniston 1996 community relations plan.

12 Q. And the number one goal?

13 A. Enhance two-way communication with local

14 community.

15 Q. And part of doing that was to form this

16 citizen advisory panel?

17 A. Right.

18 Q. Okay. How do the community relations

19 plans differ from plant to plant?

20 A. Again, it just depends on the size of

21 the plant, the kinds of community they

22 are in. Some of them are in industrial

23 complexes with few neighbors. Some have

REGIONAL REPORTING SERVICE, INC.

258

1 neighbors right on the fence lines.

2 Some have issues specific to the plant

3 that they need to communicate. Some

4 play a larger, more visible role in

5 their communities or should because they

6 are large and a big part of the

7 community. That is how it would vary.

8 Q. Are you familiar with any significant

9 changes that were made during the years

10 you had responsibility for Anniston with

11 respect to the community relations plan?

12 A. This looks about right.

13 Q. And unfortunately I don't have the
14 others to show you to compare. I was
15 just trying to get your best
16 recollection of any significant changes
17 that you can recall.

18 A. I don't recall anything other than
19 tightening up the fund budget from
20 giving away nickels and dimes to a lot
21 of groups to something more focused.

22 Q. Have you had any responsibilities for
23 dealing with lobbyists regarding the

REGIONAL REPORTING SERVICE, INC.

259

1 Anniston site?

2 A. I didn't have state government affairs
3 for Anniston or Alabama at all.

4 Q. That just knocks out a whole section.

5 A. Good.

6 Q. You don't know who Dave Robertson is of
7 Environmental Guidance Corporation?

8 A. No.

9 Q. While you had responsibility for
10 Anniston, did you ever have any contact
11 with local public officials in Anniston?

12 A. No.

13 Q. Did you have any contacts with any

14 Alabama state government officials?

15 A. No.

16 Q. Who was handling that arm of it?

17 A. Jack mostly. Well, Jack --

18 Q. Kevin Cahill does that now. But how

19 about prior to Kevin?

20 A. As far as state government officials, if

21 you mean politicians it would have been

22 the state government affairs person.

23 And I don't recall who that was at the

REGIONAL REPORTING SERVICE, INC.

260

1 time. It wasn't me. As far as local

2 politicians, Jack did a lot of the

3 company contact with them.

4 Q. Are you familiar with any information

5 breakfast meetings that were conducted

6 with Monsanto retirees at the Anniston

7 site?

8 A. I don't remember.

9 Q. Are you familiar with any plans that

10 were made to enhance the west Anniston

11 community by Monsanto?

12 A. To enhance it? What do you mean by

13 that?

14 Q. To make improvements?

15 A. I don't recall.

16 Q. When you get these community relations

17 plans from the plant managers, are there

18 various drafts of them before they are

19 put in final form?

20 A. If there are things that don't look

21 right or areas that don't look like they

22 have been covered. And we talk about

23 resourcing, you know, who is going to be

REGIONAL REPORTING SERVICE, INC.

261

1 in charge of this program and that

2 program. If the plant manager says I

3 will handle all of them, it is, no, you

4 can't handle all of them. You just make

5 sure the responsibilities are spread

6 among the whole staff. That is the kind

7 of discussion we usually hold. So there

8 might be changes.

9 Q. What happens to the drafts?

10 A. Probably pitched.

11 Q. Have you ever heard of a company called

12 IBT, Industrial Bio Test?

13 A. Yes, I've heard of it.

14 Q. What have you heard about them?

15 A. I know they were a lab that did some

16 testing, but these are -- those are

17 kinds of issues that when we get

18 inquiries about them, I would send them

19 to Kaley, because he was a lot more

20 familiar with them than I was.

21 Q. Are you aware of any criminal

22 investigation regarding IBT?

23 A. I know there were some allegations made

REGIONAL REPORTING SERVICE, INC.

262

1 related to IBT, but I don't recall what

2 our involvement was or what the outcome

3 was.

4 Q. Do you recall any press regarding those

5 events?

6 A. In general or during my Anniston years?

7 Q. At any time in your employment with

8 Monsanto.

9 A. There would be occasions when different
10 activists would raise accusations
11 against the company, and IBT was one of
12 the accusations that they would raise.

13 And again, any response to an issue like
14 that I would defer to Bob.

15 Q. Are you aware of any enforcement actions
16 regarding the Anniston facility?

17 A. I know we were working with ADEM on the
18 remediation plan. I think the plan that
19 we eventually put in place was one
20 that -- Well, whether that was an
21 enforcement action, I can't swear to
22 because I don't remember.

23 Q. Are you aware of the incident involving

REGIONAL REPORTING SERVICE, INC.

263

1 a benzine release where EPA fined the
2 Anniston site?

3 A. What date was that?

4 Q. It was '94.

5 A. Vaguely, but not enough to recall the
6 details.

7 Q. Were you involved with respect to any

8 press that came out of that event?

9 A. I believe it was handled by the plant.

10 I don't recall having --

11 Q. Ms. Rusert testified she had some

12 involvement with that. I was just

13 trying to figure out if you had any

14 additional involvement.

15 A. No.

16 MR. PECK: I don't think she would

17 have been involved.

18 Q. Are you aware, just sitting here now in

19 1999, of any health effects or illnesses

20 that PCBs have been alleged to cause?

21 A. No. Other than chloracne, which is a

22 skin condition.

23 Q. Are you aware of how the Environmental

REGIONAL REPORTING SERVICE, INC.

264

1 Protection Agency classifies PCBs?

2 A. I'm not sure what the current

3 classification is.

4 Q. At some point in time were you familiar

5 with the classifications?

6 A. I think it was a possible carcinogen.

7 Q. Or probable?

8 A. I'm not sure which it was.

9 Q. Have you had any discussions with Bob

10 Kaley about whether or not PCBs can

11 cause cancer?

12 A. I know from our fact sheet and the

13 scientific studies that Kaley and the

14 other scientists have looked at, people

15 exposed to PCBs were not at risk of

16 increased health effects other than

17 chloracne.

18 Q. Have you seen all the studies, both

19 positive and negative, in that regard?

20 A. I have not read the studies. I'm not a

21 toxicologist. I'm relying on the

22 scientists for that.

23 Q. Back to the property purchase program.

REGIONAL REPORTING SERVICE, INC.

265

1 There were some public meetings held and

2 some different testing that was done by

3 the Alabama Department of Public Health.

4 Are you familiar with that testing?

5 A. No.

6 Q. Are you familiar with a visit that
7 Dr. Kaley and Renate Kimbrough made to
8 Brian Hughes regarding health risks of
9 PCBs?

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

12 A. I wasn't there, so I don't know, you
13 know, what meeting was held or what was
14 discussed.

15 Q. What involvement if any did you have
16 regarding the blood and fat sampling of
17 residents of the Anniston area?

18 A. I wasn't involved in sampling, the
19 program.

20 Q. What about the dust sampling that was
21 done in the homes of the residents?

22 A. I was aware that was taking place, but I
23 wasn't involved.

REGIONAL REPORTING SERVICE, INC.

266

1 Q. Were you told the results of any of
2 those samplings?

3 A. I believe I heard what they were, but I
4 don't recall what those results were

5 now.

6 Q. Do you know which local legislators or
7 state officials worked with Brian Hughes
8 on those issues?

9 A. No.

10 Q. Have you had any contact or
11 communications with AlaChem?

12 A. It is not familiar to me.

13 Q. Were you involved at all in the lake
14 settlement that took place in June?

15 A. No.

16 Q. Are you familiar with that litigation?

17 A. The early days of it, but I left --
18 well, before it hit and hadn't gotten
19 very far long.

20 Q. What was your involvement with it in the
21 early days?

22 A. I just had knowledge it was taking
23 place.

REGIONAL REPORTING SERVICE, INC.

267

1 Q. And you had heard that it settled?

2 A. I think I did hear that it had settled,
3 but I don't recall -- and I don't know

4 any of the details because by then it

5 was being managed by Solutia.

6 Q. Were you involved at all in a geriatric

7 and infant day care proposal?

8 A. Do you have anything --

9 Q. Yeah.

10 MR. PECK: That is a fairly

11 current issue.

12 Q. I don't think she does.

13 A. It didn't sound familiar.

14 (Plaintiffs' Exhibit Number

15 Thirty-seven was marked for

16 identification.)

17 Q. Have you seen Exhibit Thirty-seven

18 before?

19 A. No.

20 Q. All right. That's just -- For the

21 record, it is a memo from Woody

22 Richardson of UAB School of Business to

23 Steve Bradley dated February 16th, 1999

REGIONAL REPORTING SERVICE, INC.

268

1 regarding a geriatric and infant day

2 care facility study. You don't have any

3 knowledge of that?

4 A. No.

5 Q. Okay. Did you have any involvement at

6 all with the Solutia Education

7 Connection program?

8 A. No.

9 Q. During the time that you had Anniston

10 was there any sort of philanthropic

11 program regarding the schools and the

12 Anniston community?

13 A. Well, we had the wild birds sanctuary

14 visit. We sponsored the traveling

15 museum that would go around to different

16 schools, that taught different science

17 issues. That's all I recall right now.

18 That's all I remember.

19 Q. I asked your earlier about Michael

20 Lythcott. Do you -- Let me show you

21 something.

22 A. I thought we were through with the first

23 stack of files.

REGIONAL REPORTING SERVICE, INC.

269

1 Q. It is not in any order any more.

2 (Plaintiffs' Exhibit Number
3 Thirty-eight was marked for
4 identification.)
5 Q. Can you identify Exhibit Thirty-eight?
6 A. A memo from John Mitchell to Tom
7 Bistline dated May 6 of '97.
8 Q. And the attachment is an article from
9 the LA Times regarding Michael Lythcott?
10 A. Okay.
11 Q. It appears from the article that
12 Mr. Lythcott gets involved when there
13 are relocations of communities. Does
14 any of that jog your memory with respect
15 to your involvement with the property
16 purchase program?
17 MR. PECK: His involvement, you
18 mean?
19 MS. MALOW: Why they were looking
20 at Mr. Lythcott at all.
21 A. His name is familiar. I don't remember
22 what his involvement might have been.
23 Does it say in this?

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1 Q. This is just an article. Have you ever
2 had any contact with Michael Lythcott?

3 A. I don't recall. I don't think so.
4 Again, his name is familiar, but I'm not
5 sure what he did.

6 Q. Well, I can ask Ms. Rusert, since her
7 name is on that one. I'll need to save
8 one for Beth.

9 Are you familiar with an article
10 that appeared in Sierra magazine
11 entitled Pandora's Poison?

12 A. Yes.

13 Q. Did you receive any inquiries regarding
14 that article?

15 A. Yes.

16 Q. Tell me about that.

17 A. The reporter, I think it was Eric
18 Coppolino, sent us a number of questions
19 related to PCBs, and we responded. And
20 then some time went by, and then a huge
21 story appeared with not much of our
22 information included in it. It was very
23 negative.

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1 Q. Were you -- Did you play any role in the
2 letter that Michael Pierle wrote in
3 response to that article.

4 A. I think there was a number of us that
5 were involved in whatever follow-up was
6 done. I believe I was part of that.

7 (Plaintiffs' Exhibit Number
8 Thirty-nine was marked for
9 identification.)

10 MR. PECK: How are we doing,
11 because --

12 MS. MALOW: We are not going to
13 finish.

14 MR. PECK: If you can finish
15 this -- this topic, I have
16 somebody standing by to take
17 you to airport.

18 Q. Can you identify Exhibit Thirty-nine?

19 A. It is a letter from Mike Pierle to the
20 editor in chief of Sierra magazine
21 related to the article.

22 Q. Okay. And then the next page looks like
23 something from GE. Do you know what

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1 that is about? I guess it is the third
2 page actually.

3 A. It looks like --

4 Q. Maybe that is GE's response?

5 A. That is what it looks like to me.

6 Q. And then there is a Monsanto statement
7 that perhaps Beth participated in, the
8 next page that says all media inquiries
9 should be reported to Diane Herndon at
10 Monsanto?

11 A. Yeah. And I think this was really all
12 we put together, just this short
13 statement.

14 Q. Then the next two pages are a press
15 release from Sierra Club?

16 A. Right.

17 Q. And I guess the rest of it is the actual
18 article?

19 A. Yeah. That is what it looks like.

20 Q. If you will look toward the back, there
21 are two pages that look like they come
22 from someone's ESHA. Do you know what
23 those are, dated 9-9 of '96. Those

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1 might not have anything to do with this.

2 They may have just accidentally got

3 attached.

4 A. I don't think it had anything to do with

5 the article.

6 Q. Do you know what those last two pages

7 are?

8 MR. PECK: It shouldn't be

9 attached.

10 MS. MALOW: I'm the attacher, so

11 watch it. Okay. Let's take

12 them off. We will cover that

13 next round.

14 Q. So let's go back to Mr. Pierle's letter,

15 which is page one of Exhibit

16 Thirty-nine. I guess what I'm trying

17 to figure out is whether or not you

18 assisted in the preparation of his

19 letter to the editor of Sierra magazine.

20 A. I believe I did assist. But like I

21 said, there were other people involved

22 as well.

23 Q. What role did you play in drafting this

1 letter?

2 A. It is hard to recall at this point what
3 was discussed. A likely role for me
4 would have been to keep it short,
5 because often our scientists would have
6 been inclined to do a lengthy response,
7 which wouldn't work with the media.

8 Q. And why is it that you guys have from GE
9 their response?

10 A. If I recall, they were implicated in the
11 story too.

12 Q. Did you have any discussions with
13 anybody at GE regarding this article in
14 the Sierra magazine?

15 A. I believe so, but I don't recall what
16 was discussed. And Steve Ramsey is
17 their ES&H guy for GE, comparable to
18 Mike Pierle.

19 Q. Do you know Mr. Ramsey?

20 A. No. I have heard his name.

21 Q. Were there any meetings held with
22 representatives of Monsanto and GE
23 either in person or on the phone?

1 A. Related to this article?

2 Q. Yeah.

3 A. Not that I recall. Not meetings, I

4 mean.

5 Q. How about discussions?

6 A. Yeah. Someone might have talked to the

7 GE person once the article came out, but

8 I don't recall what was discussed during

9 that conversation. It wasn't a formal

10 meeting. It wasn't a planning session

11 or anything like that.

12 Q. And GE was a customer of Monsanto's that

13 used PCBs, right?

14 A. That's right.

15 MS. MALOW: You want to break?

16 MR. PECK: Yeah.

17 (At 4:50 p.m. the deposition

18 of Diane Herndon was

19 continued to an unspecified

20 date and time.)

21

22

REGIONAL REPORTING SERVICE, INC.

276

1 I do hereby certify that the witness
2 whose attached deposition was taken before me
3 was by me first duly cautioned and sworn to
4 tell nothing but the truth in the cause
5 aforesaid; that the testimony contained herein
6 was by me reduced to writing in the presence
7 of said witnesses by means of stenography and
8 afterwards transcribed by means of computer
9 aided transcription. The foregoing is a true
10 and accurate transcript of the whole of the
11 testimony given by said witness, as aforesaid.

12 I do further certify that I am not
13 connected by blood or marriage with any of the
14 parties or their attorneys or agents and that
15 I am not an employee of any of them, nor
16 interested in the matter of controversy.

17 IN WITNESS WHEREOF, I have hereunto set
18 my hand and affixed my notarial seal at
19 Gadsden, Alabama, County of Etowah, this 9th
20 day of September 1999.

21

Deborah Salers Garrett

- 22 Certified Shorthand Reporter
 Registered Professional Reporter
- 23 Notary Public, Alabama-at-Large
 My Commission expires: 3-7-2001

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