

Page 1 1 IN THE CIRCUIT COURT FOR ETOWAH COUNTY 2 STATE OF ALABAMA 3 (Transferred from Calhoun County Alabama) 4 5 SABRINA ABERNATHY, et al.,) 6) 7 Plaintiffs,) 8) CIVIL ACTION NO. 9 VS.) CV-96-269 10) (Consolidated) 11 MONSANTO COMPANY, et al.,) 12) 13 Defendants.) 14 15 16 17 18 19 20 DEPOSITION OF STEVE SMITH 21 Taken on behalf of the Plaintiffs 22 August 8, 2001 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000	Page 3 1 A P P E A R A N C E S 2 3 The Plaintiffs were represented by 4 Ms. Ellen B. Malow of the law firm of 5 Kasowitz, Benson, Torres & Friedman, L.L.P., 6 700 Louisiana Street, Suite 2200, Houston, 7 Texas 77002. 8 9 The Defendants were represented by 10 Mr. William S. Cox, III of the law firm of 11 Lightfoot, Franklin & White, L.L.C., 12 The Clark Building, 400 North 20th Street, 13 Birmingham, Alabama 35203 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364
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Page 5 1 STATE OF MISSOURI, CITY OF ST. LOUIS 2 3 [Plaintiffs' Exhibits Numbers 4 One and Two were marked for 5 identification.] 6 7 STEVE SMITH, 8 of lawful age, produced, sworn, and examined 9 on behalf of the Plaintiffs, deposes and says: 10 11 DIRECT-EXAMINATION 12 QUESTIONS BY MS. MALOW: 13 Q. Mr. Smith, can you explain to the ladies 14 and gentlemen of the jury why thirty 15 years after Dr. Ferguson recommended 16 that Monsanto clean up Snow Creek it 17 still has not been done? 18 MR. COX: Object to the form. 19 A. I'm not aware who Dr. Ferguson is or 20 what that claim is about. 21 Q. (By Ms. Malow) Well, assume with me 22 that Monsanto hired Dr. Denzel Ferguson, 23 who was a biologist, who came down and	Page 7 1 to follow in doing a cleanup. 2 Q. (By Ms Malow) Let me show you what I 3 have marked as Exhibit Two, Mr. Smith, 4 and ask you if you have ever seen this 5 before. 6 A. No. 7 Q. And just for the record, what I have 8 handed you that is marked as Exhibit Two 9 is what's entitled, "A Final Report, 10 Investigation of Certain 11 Pesticide-Wildlife Relationships in the 12 Choccolocco Creek Drainage." 13 If you will, look at the third 14 page that is signed by Denzel Ferguson, 15 Principal Investigator. Do you see 16 that? 17 A. Third page? 18 Q. Yes. 19 A. Yes. 20 Q. And it's your testimony that you have 21 never seen Dr. Ferguson's report, which 22 is the result of a contract between 23 Monsanto Chemical Company and
Page 6 1 did a full study of Snow Creek and 2 Choccolocco Creek in 1967 and 3 recommended to Monsanto at that time 4 that Snow Creek be cleaned up. Can you 5 explain, if that assumption is correct, 6 why is it it hasn't been done? 7 MR. COX: Object to the form. 8 A. I don't know, first, whether the 9 assumption is correct or not. Also I 10 don't know what the circumstances were 11 around whether a recommendation was 12 made, if one was made. 13 Q. (By Ms. Malow) Assume with me it is 14 correct. Do you have any explanation 15 whatsoever as to why it is that Monsanto 16 or Solutia wouldn't follow a 17 recommendation to clean up Snow Creek? 18 MR. COX: Object to the form. 19 A. Well, there could be a number of 20 different reasons. I certainly, where I 21 am today, cannot speculate on all the 22 reasons. But there are certainly 23 different formats that you're expected	Page 8 1 Mississippi State University, correct? 2 A. That's correct. 3 Q. If you'll go to -- 4 MR. COX: You can look at the 5 entire document. 6 Q. (By Ms. Malow) Sure. I was going to 7 direct you to page 15, whenever you're 8 ready to go there. Are you on page 15? 9 A. No. 10 Q. That's fine. Let me know when you're 11 ready. 12 [Discussion held off the 13 record.] 14 Q. (By Ms. Malow) Have you taken some 15 time, Mr. Smith, to read Dr. Ferguson's 16 report, which we have marked as Exhibit 17 Two? 18 A. I scanned through a number of the pages. 19 Q. And just based on your quick scanning of 20 those pages, have you come up with any 21 reason why Solutia did not follow 22 Dr. Ferguson's recommendation to clean 23 up Snow creek?

Page 9 1 MR. COX: Object to the form. 2 MS. MALOW: That's fine. You have 3 made your objection. 4 MR. COX: I'll state my objection 5 so maybe you can clarify it, 6 so you can remove my 7 objection. But you're asking 8 him to assume what 9 Dr. Ferguson meant by clean 10 up Snow Creek in a document 11 that's written in 1967. If 12 you want to make some 13 assumptions about what that 14 meant to Dr. Ferguson and 15 tell those to Mr. Smith, 16 maybe he can answer the 17 question. 18 Q. (By Ms. Malow) Is there anything 19 unclear to you, Mr. Smith, about the 20 phrase "clean up Snow Creek"? 21 A. Absolutely. It could mean lots of 22 different things to different people. 23 It could mean source reduction within	Page 11 1 Dr. Ferguson's findings back in 1967? 2 A. No. 3 Q. Do you know why is it is that you, who 4 are in charge of remediation, are not 5 aware of Dr. Ferguson's report? 6 MR. COX: Object to the form. 7 A. I first became leader of the mediation 8 group in March of this year. 9 Q. (By Ms. Malow) That might bring us to a 10 good place to go backwards a little bit. 11 First of all, can you state your name 12 for the jury, please? 13 A. Steven Douglas Smith. 14 Q. (By Ms. Malow) Mr. Smith, we met right 15 before the deposition. My name is Ellen 16 Malow. I'm one of the attorneys 17 representing the plaintiffs in a lawsuit 18 that's been filed against Monsanto and 19 Solutia. Do you understand that? 20 A. Yes. 21 Q. Have you ever had a deposition -- given 22 a deposition before? 23 A. Yes.
Page 10 1 plants, could mean improvements to the 2 waste water treatment facilities. It 3 also talks about a number of other 4 potential sources. 5 Q. Do you know if Snow Creek presently 6 still is a continuing source of 7 contamination to the downstream volumes 8 of water? 9 MR. COX: Object to form. 10 A. Well, I think that would depend on the 11 definition of contamination. Any plant, 12 any waste water treatment plant would 13 have some permitted levels of materials 14 that are discharged. 15 Q. (By Ms. Malow) Let's be real specific. 16 Do you think that Snow Creek serves as a 17 continuing source of PCB contamination 18 to Choccolocco Creek and Lake Logan 19 Martin? 20 MR. COX: Object to the form. 21 A. Not to my knowledge. 22 Q. (By Ms. Malow) Have you ever been told 23 by anybody within Solutia about	Page 12 1 Q. How many times? 2 A. I don't recall for sure. Probably 3 around ten. 4 Q. When is the last time you gave a 5 deposition? 6 A. It's been several years. I would guess 7 four to six years ago. 8 Q. What kind of case was that, sir? 9 A. It was -- I'm sorry. The most recent 10 one was probably about three to four 11 years ago. And it was a case associated 12 with the Brio Superfund site in Houston. 13 Q. And what was your position at the time 14 that you gave that deposition on the 15 Brio case? 16 A. I was the project manager for Monsanto. 17 Q. In St. Louis? 18 A. Yes. I live in St. Louis. 19 Q. Were you responsible for overseeing the 20 Brio cleanup? 21 A. I was project manager for Monsanto. 22 There were a number of other parties 23 that are also working there.

Page 13 1 Q. But for Monsanto's part in it, were you 2 responsible? Is that your project? 3 A. I was project manager, yes. 4 Q. But you had other remediation projects 5 under your -- that were part of your 6 responsibility as well, correct? 7 A. Yes. 8 Q. And do you remember who the lawyer was 9 on the other side that took your 10 deposition in the Brio case? 11 A. No, I don't. 12 Q. Do you remember the law firm involved 13 for plaintiffs in that case? 14 A. No. 15 Q. Did you only give one deposition 16 regarding the Brio Superfund site? 17 A. Yes. As I recall, yes. 18 Q. Is that litigation still pending? 19 A. My understanding, that particular case 20 was resolved. 21 Q. Do you know how much Monsanto paid in 22 settlement? 23 A. No. I don't know what they paid or if	Page 15 1 owner under this what's generally 2 referred to as the Scaffolding Act. 3 Q. Like a premises liability case? 4 A. I don't know what that is. 5 Q. But most of the cases you have been 6 involved in have been contractors suing 7 Monsanto as the property owner at the 8 site where the contractor worked? 9 A. This was actually the Village of Sauget 10 that was suing. 11 Q. Have you during your time at Monsanto or 12 Solutia had oversight for the Sauget 13 facility? 14 A. Depending on your definition of 15 oversight, probably yes. 16 Q. We will get into that in more detail. 17 Right now let me stick with the 18 depositions. So the Brio litigation, 19 these Illinois Scaffolding Act cases. 20 What other type cases have you given 21 depositions in? 22 A. I was deposed in an insurance litigation 23 case that Monsanto had, some insurance
Page 14 1 they paid. 2 Q. Did they settle? 3 A. There was a settlement. 4 Q. Were PCBs one of the contaminants at the 5 Brio Superfund site? 6 A. No. 7 Q. Have you ever given a deposition on any 8 case other than the one today involving 9 PCBs? 10 A. I don't believe so, no. 11 Q. Tell me what other types of cases you 12 have given depositions in other than the 13 Brio one. 14 A. Most of them were typically referred to 15 as Illinois Scaffolding Act lawsuits. 16 Q. What kind of cases were those? 17 A. They are associated with contractors in 18 Illinois. When contractors work on a 19 property owner's property, if they are 20 injured, under certain circumstances 21 they can not only recover workers' comp 22 against their employer, but they can 23 file a lawsuit against the property	Page 16 1 carriers. 2 Q. What was the nature of that litigation? 3 A. Questions revolving around environmental 4 liability. 5 Q. And what was the result of that 6 litigation? Was it settled? 7 A. That one was settled, yes. 8 Q. Did your carriers reimburse Monsanto for 9 its expenses on environmental 10 liabilities it had incurred? 11 A. I don't know what the dollar amount was. 12 There was a settlement. 13 Q. But that's what Monsanto was seeking, 14 correct? 15 MR. COX: Object to the form. 16 Q. (By Ms. Malow) Do you know? 17 A. My understanding was that they were 18 seeking reimbursement for some 19 environmental cost based upon the 20 previous insurance policies they had 21 with the companies. 22 Q. Did any of those environmental costs 23 involve PCB remediations?

1 A. I don't know.
 2 Q. Any other types of cases in which you
 3 have been deposed other than the ones
 4 you have told me about so far?
 5 A. I was deposed in a lawsuit that the --
 6 either EPA or Illinois EPA brought
 7 against the Village of Sauget on a
 8 permit matter related to the
 9 pre-treatment permit.
 10 Q. What year was that?
 11 A. As I recall, that was between 1985 to
 12 1990 time frame.
 13 Q. What was the specific pre-treatment
 14 permit matter in issue in that case? Do
 15 you remember?
 16 A. The village was required to put together
 17 a pre-treatment program under the Clean
 18 Water Act, which is a very lengthy and
 19 involved set of ordinances and documents
 20 that are put together. And the either
 21 state or federal EPA had a disagreement
 22 with the specifics of that program.
 23 Q. What was the specific allegation against

1 Monsanto in that litigation? Do you
 2 remember?
 3 A. I don't recall any specific allegation
 4 against Monsanto.
 5 Q. Were you being -- Was Monsanto actually
 6 a party to that suit? Were they a named
 7 defendant?
 8 A. I don't believe so.
 9 Q. Do you know why it is that you were
 10 being deposed?
 11 A. Because at that point I was project
 12 manager for the American Bottoms
 13 regional waste water treatment plant.
 14 Q. For the American what?
 15 A. American Bottoms.
 16 Q. Bottoms?
 17 A. Yes.
 18 Q. Waste water treatment plant?
 19 A. Right.
 20 Q. Is that located in the Village of
 21 Sauget?
 22 A. Yes.
 23 Q. Does it have any affiliation with

1 Monsanto, or this is just prior
 2 employment, before you went to work for
 3 Monsanto?
 4 A. No. I was still working for Monsanto.
 5 I was on loan to the Village of Sauget
 6 for start-up of this facility.
 7 Q. What was Monsanto's affiliation with the
 8 American Bottoms waste water facility?
 9 A. Monsanto was one of the users of the
 10 facility.
 11 Q. Any other depositions that you can
 12 recall other than the ones we have
 13 talked about?
 14 A. Very early -- Well, early in my career I
 15 had a short deposition related to a
 16 material spill in Sturgeon, Missouri.
 17 Q. What was the material that was spilled?
 18 A. I believe it was some type of
 19 chlorophenol.
 20 Q. Do you remember who the plaintiff's
 21 lawyer was in that case?
 22 A. They were from Belleville, Illinois.
 23 That's all I remember.

1 Q. Do you know where the suit was filed?
 2 A. It believe -- It was tried in
 3 Belleville.
 4 Q. It actually went to trial?
 5 A. Yes.
 6 Q. Did you actually appear live at trial?
 7 A. No.
 8 Q. Have you ever testified at trial in any
 9 case?
 10 A. Yes.
 11 Q. How many?
 12 A. One.
 13 Q. What case was that?
 14 A. It was essentially a paint damage claim
 15 made by some employees of a facility
 16 next to the Monsanto Krummrich plant.
 17 Q. Where was that suit filed?
 18 A. The trial was in Belleville. I assume
 19 it was filed in Belleville.
 20 Q. Do you remember who the plaintiff's firm
 21 was in that case?
 22 A. I believe Cook is one of the names, one
 23 of the main partners.

1 Q. Did you also get deposed before trial in
2 that paint damage claim case?
3 A. No.
4 Q. Just live at the trial?
5 A. Yes.
6 Q. Do you remember how that case came out?
7 A. The -- I don't remember the exact dollar
8 amount.
9 Q. There was some finding for the
10 employees?
11 A. There was some finding, not what they
12 asked but some smaller amount.
13 Q. And that case with the materials spilled
14 in Sturgeon, Missouri, do you remember
15 the plaintiff's firm in that case?
16 A. No.
17 Q. I may have asked you that.
18 All right. Do you remember the
19 name of the lawyer that took your
20 deposition in that EPA versus Village of
21 Sauget case? You didn't know it was a
22 memory test, did you?
23 A. No.

1 Q. How about the insurance litigation
2 coverage? Do you remember who the
3 lawyers were on behalf of the insurance
4 company or carriers?
5 A. No. There were several of them.
6 Q. Do you know where that suit was filed?
7 A. No.
8 Q. Any other depositions or trials that we
9 have not covered?
10 A. I only had the one trial appearance.
11 Q. So that's easy to remember?
12 A. One more. I was deposed in the lawsuit
13 that the Village of Sauget brought
14 against Zimpro, Z-I-M-P-R-O.
15 Q. What type of case was that?
16 A. That was essentially a claim of
17 warranty.
18 Q. Breach of warranty case?
19 A. Well, to put it in laymen's terms, the
20 village bought an expensive piece of
21 equipment from Zimpro, and the piece of
22 equipment blew up. And this equipment
23 cost several million dollars, so it

1 resulted in a warranty type case.
2 Q. I'm with you.
3 All right. And do you happen to
4 remember who took your deposition in
5 that case from the other side?
6 A. No.
7 Q. What year was that suit?
8 A. It was probably filed in '89, 1990 time
9 frame.
10 Q. And was that in Belleville also?
11 A. I don't know. The deposition was in
12 Chicago.
13 Q. Did you have a chance to -- I don't want
14 to know what you talked about. But did
15 you have a chance to talk with Mr. Cox
16 to get ready for your deposition today?
17 A. Yes. I spoke to him yesterday.
18 Q. Was Mr. Felder in the room during that
19 preparation?
20 A. No.
21 Q. Have you had any conversations with
22 Craig Branchfield about the deposition
23 that he gave on July 24?

1 A. No.
2 Q. Did you know that he had given a
3 deposition?
4 A. I was told that he was giving a
5 deposition.
6 Q. But you haven't discussed that
7 deposition with him?
8 A. No.
9 Q. Have you read his deposition?
10 A. No.
11 Q. Have you had any conversations with Mike
12 Foresman about the deposition he gave?
13 A. No.
14 Q. Is Mr. Foresman still with Solutia?
15 A. No. He retired.
16 Q. When did he retire?
17 A. Approximately the end of February of
18 this year. I'm not sure if it was the
19 end of February or middle of March, in
20 that time frame.
21 Q. Did you take over Mr. Foresman's
22 position?
23 A. Parts of his position, yes.

Page 25 1 Q. Why don't you tell me what your job 2 title is with Solutia? 3 A. Leader of the remediation management 4 group. 5 Q. Why don't we back up, sir. If you 6 could, just give me a thumbnail sketch 7 of your education, please. 8 A. I have a bachelor's degree in 9 engineering, in mechanical engineering, 10 and a master's degree in civil 11 engineering, although it was essentially 12 the environmental program under the 13 civil program. 14 Q. And when did you get your bachelor's 15 degree? 16 A. 1974. 17 Q. From what institution? 18 A. University of Missouri-Rolla. 19 Q. And how about your master's? What year 20 did you obtain that? 21 A. It's approximately 1985. 22 Q. And from what institution? 23 A. Same, University of Missouri-Rolla.	Page 27 1 Q. That's when you were on loan? 2 A. It's on loan to the Village of Sauget. 3 Q. How long a period of time were you on 4 loan to the Village of Sauget? 5 A. 1988. 6 Q. What exactly were you doing as project 7 manager of American Bottom? 8 A. Bottoms. 9 Q. Bottoms, okay. 10 MR. COX: Like a swamp, as opposed 11 to another. 12 Q. (By Ms. Malow) Let's clarify that. 13 A. I was assisting the village in starting 14 up a major regional waste water 15 treatment plant, hiring people, working 16 on the billing system. 17 Q. Were PCBs ever sent to that American 18 Bottoms waste water treatment plant? 19 A. What do you mean by sent? 20 Q. Were they ever treated, were PCBs ever 21 treated at the American Bottoms waste 22 water treatment plant in the Village of 23 Sauget?
Page 26 1 Q. And did you work in between getting your 2 bachelor's and your master's degree? 3 A. Yes. I got the master's at night, night 4 school. 5 Q. Give me a thumbnail sketch of your work 6 history after getting your bachelor's 7 degree. 8 A. I started with Monsanto in 1974 at the 9 W. G. Krummrich plant. 10 Q. What was your position when you started? 11 A. I was in the mechanical design group. 12 Q. At the time that you started in 1974 was 13 the Krummrich plant still manufacturing 14 PCBs? 15 A. I believe it was. 16 Q. Did you have any involvement whatsoever 17 with the PCB manufacturing process? 18 A. No. 19 Q. How long did you stay at Krummrich? 20 A. In 1985 I left Krummrich and was -- to 21 take over as the project manager of the 22 American Bottoms facility we talked 23 about previously.	Page 28 1 A. I don't know how to answer that 2 question. My guess is that if there 3 were PCBs they would be below the limit 4 of detection. 5 Q. I guess what I'm trying to figure out is 6 what would be the source of waste water 7 that American Bottoms was treating? 8 Where did it come from? 9 A. They treated waste water from the 10 Village of Sauget industries, East St. 11 Louis, of course the village of Sauget 12 residents, and Cahokia, just another 13 city, and also an area called the common 14 fields of Cahokia. 15 Q. Was there any plant effluent from the 16 Monsanto Sauget facility that was 17 treated at American Bottoms? 18 A. Yes. 19 Q. And in that plant effluent was there any 20 PCB waste, regardless of the level? 21 A. Well, Monsanto actually discharges to 22 the Sauget physical chemical plant 23 initially --

Page 29 1 Q. Then where does it go? 2 A. -- where its treated, and then from 3 there it goes into the secondary portion 4 of the American Bottoms regional waste 5 water treatment facility. 6 Q. Do you know how many pounds of PCBs -- 7 do you call it Krummrick or Krummrich? 8 A. Krummrich. 9 Q. How many pounds of PCBs was the 10 Krummrich facility sending into this 11 treatment facility in let's say 1974? 12 Do you know? 13 A. No. 14 Q. Do you know how many pounds of PCBs were 15 manufactured at the Krummrich facility 16 in 1974? 17 A. No. 18 Q. Do you have any idea of the number of 19 pounds that were manufactured at the 20 Krummrich facility during the entire 21 time PCBs were manufactured there? 22 A. No. 23 Q. Do you know the years that PCBs were	Page 31 1 A. No. 2 Q. (By Ms. Malow) Do you have knowledge of 3 PCBs that were buried in landfills at 4 the Krummrich facility? 5 MR. COX: Same objection. 6 A. There are PCBs in the landfill, 7 Krummrich landfill. 8 Q. (By Ms. Malow) Okay. How many 9 landfills are there at the Krummrich 10 site? 11 A. The Krummrich landfill was the primary 12 landfill Monsanto used. 13 Q. How big is that landfill? 14 A. Approximately twenty-two acres. 15 Q. Do you know what year it began? 16 A. In the late '50s. 17 Q. Do you know how many pounds of PCBs have 18 been disposed of in that Krummrich 19 landfill? 20 A. No. 21 Q. But there are PCBs there? 22 A. Yes. 23 Q. Is that landfill capped?
Page 30 1 manufactured at Krummrich? 2 A. No. 3 Q. All right. So let me make sure I 4 understand. From '74 up until you went 5 on loan to American Bottoms in '85 you 6 were at Krummrich, correct? 7 A. Right. 8 Q. And during that entire time did you stay 9 in the mechanical design group, or did 10 you change positions from '74 to '85? 11 A. I changed position. 12 Q. What other positions did you hold during 13 that '74 to '85 time frame? 14 A. Environmental engineer. 15 Q. What were your duties and 16 responsibilities as an environmental 17 engineer at Krummrich? 18 A. My primary responsibility was with the 19 waste water program, working with the 20 Sauget physical chemical plant. 21 Q. Are you aware of PCBs that went into the 22 atmosphere from the Krummrich facility? 23 MR. COX: Object to the form.	Page 32 1 A. It has between two to eight feet of clay 2 cover. 3 Q. Is there any high density polyurethane 4 cap on that? 5 A. No. 6 Q. Have any PCBs that have been placed in 7 that landfill during its existence ever 8 been excavated and removed to a 9 hazardous waste site? 10 A. Not to my knowledge. 11 Q. Are there PCBs that have ever been 12 disposed of in other places at the 13 Krummrich facility other than the 14 landfill? 15 A. Not to my knowledge. 16 Q. What years were you the environmental 17 engineer at Krummrich? Do you remember, 18 approximately? 19 A. From 1978 until the end of 1984. 20 Q. Then you stayed at American -- Well, 21 were there any other positions besides 22 mechanical design or environmental 23 engineering between the '74 to '85 time

Page 33 1 frame that you held? 2 A. My title changed a few times. 3 Q. But basically doing the same type of 4 thing? 5 A. Yes. 6 Q. In the mechanical design group, which 7 specific area of the plant or processes 8 were you working with, if that's even a 9 question that makes sense? 10 A. Over the years it changed. They had 11 different zones. Most of my projects 12 were in the sulfuric acid department, 13 para-dichlorobenzene, PDCB. 14 Q. She has got to get you verbatim. Once 15 you give a big word, you have got to 16 stick with it. 17 So after the project manager 18 position at American Bottoms, what did 19 you do next, which brings us to I guess 20 1988? 21 A. In 1988 I returned to the Krummrich 22 plant. 23 Q. And what position?	Page 35 1 Q. Are you aware of any PCB-related 2 projects that would have been under your 3 responsibility as environmental 4 superintendent? 5 A. I'm not aware of any PCB projects. 6 Q. Okay. How long did you remain 7 environmental superintendent? 8 A. Until 1991. 9 Q. Then what did you do? 10 A. I relocated to the general office, again 11 working in the remedial projects group. 12 Q. Is that the same group that you're in 13 today? 14 A. Yes. 15 Q. And was that the first time that you had 16 a position in St. Louis? 17 A. Yes. 18 Q. What was your initial position in the 19 remedial projects group in '91? 20 A. Manager. 21 Q. And how long did you remain a manager? 22 A. Up until March of this year. 23 Q. Did you have promotions along the way
Page 34 1 A. Environmental supervisor -- I'm sorry. 2 Environmental superintendent. 3 Q. And what responsibility did you have as 4 the environmental superintendent in '88? 5 A. I was managing the environmental program 6 at the plant. 7 Q. Was there any portion of that 8 environmental program that dealt with 9 PCBs? 10 A. By that time, of course -- 11 Q. They had stopped making -- 12 A. -- the para-dichloro department had been 13 stopped. 14 Q. How about dealing with the impact of the 15 PCBs on the environment in the Sauget 16 area? 17 MR. COX: Object to the form. 18 Q. (By Ms. Malow) Did you have any 19 responsibilities, for example, for doing 20 any sort of fish studies or sediment 21 sampling or anything of that nature 22 dealing with PCBs? 23 A. No.	Page 36 1 from '91 up until March of this year? 2 A. No. 3 Q. Who did you report to from '91 up until 4 March of this year? 5 A. Mike Foresman. 6 Q. And who do you report to now? 7 A. Jeff Felder. 8 Q. So did Jeff Felder assume Mr. Foresman's 9 position? 10 A. No. 11 Q. Or was it divided up? 12 A. It was divided up differently and 13 reorganized. 14 Q. Tell me how it's organized presently. 15 What exactly is your role, and what is 16 Mr. Felder's role? 17 A. Mr. Felder is Director of Environmental 18 Safety and Health. 19 Q. And you told me before, but give it to 20 me again. 21 A. Leader of remediation management group. 22 Q. Okay. So is he actually in -- Is 23 Mr. Felder in a different group?

Page 37 1 A. No. 2 Q. So the Director of Environmental Safety 3 and Health is part of the remediation 4 management group? 5 A. Wrong way around. The remediation 6 management group is part of 7 Environmental Safety and Health. 8 Q. Got it. And who does Mr. Felder report 9 to? 10 A. Jerry Hayden. 11 Q. What is Mr. Hayden's position? 12 A. Vice president of operations. 13 Q. How many people do you oversee as the 14 leader of the remediation management 15 group? 16 A. I have seven direct reports. 17 Q. Did Jo Hanson used to work -- previously 18 work in the remedial projects or 19 remediation management group? Do you 20 know Jo Hanson? 21 A. Yes. 22 Q. Was she in your group previously? 23 A. She was not in my group.	Page 39 1 A. Tony Tuck, Larry Adams, Craig 2 Branchfield, Jerry Rinaldi, Mike House, 3 Mike Light. 4 Q. Is that it? 5 A. That's right. That's it. 6 Q. You got them. All right. And 7 Mr. Branchfield would be the remediation 8 manager for Anniston, correct? 9 A. Yes. 10 Q. And prior to Mr. Branchfield it was Alan 11 Faust? 12 A. Yes. 13 Q. And why is it that Mr. Branchfield was 14 placed in that role? What happened to 15 Mr. Faust? 16 A. Mr. Faust relocated to the Krummrich 17 plant. 18 Q. So he's no longer considered part of the 19 remediation management team? 20 A. Correct. 21 Q. And Mr. Branchfield, why was he selected 22 for Anniston? 23 A. I was not a part of that selection.
Page 38 1 Q. Where were you -- Strike that. 2 So Mr. Foresman retired, and you 3 told me earlier you did assume some of 4 Mr. Foresman's responsibilities, 5 correct? 6 A. Yes. 7 Q. What specific responsibilities of 8 Mr. Foresman's do you now have? 9 A. The remediation management. 10 Q. Why don't you tell the jury what 11 remediation management means? 12 A. We have a number of remediation projects 13 throughout the country and the world. 14 We have six remedial managers, seven 15 including myself, who manage these 16 projects for Solutia. And also some of 17 the plant sites manage their own 18 remediation projects. 19 Q. Who are the six? I thought you said 20 there were seven direct reports to you? 21 A. Administrative assistant. 22 Q. Who are the six remediation managers 23 that report to you presently?	Page 40 1 Q. So you don't know? 2 A. I assume they considered him the best 3 candidate for the job. 4 Q. But you don't have any personal 5 knowledge? 6 A. Correct. 7 Q. Now, what are your specific duties and 8 responsibilities as the leader of the 9 remediation management group? 10 A. I still have project responsibilities at 11 the Brio site, the Motco site, 12 M-O-T-C-O, also Skinner landfill. Then 13 I performed coordination functions for 14 the group, for the remediation group. 15 Q. So you have specific projects that 16 you're still managing, but then you also 17 oversee or supervise the management by 18 your six other managers; is that 19 accurate? 20 A. Yes. 21 Q. Of those three that you mentioned that 22 you're still having project management 23 responsibilities, Brio, Motco, and

Page 41 1 Skinner, are any of those sites where 2 PCBs are involved? 3 A. Not to my knowledge. 4 Q. Can you tell me how many PCB sites 5 Solutia is managing presently? 6 A. I don't know. How do you define PCB 7 site? 8 Q. Let's do it this way. We know that 9 Anniston has PCBs as a contaminant, 10 correct? 11 A. Yes. 12 Q. I want to know any other site in the 13 country that Solutia is involved in, 14 whether it's exclusively or as one of 15 many PRPs, in which PCBs are a 16 contaminant that are being cleaned up or 17 being looked at to be cleaned up. 18 A. Well, certainly in Sauget there are. 19 Let me back up. In Sauget there are two 20 different areas that are being looked at 21 under the Superfund law where PCBs are 22 present, and then the plant site is 23 being looked at under RCRA.	Page 43 1 Q. (By Ms. Malow) Let's back up. Before 2 you got this new position, were you only 3 responsible for Brio, Motco, and 4 Skinner, or did you have other sites 5 within your areas of responsibility? 6 A. I also had Bob's Home Service, a small 7 site. I believe that was all of them, 8 yes. 9 Q. So in fairness to you, you really 10 haven't had direct responsibility for 11 PCB sites being cleaned up until now, 12 right? 13 A. Correct. 14 Q. But now you are definitely managing 15 Craig Branchfield, who is involved in 16 the Anniston situation, right? 17 A. Well, as of August 1 of this year Craig 18 will be reporting functionally to Jeff 19 Felder and administratively to me. 20 Q. Why is that? 21 A. Primarily a workload issue. 22 Q. Did you ask for that, or did somebody 23 else?
Page 42 1 Q. And I want to get a list, and then I'm 2 going to go into some major detail on 3 each of them. Where else besides Sauget 4 and Anniston? 5 A. First of all, I'm not familiar with all 6 the sites. 7 Q. Why not? Isn't that your job? 8 A. Well, I got the job in March of this 9 year. 10 Q. So you are not up to speed yet on all of 11 them? 12 A. That's certainly true, yes. 13 Q. But ultimately isn't it going to be your 14 responsibility, once you, you know, get 15 more entrenched in this new position, to 16 know what each of the sites are that 17 Solutia is involved in in terms of 18 cleanup? 19 MR. COX: Object to the form. 20 A. Certainly not the specifics. Each 21 project manager is expected to manage 22 their own sites and know the day-to-day 23 issues.	Page 44 1 A. No. I asked for some way to reduce the 2 number of hours. 3 Q. Because you have got more than you can 4 handle, right? 5 A. Yes. 6 Q. How about the Sauget site? We touched 7 on that briefly. Who would be the 8 project manager with direct 9 responsibility for the Sauget cleanup? 10 A. The Sauget area one sites as defined by 11 EPA is being managed by Mike Light. The 12 plant efforts are being managed by Alan 13 Faust. And then I manage the area two 14 Sauget sites. 15 Q. Let's go ahead and get into a little 16 more detail on that one. Then I'll come 17 back to some more general questions. 18 You said area one as defined by EPA. 19 What exactly does area one consist of at 20 Sauget? 21 A. It consists of several former landfill 22 sites as well as a creek. 23 Q. Is that Dead Creek?

Page 45 1 A. Yes. 2 Q. And the former landfill sites, does that 3 encompass that major Krummrich landfill 4 that you had mentioned to me earlier? 5 A. No. 6 Q. Which area does that fall on? 7 A. Two. 8 Q. And that's your responsibility? 9 A. Yes. 10 Q. Well, let me get a little more detail 11 from you. What prompted this cleanup of 12 Sauget? 13 MR. COX: Object to the form. 14 Q. (By Ms. Malow) How did that come about? 15 MR. COX: Same objection. 16 Q. (By Ms. Malow) You can answer. 17 A. The RCRA program, when it was 18 promulgated, required land sites do a 19 number of activities. If you handle 20 specific chemicals, you have to file 21 different part A and part B type of 22 documents, which Monsanto did. And 23 that's basically how Monsanto got under	Page 47 1 were the ones that came up with the 2 letter numeration for each landfill. 3 They also looked at the area two 4 landfill. And the stated the objective 5 in the report was to try to get enough 6 points, if you will, to get these sites 7 listed on the Superfund list according 8 to Illinois EPA. 9 Q. (By Ms. Malow) And was the site 10 actually ranked as Superfund? 11 A. The Sauget area one was proposed. Area 12 two has not been proposed. 13 Q. Okay. Is that still under 14 investigation, area two? 15 A. Yes. 16 Q. What were the findings of these 17 consultants of Illinois EPA in general? 18 A. They generated about an eight- to 19 ten-inch thick document which listed the 20 brief history of each landfill operation 21 and also the chemical analysis of each 22 test that they did. 23 Q. Did they determine that PCBs had
Page 46 1 the RCRA program at the plant. The 2 landfills probably came to light from -- 3 Well, I don't know how they came to 4 light originally or who to. 5 Q. What do you mean by "came to light"? 6 A. I guess I'm struggling with what your 7 question is about. 8 Q. I mean something has prompted EPA to, 9 you know, require that Monsanto or 10 Solutia clean up its landfills. 11 MR. COX: Object to the form. 12 Q. (By Ms. Malow) What was that? 13 MR. COX: What she's asking, I 14 think, if I can help, is what 15 triggered the investigation 16 of area one and area two. 17 MS. MALOW: That's a better 18 question. Thanks, Buddy. 19 A. The Illinois EPA initiated a study by a 20 consultant of area one back in the 21 1980s. And these consultants took a 22 number of samples of these former 23 landfills. And in fact, the consultants	Page 48 1 migrated from the landfills into the -- 2 or off site? 3 A. As I recall, the report was not trying 4 to determine where anything particularly 5 came from or went to. It was basically 6 a characterization report. 7 Q. Well, is the Sauget -- Is Sauget -- It 8 is Sauget, Illinois, right, and that's 9 where the Krummrich facility is located? 10 A. Correct. 11 Q. Do you sometimes call it the Sauget 12 plant as well as the Krummrich plant? 13 A. Yes. 14 Q. Are they synonymous? 15 A. Within Solutia. 16 Q. If I say Sauget or Krummrich, it's the 17 same thing? 18 A. Correct. 19 Q. Okay. 20 A. That's the facilities in Sauget. 21 Q. But right now I want to deal with 22 Monsanto's or Solutia's facility, which 23 is the Krummrich plant, but you guys

1 also call it Sauget?

2 A. Right.

3 Q. Is that Solutia facility in a

4 neighborhood?

5 MR. COX: Object to the form.

6 Q. (By Ms. Malow) Residential

7 neighborhood?

8 A. It's nearby.

9 Q. How close is the nearest resident from

10 the Krummrich plant?

11 A. I would estimate maybe two city blocks

12 in distance.

13 Q. Has there been any off-site migration

14 from the Krummrich facility into the

15 residential neighborhood of Sauget?

16 MR. COX: Object to the form.

17 A. I'm not aware of off-site migration from

18 Krummrich going into the neighborhood.

19 Q. (By Ms. Malow) Is there any off-site

20 migration of PCBs from Krummrich into

21 any water bodies?

22 MR. COX: Object to the form.

23 A. I can't make an assumption where the

1 PCBs come from, but there are PCBs in

2 Dead Creek.

3 Q. (By Ms. Malow) And has Monsanto or

4 Solutia been identified as a PRP for the

5 PCBs in Dead Creek?

6 A. Yes.

7 Q. How much money has Monsanto and Solutia

8 spent to date for the cleanup of the

9 Krummrich facility?

10 MR. COX: Object to the form.

11 Q. (By Ms. Malow) Has Monsanto expended

12 any monies for cleanup or remediation at

13 the Sauget facility?

14 A. That's such a broad question I really

15 cannot answer it. I mean, you say

16 Sauget facility. Where are you talking,

17 area one or area two or --

18 Q. I'm talking the whole thing, anything

19 that Monsanto or Solutia owns.

20 A. That we own?

21 Q. Okay. Is area one -- Area one I thought

22 you had defined as former landfill sites

23 of Monsanto.

1 A. No.

2 MR. COX: No.

3 Q. (By Ms. Malow) I'm sorry. I

4 misunderstand. The main landfill at

5 Krummrich would be area two, correct?

6 A. It is one of the sites within area two.

7 Q. What else is encompassed by area two?

8 A. Area two includes a former landfill

9 operated by Leo Sauget.

10 Q. Who?

11 A. Leo Sauget.

12 Q. Is that an individual?

13 A. Yes. And his firm.

14 Q. All right.

15 A. Also there is another site, designated

16 site, which is the former sludge lagoons

17 associated with the Sauget physical

18 chemical plant.

19 Q. Monsanto's Sauget physical chemical

20 plant?

21 A. No.

22 MR. COX: Uh-uh (indicating no).

23 Q. (By Ms. Malow) Let me ask it this way:

1 Out of area two designated areas, which

2 of those areas are areas that Krummrich

3 -- that are part of the Krummrich plant

4 site or responsibility? Let me restate

5 that. That was very poorly phrased.

6 Solutia or Monsanto, okay, you

7 said that they had used the main

8 landfill which is part of area two,

9 correct?

10 A. Correct.

11 Q. Did anyone else, any other company

12 dispose of anything in that main

13 landfill which is part of area two other

14 than Monsanto or Solutia?

15 A. No. Not for site R, which is the

16 landfill.

17 Q. Is there any other area or portion of

18 area two other than site R that Solutia

19 or Monsanto used to dispose of its

20 waste?

21 A. Yes.

22 Q. What else?

23 A. Plant waste, plant trash, went to site

Page 53 1 Q. 2 Q. Did any PCB waste go to site Q? 3 A. Not to my knowledge. 4 Q. Any other portions of area two where 5 Solutia or Monsanto disposed of any of 6 its waste besides R and Q? 7 A. Site P was a landfill -- a permit -- 8 Illinois EPA permitted landfill for 9 plant trash, which was used by Monsanto 10 and others. 11 Q. And others? 12 A. And others. 13 Q. Any other portions of area two that 14 Monsanto or Solutia used? 15 A. Site O is again the lagoons associated 16 with the physical chemical waste water 17 treatment plant, which treated waste 18 water from all the industries -- 19 Q. So it was intermixed? 20 A. -- which would include Monsanto's waste 21 water along with all the other 22 industries. 23 Q. Any other areas or portions of area two	Page 55 1 went there, Monsanto's PCBs? 2 A. I don't know. There's PCBs in the 3 landfills. Monsanto used the landfills, 4 as well as other industries. 5 Q. All right. But Monsanto is the sole 6 manufacturer of PCBs, correct, in the 7 United States? 8 A. I have heard that. 9 Q. Do you know that to be true? Do you 10 know that the only two places that they 11 made it were in Sauget, Illinois, the 12 Krummrich plant, and in Anniston, 13 Alabama? 14 A. I believe it was imported, but, yes. 15 Q. Okay. Now, these area one sites other 16 than the two where there is some 17 evidence that Monsanto sent waste, is 18 there any other portion of those area 19 one sites that Monsanto sent waste to? 20 MR. COX: Object to the form. 21 A. Not to my knowledge. 22 Q. (By Ms. Malow) What are the two that 23 you are thinking of? What are the
Page 54 1 that Solutia or Monsanto would have 2 waste in? 3 A. The only other area site, to my 4 knowledge, we are not associated with 5 the sites. 6 Q. Let's back up to area one. And you said 7 that that includes former landfill 8 sites. Would any of those landfill 9 sites -- Obviously there might be other 10 industries that sent their waste there, 11 but did Solutia or Monsanto send any of 12 its waste to these landfill sites which 13 are part of area one? 14 A. There's evidence that Monsanto sent 15 waste to at least two of those sites. 16 Q. And do you know which type of waste was 17 sent to those two sites? 18 A. Not specifically. 19 Q. Do you know if PCBs were sent to either 20 of those landfill sites that are part of 21 area one? 22 A. Not specifically. 23 Q. Do you know one way or another if PCBs	Page 56 1 designations of the two in area one that 2 there's evidence that Monsanto sent its 3 waste? You mentioned two. 4 A. H and I. 5 Q. And are those off-site landfills? 6 A. Yes. 7 Q. How far away from the Krummrich facility 8 is H, landfill H? 9 A. Maybe a half mile. 10 Q. About how about I? Where is that? 11 A. I is right next to it. I is adjacent. 12 H and I are together. 13 Q. And they are both about half a mile; is 14 that what you said? 15 A. Roughly. 16 Q. And do you know from what years Monsanto 17 sent waste to H and I? 18 A. It would have been prior to the 1958-59 19 time frame. 20 Q. And how long did Monsanto send waste to 21 sites P, R, and O from area two? 22 MR. COX: P, R, and Q are the 23 landfills.

Page 57 1 MS. MALOW: Okay. 2 A. Site R operated from the late '50s, the 3 '58-59 time frame, until the '70s. And 4 it was actually closed as I recall in 5 1978. 6 Site Q operated roughly the same 7 time frame as site R, late '50s through 8 the early '70s. 9 Site P was permitted in the early 10 '70s. I believe it operated to the mid 11 '70s, maybe late '70s. 12 Q. (By Ms. Malow) Do off-site landfills H 13 and I -- What type of landfills are 14 those? Are they municipal landfills? 15 Are they hazardous waste landfills? 16 What type of waste can be sent there? 17 MR. COX: Object to the form. 18 A. Again, they operated in the '40s and 19 '50s. 20 Q. (By Ms. Malow) So the waste streams 21 were mixed? 22 A. I would assume so, but I don't have 23 personal knowledge of that.	Page 59 1 MR. COX: Object to the form. 2 A. Site R, yes. 3 Q. (By Ms. Malow) But not P and Q? 4 A. Again, I don't know the definition of 5 hazardous waste. 6 Q. I'm using today's definition. 7 MR. COX: I'm not sure that's 8 fair, Ellen. 9 MS. MALOW: Well, that's the 10 definition I'm using. 11 MR. COX: You may not be able to 12 answer the question using 13 that definition. 14 A. I really can't because hazardous waste 15 by today's definition is either a list 16 of waste or one of the characteristic 17 wastes. I do not know specifically that 18 any of those waste streams went to site 19 Q or to site P. Site P was definitely a 20 plant trash landfill. 21 Q. (By Ms. Malow) You also mentioned there 22 was a third area that is being looked 23 at. And that's the plant site area
Page 58 1 Q. Were those landfills lined? 2 A. Not to my knowledge. 3 Q. How about site R? Is that a lined 4 landfill? 5 A. No. 6 Q. How about site P? 7 A. No. 8 Q. Site Q? 9 A. No. 10 Q. Do you know if hazardous waste streams 11 were mixed with nonhazardous waste 12 streams in sites P, Q, and R? 13 MR. COX: Object to the form. 14 A. The definition of hazardous waste came 15 about in 1980 through the RCRA 16 regulations. 17 Q. (By Ms. Malow) But now? 18 A. You can't match the terms. 19 Q. But the bottom line is all those sites 20 had what are now known as hazardous 21 waste mixed with nonhazardous waste, 22 correct? 23 A. No.	Page 60 1 itself, correct? 2 A. Yes. 3 Q. Now, tell me what that encompasses. I'm 4 assuming you mean the Krummrich plant 5 site, right? 6 A. Correct. 7 Q. What does that encompass? 8 A. It's been an ongoing RCRA process where 9 groundwater has been sampled. The data 10 has been turned over to Illinois EPA. 11 They have sought permits for various 12 pieces of equipment, working basically 13 at this point with Region V EPA in 14 Chicago. 15 Q. Okay. And that is the area Alan Faust 16 is handling right now? 17 A. Yes. 18 Q. The groundwater, is it contaminated? 19 MR. COX: Object to the form. 20 A. It has constituents in it from the 21 Krummrich plant. 22 Q. (By Ms. Malow) Are there PCBs in that 23 groundwater at Krummrich at any level?

Page 61 1 A. Not in the filter samples to my 2 knowledge. 3 Q. What are the constituents of concern in 4 the groundwater at Krummrich? 5 A. Benzene, chlorobenzene, 6 nitrochlorobenzene, some of the higher 7 levels. 8 Q. Now, I want to go back to that question 9 about cost. Now that I kind of have a 10 sense of what is involved, let's go 11 through it one by one. 12 How much money has Solutia and 13 Monsanto spent to date on any cleanup of 14 the plant site area? 15 A. I don't have a total number. 16 Q. Do you have a ball park number, 17 estimate? Are we talking millions, or 18 are we talking hundreds of thousands? 19 A. Well, the plant site has been there 20 since the early 1900s. A lot of 21 departments have been shut down over the 22 last ten or fifteen years in particular. 23 When departments are shut down typically	Page 63 1 Q. (By Ms. Malow) Do you know how much 2 that cost? 3 A. My guess would be a million dollars, but 4 I really don't know. 5 Q. Okay. 6 A. Or less. The -- in the mid '80s we 7 installed some large rock along the 8 Mississippi River to alleviate an 9 erosion problem. The site is situated 10 on the Mississippi River where it makes 11 a turn, and there was some evidence of 12 some erosion. So we worked with the 13 agencies and got permission to put some 14 rock to keep that water from eroding 15 towards site R. 16 Q. Do you know how much that cost? 17 A. I believe that was around a half million 18 dollars. 19 Q. Has there been any dredging of any of 20 the water bodies by Solutia or Monsanto 21 in Sauget? 22 A. No, not to my knowledge. 23 Q. Any other expenditures that relate to
Page 62 1 there may be some cleanup associated 2 with that, removal of soil if necessary. 3 There are a number of environmental 4 projects that are ongoing, air 5 pollution. 6 Q. Let me ask it this way: Is there 7 anything in relation to the plant site 8 area that involves PCB cleanup? 9 A. The -- not other than what occurred when 10 it was dismantled. 11 Q. And I don't really want to get into that 12 part. Let's skip over to area two, 13 which we know involves some specific 14 landfills where only Monsanto and 15 Solutia disposed of waste including 16 PCBs. Okay? Can you tell me how much 17 money has been spent so far by Monsanto 18 and Solutia to clean up those areas 19 which are part of area two? 20 MR. COX: Object to the form. 21 A. As I mentioned, site R, they installed a 22 two- to eight-foot engineered clay cover 23 back in the late '80s. I don't know --	Page 64 1 PCB areas that were used by Monsanto or 2 Solutia in area two? 3 A. Well, what I was talking about was site 4 R. 5 Q. Okay. Which was that two- to eight-foot 6 engineered -- 7 A. Landfill for the entire facility. 8 Q. Do you know how much money Solutia or 9 Monsanto has contributed to the cleanup 10 of area one, understanding that there 11 are other PRPs involved in that area, 12 Monsanto's or Solutia's share of that 13 cleanup expense to date? 14 A. Area one, Monsanto or Solutia has been 15 doing an RIFS under the direction of EPA 16 as well as an EEIA. Total cost -- 17 Q. Again, rough estimate? 18 A. There's the study work that's going on, 19 which has been several million dollars. 20 Q. Okay. And then has there been some 21 actual cleanup? 22 A. We are in the process of building a 23 containment cell immediately adjacent to

Page 65 1 Dead Creek. 2 Q. Okay. What's the purpose of that? 3 A. The purpose of that would be to move 4 creek sediments from sector B and C, in 5 particular, into that cell. 6 Q. And explain to me the structure of this 7 containment cell. 8 A. It is similar to a TOSCA type design, 9 T-O-S-C-A, which has a number of 10 different layers underneath it, like a 11 gravel layer, a high-density 12 polyethylene liner, a sand layer, and 13 then another high-density polyethylene 14 liner engineered by TOSCA landfill type 15 design. 16 Q. And is there any other company that's 17 contributing to the cost of the 18 containment cell? 19 A. No, although there is litigation 20 associated with cost recovery. 21 Q. How much has been budgeted for that 22 containment cell structure, roughly? 23 A. Roughly, as I recall, 8 million, 10	Page 67 1 A. No. 2 Q. For area two, what stage is that in now 3 that you're still involved in? 4 A. Area two, we have a PRP group that has 5 been formed that has signed a consent 6 decree -- I'm sorry. I guess it's an 7 AOC I think with EPA to do the remedial 8 investigation and feasibility study. 9 And we are currently in the process of 10 negotiating the work plan for the 11 sampling. 12 Q. Who are Solutia's consultants or RIFS 13 for area two? 14 A. AMEC, A-M-E-C, is one of the consultants 15 that the PRP group is using. 16 Q. Do you guys have your own separate from 17 AMEC? 18 A. No. 19 Q. So all the PRPs contribute to the cost 20 of AMEC? 21 A. Yes. 22 Q. How about the consultants that Monsanto 23 or Solutia uses for the plant site
Page 66 1 million, in that ball park. 2 Q. Have any residential properties been 3 purchased in the Sauget area by Monsanto 4 or Solutia? 5 A. Yes. 6 Q. What was the reason for that? 7 A. Essentially for access to the creek. 8 There's only been one or two property 9 owner's residences purchased immediately 10 adjacent to basically the pond that's 11 immediately adjacent to Dead Creek. And 12 some additional property was purchased 13 to build the cell. 14 Q. Do you know how many properties in all 15 were purchased? 16 A. Residential? 17 Q. Yes. 18 A. I believe it's two. I'm not positive 19 about that. 20 Q. Has there been any sort of property 21 purchase program ever offered for 22 residents of Sauget by Monsanto or 23 Solutia similar to the one in Anniston?	Page 68 1 itself? Are there consultants for that 2 area? 3 A. Yes. They use different consultants for 4 different things. 5 Q. How about for the groundwater issues? 6 A. Gary Miller was a consultant that was 7 used for a number of years. 8 Q. Uh-huh (indicating yes). 9 A. I don't believe they are currently being 10 used. 11 Q. How about for area one? Who are the 12 consultants that are doing the RIFS for 13 area one? 14 A. Roux Associates, R-O-U-X. 15 Q. Do you know how many monitoring wells 16 there are at the Krummrich facility? 17 A. No. 18 Q. Do you know what type of hydrology there 19 is at that site? Do you know anything 20 about the hydrology there? 21 A. It's primarily sand, essentially fine 22 sand towards the top and coarser as you 23 go down to bedrock. Bedrock is roughly

Page 69 1 one hundred -- forty to one hundred feet 2 below ground surface. 3 MR. COX: Can we take a break? 4 MS. MALOW: Sure. 5 [A break was taken.] 6 Q. (By Ms. Malow) I know you have given a 7 deposition before and you're doing fine 8 so far, but I didn't cover a couple of 9 other basics when we started. You do 10 understand that you're under oath? 11 A. Yes. 12 Q. And that the questions you answer are 13 subject to penalties of perjury? 14 A. Yes. 15 Q. And you also agree that if you don't 16 understand any of my questions, you'll 17 tell me that? 18 A. Yes. 19 Q. Have you been doing that at times when 20 you haven't understood my question so 21 far? 22 A. I believe so. 23 Q. Have you answered any question that you	Page 71 1 MR. COX: They were all things 2 that had been produced 3 before. 4 Q. (By Ms. Malow) What types of documents 5 did you guys have? 6 A. We didn't give him any. We just looked 7 at them. 8 Q. What types of documents did you look at? 9 MR. COX: There was some 10 privileged that we'll provide 11 you a log for. But I didn't 12 have time to do it last 13 night. 14 Q. (By Ms. Malow) Any nonprivileged stuff? 15 A. Monthly reports, some budget sheets. 16 Q. And you didn't review any depositions 17 that had been given in this case? 18 A. No. 19 Q. All right. Going back to the Krummrich 20 plant, to your knowledge have PCBs ever 21 been incinerated at Krummrich? 22 A. Yes. 23 Q. During what time frame?
Page 70 1 did not understand? 2 A. I don't believe so. 3 Q. If at any time you need to take a break, 4 let me know that and we'll do that. 5 Okay? 6 Did you review any documents in 7 order to get ready for your deposition? 8 A. No. 9 Q. Didn't look at a single scrap of paper? 10 MR. COX: I showed him the 11 deposition notice. 12 Q. (By Ms. Malow) I'll go ahead for 13 purposes of the record hand you what's 14 been marked as Exhibit One. Is that the 15 document that Buddy has shown you? 16 MR. COX: That's the renotece. 17 A. Yes. 18 Q. (By Ms. Malow) And before we started 19 Mr. Cox told us that you didn't have any 20 documents to bring to your deposition. 21 Is that correct? 22 A. Yes. I actually gave Mr. Cox what few 23 documents I had.	Page 72 1 A. I don't know the exact time frame. 2 Q. Do you know how many years? 3 A. No. I believe it was shut down in the 4 '70s. 5 Q. Do you know if any PCBs from Anniston 6 were sent to Krummrich for incineration? 7 A. I don't know. 8 Q. Do you know the volume of PCBs that were 9 incinerated at Krummrich? 10 A. No. 11 Q. Do you know why it is that PCBs were not 12 incinerated at Anniston? 13 A. No. 14 MR. COX: Object to the form. 15 Q. (By Ms. Malow) Do you know if PCBs were 16 ever incinerated at Anniston? 17 A. I don't know if they were or not. 18 Q. The PCBs that you know of that were 19 incinerated at Krummrich, were those 20 solid, liquid, or both? 21 A. My understanding, liquids were 22 incinerated. I don't know about the 23 solids.

Page 73 1 Q. Do you know if there is capability to 2 incinerate solid PCBs? 3 MR. COX: Object to the form. 4 A. I don't know if there was at that time 5 or not. 6 Q. (By Ms. Malow) Do you know if presently 7 there's such capability? 8 MR. COX: Same objection. 9 A. Are you referring to third-party 10 incinerators? 11 Q. (By Ms. Malow) By any type of 12 incinerator. 13 A. Yes, I believe. 14 Q. Okay. I may have already asked this. 15 If I did I apologize. But do you know 16 the total quantities of PCBs that were 17 disposed of at the Krummrich facility 18 either on site or off site? 19 A. No. 20 Q. Who would be the best person to ask that 21 question? 22 A. I don't know. 23 Q. Do you know the levels of the PCBs that	Page 75 1 Q. The excavated soils and sediments from 2 Dead Creek that are being placed in that 3 on-site containment cell, do you know 4 what the volume is that's going to the 5 on-site containment cell? 6 MS. MALOW: Can you read it back, 7 Sheila? 8 [Requested portion of record 9 read.] 10 A. As I recall, the design volume is fifty 11 thousand cubic yards. 12 Q. And why is it that the sediments and 13 soils from Dead Creek are going into an 14 on-site containment cell rather than 15 being sent to someplace like Emelle? 16 A. This was an agreement with USEPA and 17 IEPA, under their direction with our 18 cooperation to build the cell to put the 19 sediments in. 20 Q. Who proposed the on-site containment 21 cell? Was that Solutia? 22 A. Yes. 23 Q. Is there going to be any waste from any
Page 74 1 were detected in the sediments of Dead 2 Creek? 3 A. I know some of the levels. 4 Q. What are some of the levels in the Dead 5 Creek sediments? What's the highest 6 level? 7 A. Well, I don't know if I can give you the 8 highest of all the data. The highest I 9 remember was about five hundred parts 10 per million at the north end of sector 11 B. 12 Q. Do you know if there have been any 13 detections of PCBs in the fish in any of 14 the water bodies in the Sauget area? 15 A. I don't know. 16 Q. Is there a fish advisory in place near 17 Sauget? 18 A. I believe there is for chlordane. 19 Q. Pardon me? 20 A. For chlordane is my understanding. 21 Q. Do you know how long that fish advisory 22 has been in place for chlordane? 23 A. No, I don't.	Page 76 1 location other than Dead Creek that is 2 placed into that on-site containment 3 cell? 4 A. I don't believe so. 5 Q. To what level is Dead Creek going to be 6 cleaned up in terms of PCB levels? Is 7 it going to be taken down to non-detect 8 or one ppm? What is it? 9 MR. COX: Object to the form. 10 A. That has not been decided. 11 Q. (By Ms. Malow) What level has Solutia 12 requested it be allowed to clean up Dead 13 Creek to? 14 A. I don't believe that's been decided yet 15 either. 16 Q. Have you been involved in any 17 discussions regarding what levels 18 Solutia would like to be set in terms of 19 the Dead Creek area? 20 A. No. 21 Q. Do you have any recommendation that you 22 would make as a remediation manager? 23 A. No. It should be based on risk

Page 77 1 assessment. 2 Q. Are there any air monitoring devices at 3 the Krummrich plant to detect PCBs in 4 the air? 5 A. No. 6 Q. Why not? 7 A. None is expected. 8 Q. Are you aware that PCBs can volatilize? 9 MR. COX: Object to the form. 10 A. I would think they volatilize under 11 certain conditions. 12 Q. (By Ms. Malow) Do you know what the 13 levels of PCBs are in the air near the 14 Krummrich facility? 15 A. No. 16 Q. The on-site containment facility, is 17 that going to be a final measure, or is 18 that an interim measure? 19 A. That's actually under the CERCLA 20 program. I believe EPA considers it an 21 emergency removal action or maybe a 22 non-time-critical removal action. I 23 don't know exactly the name.	Page 79 1 Q. Has there been any mercury found in the 2 sediments of Dead Creek? 3 A. I believe there was but I don't know. 4 Q. Do you know the levels? 5 A. No, I don't. 6 Q. Have there been -- Well, is mercury part 7 of any of the on-site or off-site 8 investigations being performed by 9 Solutia? 10 MR. COX: At Krummrich? 11 MS. MALOW: Yes. 12 A. The RIFS for both areas include wide 13 scans of all metals, essentially all 14 semi-volatile organics, volatile 15 organics, pesticides, herbicides, 16 mercury. So the study itself isn't 17 looking for -- 18 Q. (By Ms. Malow) A broad range? 19 A. Just about any chemical you can name. 20 Q. So lead would be included? 21 A. Yes. 22 Q. All right. Let's talk about some of 23 these other sites. Maybe from what you
Page 78 1 Q. Was mercury used at the Krummrich 2 facility? 3 A. Yes. 4 Q. Do you know what quantity of mercury was 5 used at Krummrich during the 6 manufacturing process of PCBs? 7 MR. COX: Object to the form. 8 A. No. 9 Q. (By Ms. Malow) What was the mercury 10 used for at Krummrich? 11 A. Primarily for the chloralkylide 12 facility. 13 Q. Was mercury used in the production of 14 chlorine? 15 A. Yes. 16 Q. Was any mercury deposited in the 17 landfills at the Krummrich facility in 18 area two? 19 A. I don't recall offhand what the mercury 20 levels on site are. 21 Q. But there is some mercury there? 22 A. I can't testify whether there is or 23 isn't.	Page 80 1 told me, since you're new to this 2 position, you don't have any knowledge, 3 but I want to go through them anyway and 4 you tell me what you know. 5 Buddy was nice enough to send us a 6 letter that details out some PCB cleanup 7 sites other than the Sauget site. I 8 want to just go through each of those 9 with you and see what you know. 10 A. Okay. 11 Q. The first one is the Delaware River 12 plant in Bridgeport, New Jersey. Are 13 you familiar at all with that site? 14 A. I have been to the site. 15 Q. Okay. 16 MR. COX: I think what she's 17 asking specifically is are 18 you familiar with PCB cleanup 19 associated with that site. 20 THE WITNESS: No. 21 Q. (By Ms. Malow) Not at all? 22 A. No. 23 Q. Let me ask you this: Do you know if the

1 Delaware River plant is located near a
 2 residential neighborhood?
 3 A. I don't remember residents near the
 4 plant. It's been a long time.
 5 Q. When were you there?
 6 A. Probably twenty plus years ago.
 7 Q. What was manufactured at the Delaware --
 8 or what is manufactured at the Delaware
 9 River plant?
 10 A. It'll come to me.
 11 Q. Well, you know, let me ask you this,
 12 because that's not that important. Do
 13 you know why PCBs would have been
 14 disposed of at the Delaware River plant?
 15 MR. COX: Object to the form.
 16 A. No, nor do I know that they were.
 17 Q. (By Ms. Malow) Well, assume with me
 18 that you know that Mr. Cox has told us
 19 that there was a past disposal area that
 20 consists of a three point five acre
 21 landfill used from '62 to '70 that were
 22 areas where various organic materials
 23 including PCBs were disposed of. Do you

1 have any knowledge of that?
 2 A. No.
 3 Q. Do you have any understanding of why
 4 PCBs would have been disposed of in a
 5 landfill at the Delaware River plant?
 6 A. No.
 7 Q. Who has the most knowledge within
 8 Solutia about the Delaware River plant
 9 and specifically the disposal of PCBs at
 10 that site in your group?
 11 A. I believe Mike House.
 12 Q. Is Mike House presently responsible for
 13 the Delaware River plant cleanup that's
 14 being addressed under a consent order
 15 with the Department of Environmental
 16 Protection?
 17 A. I believe the plant site is managing
 18 that project.
 19 Q. And who at the plant site would be
 20 responsible for that project?
 21 A. I believe Ed Jamro.
 22 Q. Is he the plant manager?
 23 A. No.

1 Q. What's his position?
 2 A. I don't know the exact title, but he
 3 would be involved with environmental.
 4 Q. How do y'all decide within the company
 5 whether a cleanup gets handled primarily
 6 by your group out of St. Louis or by the
 7 plant site itself?
 8 A. Typically the larger plants handle
 9 on-site remediation efforts.
 10 Q. Is there oversight, though, by your
 11 department even when the plant itself is
 12 handling the on-site remediation?
 13 A. It depends on the site. In some cases
 14 I'd certainly not call it oversight,
 15 more communication.
 16 Q. But they would be in the loop? Your
 17 department would be in the loop to some
 18 extent on any remediation work, right?
 19 A. On most remediation sites within the
 20 United States.
 21 Q. What about this Delaware River plant?
 22 Even though it's being handled on site,
 23 to what extent if any is your department

1 involved?
 2 A. I believe the involvement is more
 3 providing technical advice.
 4 Q. Speaking of technical advice, I forgot
 5 to ask you earlier when we were talking
 6 about of your background. Have you had
 7 any sort of training in remediation,
 8 either on-the-job training or actual
 9 seminars or things of that nature,
 10 courses?
 11 A. Well, the master's program was
 12 essentially all environmental courses.
 13 Q. And since school what type of training
 14 or courses have you been involved in for
 15 remediation?
 16 A. I have been to a few seminars over the
 17 years, mostly seminars discussing like
 18 the RCRA program, the Superfund program,
 19 discussing various regulations.
 20 Q. Okay. What sort of technical resources
 21 does your group provide to the plant
 22 sites, for example this Delaware River
 23 plant, on the cleanup project? Can you

Page 85 1 give me an example? 2 A. I don't know the specifics. 3 Q. But Mike House, who is in St. Louis, 4 would have the most knowledge as far as 5 you know about the Delaware River plant 6 cleanup? 7 A. I believe the environmental lead at the 8 plant site would have the most 9 knowledge. 10 Q. But out your department the person with 11 the most knowledge would be Mr. House? 12 A. I believe so. 13 Q. Then let's go to the next one, which is 14 -- Let me back up. If I ask you 15 questions such as, you know, how many 16 PCBs were deposited in that past 17 disposal area at the Delaware River 18 plant, you can't answer that? 19 A. No. 20 Q. All right. Do you know what type of 21 landfill they had there at the Delaware 22 River plant? 23 A. No.	Page 87 1 A. Yes. 2 Q. Do you know who the lead would be on 3 that at the Trenton plant? 4 A. Possibly Marie VanHock. 5 Q. What's her position? 6 A. She's in environmental. She has an 7 environmental position. I don't know 8 her exact title. 9 Q. At the site? 10 A. At the Trenton facility. 11 Q. How big is the Trenton facility? How 12 many people does it employ? 13 A. I don't know. 14 Q. How about the Delaware facility? Do you 15 know how many people worked there? 16 A. No. 17 Q. Do you know if the Trenton plant is 18 located near a residential neighborhood? 19 A. I don't know. 20 Q. Because you have never been there? 21 A. Never been there. 22 Q. Fair enough. How about the Pensacola 23 plant in Pensacola, Florida? Have you
Page 86 1 Q. How about the Trenton plant in Trenton, 2 Michigan? Are you familiar with that 3 plant? 4 A. I have never been to the plant. 5 Q. Okay. Are you familiar at all with the 6 fact that there were approximately forty 7 cubic yards of PCB-impacted soil that 8 were disposed of at the chemical waste 9 management facility in Emelle, Alabama? 10 A. No. 11 Q. Who within your department in St. Louis 12 would have knowledge about that removal 13 of PCB-contaminated soil at the Trenton 14 plant? 15 A. First of all, I don't know if anybody 16 within my group knows that. 17 Q. There's no one earmarked in your group 18 to be involved in that specific project 19 at the Trenton plant that you know of? 20 A. Certainly not that specific project. 21 Q. Do you think that specific project is 22 being handled by the Trenton plant 23 itself?	Page 88 1 been there? 2 A. No. 3 Q. Do you have any knowledge about the 4 surface impoundment feed pond that's 5 been closed where PCBs were removed? 6 A. I know that work is underway. 7 Q. What is your knowledge of that work? 8 A. My understanding is that we're creating 9 a containment cell immediately adjacent 10 to that feed pond. The materials in the 11 feed pond are being dried and placed 12 into that cell. 13 Q. Do you know how those PCBs -- or what 14 the sources of those PCBs that are being 15 removed from the feed pond? 16 A. No. 17 Q. Can you describe the containment cell 18 that's being built at that site? 19 A. It's my understanding it's a similar 20 design as what is being built at Sauget. 21 Q. Do you know what prompted the 22 investigation of that area in Pensacola? 23 A. No.

Page 89 1 Q. My understanding, based on Buddy's 2 letter, is that it's being done under 3 the direction of EPA and the Florida 4 Department of Environmental Protection. 5 Is that your understanding? 6 A. Yes. 7 Q. Do you know how many or what the volume 8 is of PCBs that are going to be moved to 9 that containment cell? 10 A. My understanding is it's a similar size 11 as the Sauget cell, but I don't know the 12 design volume. 13 Q. Who has the most knowledge about the 14 that cleanup effort at the Pennsylvania 15 plant? 16 A. Within my group? 17 Q. Let's start with that. Is there someone 18 within your group that is overseeing 19 that? 20 A. Yes. Jerry Rinaldi. 21 Q. And is the plant site itself, the 22 Pensacola plant itself, also involved in 23 that project?	Page 91 1 Q. Do you know the levels of PCBs that have 2 been found in the sludge and liner soils 3 at the Pensacola plant? 4 A. No. In fact I do not know that PCBs 5 have been found. 6 Q. Again, I'm going off Buddy's information 7 to us. 8 A. I understand. 9 Q. All right. But you don't have the 10 specifics about levels or volumes, 11 things of that nature at Pensacola? 12 A. No. 13 Q. Do you know why it is that the waste is 14 going to be deposited in this on-site 15 containment cell rather than being sent 16 to a facility such as Emelle? 17 A. I do not know the history of that 18 decision. 19 Q. Do you know if there are any other PRPs 20 involved in that cleanup at Pensacola? 21 A. I don't believe there is. 22 Q. Do you know if the fish in the area 23 around the Pensacola plant have been
Page 90 1 A. Yes. 2 Q. Who's the contact or the person in 3 charge of the plant site? 4 A. Last name's McLeod. 5 Q. When did this project begin in 6 Pensacola? Do you know? 7 A. I believe the cell construction began 8 within the last year. 9 Q. When is it estimated to be completed? 10 A. By the end of this year. 11 Q. Do you know the total cost of that 12 project, budgeted cost? 13 A. I believe it's around the 8 to 10 14 million dollar range also. 15 Q. Do you know if the Pensacola plant is 16 located near a residential neighborhood? 17 A. I don't know. 18 Q. Do you know what was manufactured at 19 that plant? 20 A. Mostly nylon. 21 Q. But you don't know how they got PCBs 22 there? 23 A. No.	Page 92 1 impacted by PCBs? 2 A. No. 3 Q. All right. Let's go to one you may have 4 more knowledge about, which is the 5 Queeny plant. Do you have knowledge 6 about the Queeny plant? 7 A. Some limited knowledge. 8 Q. Specifically do you know that the Queeny 9 plant disposed of approximately forty 10 cubic yards of PCB-contaminated soils 11 that were generated during the 12 replacement of some railroad tracks? 13 Are you aware of that? 14 A. No, not specifically. 15 Q. Who within your group, if anybody, would 16 know about the removal of those 17 PCB-contaminated soils at the Queeny 18 plant? 19 A. If anyone, Mike House. 20 Q. Do you know whether the Queeny plant 21 themselves are handling or handled those 22 PCB-contaminated soils? 23 A. I don't know.

Page 93 1 Q. Who would be the best person to answer 2 that question? Do you think Mr. Felder 3 knows? 4 A. I would doubt it. Mike House may know 5 that question -- may know the answer. 6 Q. Okay. Have you been to the Queeny plant 7 before? 8 A. Yes. 9 Q. Is it located near a residential 10 neighborhood? 11 A. It's more commercial around the Queeny 12 plant. There are some residents 13 probably -- 14 MR. COX: How far is it from here? 15 THE WITNESS: It's close to here. 16 There are probably residents 17 eight to ten blocks away, 18 something like that. 19 Q. (By Ms. Malow) Do you know what is 20 manufactured at the Queeny plant? 21 A. Well, there's been a number of things -- 22 Q. How about presently? 23 A. -- over the years. Now I believe they	Page 95 1 Q. Do you know if there's anyone within 2 your group that has responsibility for 3 the remedial activities associated with 4 PCBs that have been undertaken at the 5 Everett plant? 6 A. Well, at this time Jerry Rinaldi, the 7 manager. 8 Q. Is there someone at the site itself 9 that's also involved in those projects? 10 A. Everett I believe shut down. 11 Q. Do you know what year? 12 A. No. 13 Q. Do you know if they have ever 14 manufactured PCBs there? 15 A. I don't believe they did. 16 Q. So if I asked you questions about the 17 cost of those projects, you don't have 18 knowledge of that, do you? 19 A. No. 20 Q. Do you have any knowledge of the type of 21 caps that were used there? 22 A. No. 23 Q. Or any specifics about the cleanup
Page 94 1 perform some manufacturing such as 2 Skydrol, I believe. 3 Q. Do you know how PCB-contaminated soils 4 were generated at the Queeny plant? 5 A. No. 6 Q. Do you know anything about this 7 replacement of railroad tracks and how 8 it is that that generated 9 PCB-contaminated soil? 10 A. No, I do not. 11 Q. Okay. And you don't know specifics on 12 levels or volumes or things of that 13 nature there either? 14 A. No. 15 Q. All right. Well, let's move on to the 16 Everett plant in Everett, Massachusetts. 17 Have you been to that facility? 18 A. No. 19 Q. Are you aware of the fact that there are 20 three areas of that facility that have 21 undergone remedial activities associated 22 with PCBs? 23 A. Not specifically.	Page 96 1 related to the PCB issues, correct? 2 A. Correct. 3 Q. Okay. I want to back up. I forgot to 4 ask you something when I was talking 5 about Sauget. We talked about the fact 6 there were a couple of residential 7 houses that were purchased along the 8 creek so that you guys could build this 9 containment cell. And you had asked me 10 am I asking residential or commercial. 11 Now I'm going to ask you have there been 12 any commercial properties that were 13 purchased at Sauget to do any cleanup 14 work? 15 A. There were essentially fields purchased 16 for the containment cell that was being 17 built. 18 Q. Do you know the cost of that? 19 A. There was -- No. It's not significant. 20 Q. Six figures or less? 21 A. Yes. 22 Q. Any buildings or commercial entities 23 that had been bought out in Sauget?

Page 97 1 A. No. I'm not aware of any. 2 Q. Let's move on to the Kearny plant in 3 Kearny, New Jersey. Have you been 4 there? 5 A. No. 6 Q. Do you have any knowledge about the 7 three areas of that plant property that 8 were identified for remedial action for 9 presence of PCBs? 10 A. No. 11 Q. Is there anyone within your group that 12 has knowledge of that cleanup work 13 related to PCBs at the Kearny plant? 14 A. I believe that was done a long time ago. 15 Q. So you have no specific knowledge of 16 levels of PCBs, quantity of PCBs, types 17 of capping, or anything of that nature 18 at Kearny? 19 A. No. 20 Q. All right. I think we have covered 21 Krummrich. I may have to dig some more, 22 but for now we'll move on. 23 Have you ever been to the Anniston	Page 99 1 water sampling. 2 Q. And what is your knowledge of why it is 3 that Solutia took back that property or 4 Monsanto took back that property from 5 Alabama Power Company? 6 A. I don't know the history. 7 Q. Well, do you know that Alabama Power 8 Company discovered extremely high levels 9 of PCBs at the west end landfill? 10 MR. COX: Object to the form. 11 A. I have heard they discovered PCBs. 12 Q. (By Ms. Malow) Do you know what the 13 levels were? 14 A. No. 15 Q. The surface sampling that was going to 16 be done after you guys received the 17 property back, were you involved in 18 receiving the results of those surface 19 samples or hearing about the results of 20 those surface samples? 21 MR. COX: Object to the form. 22 A. Not that I recall. 23 Q. (By Ms. Malow) Was there some cleanup
Page 98 1 site? 2 A. Yes. 3 Q. How many times? 4 A. Two or three. 5 Q. When is the first time you went to 6 Anniston? 7 A. I was there one time probably like late 8 '93 or early '94 time frame. 9 Q. What was the purpose of that visit? 10 A. I was there to look at the west end 11 landfill. 12 Q. Was that shortly after the time that the 13 Alabama Power Company discovered pure 14 PCBs on the west end landfill? 15 MR. COX: Object to the form. 16 A. I don't know that they discovered PCBs. 17 Q. (By Ms. Malow) Okay. What was your 18 purpose in going to the Anniston site in 19 '93 or '94 to look at the west end 20 landfill? 21 A. As I recall, we had received the 22 property back from the utility company. 23 I think we were planning some surface	Page 100 1 work done at the west end landfill by 2 Monsanto or Solutia? 3 A. I believe there was. 4 Q. Do you know what the details of that 5 were? 6 A. No. 7 Q. So what exactly was your role? You went 8 there and did what? 9 A. Well, at that point I had a number of 10 projects. This was just one. 11 Q. Let's limit it to this project. What 12 role did you have if any on the west end 13 landfill project? 14 A. On April 1, 1994, I took over the Motco 15 and Brio sites from an individual that 16 retired. So essentially in March of '94 17 my list of sites were handed off to 18 others, and I essentially became full 19 time on the Brio and Motco facilities. 20 Q. But prior to you taking over the Motco 21 and Brio sites what involvement did you 22 have with respect to the west end 23 landfill in Anniston?

1 A. The only thing I remember was going
 2 there. We received the property back.
 3 I think Jo Hanson was putting together a
 4 sampling plan. And basically when my
 5 new assignment became involved or I got
 6 involved in the new assignment, I pretty
 7 much lost all contact with anything
 8 being done in Anniston.
 9 Q. Okay. Did you actually physically go
 10 onto the west end landfill area when you
 11 were there in '93 and '94?
 12 A. Yes.
 13 Q. Do you know who else was with you on
 14 that trip?
 15 A. I believe we met Robert Jones from the
 16 plant. I don't recall who was with me.
 17 Q. Was Jo Hanson with you?
 18 A. May have been.
 19 Q. How about Mr. Foresman?
 20 A. No, he was not.
 21 Q. But he was your boss at that time?
 22 A. Yes.
 23 Q. As we sit here now do you know how much

1 money changed hands in terms of getting
 2 that property back from the Alabama
 3 Power Company?
 4 A. As I recall they paid us money. I don't
 5 remember the amount.
 6 Q. Do you know why they paid you guys money
 7 to take the property off their hands?
 8 A. No.
 9 Q. Did Monsanto share with its neighbors at
 10 the time in 1993 what the levels were
 11 found at the west end landfill site?
 12 MR. COX: Object to the form.
 13 A. I don't know.
 14 Q. (By Ms. Malow) All right. You said you
 15 had been to the Anniston site two or
 16 three times, and we have just covered
 17 the time in '93 or '94. What are the
 18 other times that you have been to
 19 Anniston?
 20 A. The next time I was there I believe was
 21 February of this year, when I found out
 22 the new assignment.
 23 Q. Who all went to Anniston besides

1 yourself?
 2 A. As I recall, Jeff Felder and I went
 3 down, met Craig Branchfield.
 4 Q. How long were you in Anniston?
 5 A. Essentially one day.
 6 Q. Did you actually go onto any of the
 7 landfill areas when you were there in
 8 February of this year?
 9 A. We drove by the landfill areas.
 10 Q. Did you drive by the southern landfill?
 11 A. Yes.
 12 Q. And the west end landfill?
 13 A. Yes.
 14 Q. But most of the day was spent actually
 15 at the plant site itself with
 16 Mr. Branchfield?
 17 A. Yes.
 18 Q. What was the purpose of that meeting
 19 with Mr. Branchfield and yourself and
 20 Mr. Felder?
 21 A. It was basically to educate Jeff and I
 22 on various projects that were going on.
 23 Q. And based on that meeting what is your

1 understanding of the projects going on
 2 in Anniston?
 3 A. Well, there's a number of projects going
 4 on. RCRA program, also working with EPA
 5 on some AOC agreements.
 6 Q. Did you get into any specifics with
 7 Mr. Branchfield regarding the
 8 contamination of the water bodies such
 9 as Snow Creek, Choccolocco Creek, and
 10 Lake Logan Martin? Was that part of
 11 your discussion?
 12 A. We drove by Snow Creek. It was just
 13 education of both us who were brand new
 14 to the site and what was going on.
 15 Q. Any other areas that you viewed when you
 16 were there in February of 2001? Did you
 17 go to any of the residential properties?
 18 A. We just drove by on the main highway
 19 there.
 20 Q. 202?
 21 A. Yes, 202. And obviously going down Snow
 22 Creek you pass a lot of residential and
 23 commercial establishments.

Page 105 1 Q. Did you have any meetings with anybody 2 other than Mr. Branchfield when you were 3 there in February of 2001? 4 A. Primarily Craig. I imagine -- I think 5 Jerry Hopper stopped by and said hi. 6 Q. Did you have any meetings with any 7 lawyers when you were there in February 8 of 2001? I don't want to know what you 9 talked about. I just want to know if 10 there were any lawyers involved in that 11 trip. 12 MR. COX: His lawyers were 13 preoccupied at the time. 14 A. Not that I recall. 15 Q. (By Ms. Malow) How about EPA? Did you 16 go and visit with any EPA officials 17 during that trip in February? 18 A. No. 19 Q. How about anyone with ADEM? 20 A. No. 21 Q. Have you ever had any conversations with 22 anybody at EPA about the Anniston site? 23 A. No.	Page 107 1 Q. That was two questions. So BBL data is 2 what you looked at on the fish? 3 A. I'll take that back. I'm not exactly 4 sure who did fish data. 5 Q. Do you know what year it was done? 6 A. As I recall it was from several years. 7 Q. Are we talking about the '70s or the 8 '90s or more recent? 9 A. The only thing I remember is basically a 10 chart showing fish data by the years 11 showing concentration decreasing. 12 Q. Okay. 13 A. I don't recall what the concentrations 14 were. 15 Q. Where were you when you saw that chart? 16 A. At Anniston. 17 Q. Was that in this February visit? 18 A. No. 19 Q. That was at a visit we haven't gotten to 20 yet? 21 A. Yes. 22 Q. We'll get to that in a minute. Okay. 23 Have you seen any of the sediment data
Page 106 1 Q. Have you ever had any conversations with 2 anyone with ADEM about the Anniston 3 site? 4 A. No. 5 Q. Have you ever had any conversations with 6 anybody who worked for the Alabama 7 Department of Public Health about the 8 Anniston site? 9 A. No. 10 Q. Have you read any of the health 11 consultations prepared regarding the 12 Anniston site? 13 A. No. 14 Q. Have you seen any of the fish data 15 regarding the Anniston site by ADEM? 16 A. No. 17 Q. Have you seen any fish data whatsoever 18 about the Anniston site? 19 A. I have seen some fish data that was put 20 together by our consultant. 21 Q. Do you know what year that was done? 22 Was that by BBL? 23 A. I believe it was.	Page 108 1 for the Anniston site? 2 A. Not that I recall. 3 Q. Have you seen any of the air monitoring 4 data for the Anniston site? 5 A. I saw a report that Bob Kaley submitted 6 to ADEM. I did not look at it. I saw 7 the report. 8 Q. What was the reason that that would have 9 been something you saw? 10 A. It was just circulated. 11 Q. And you were just on the distribution 12 list? 13 A. (Witness nods head affirmatively.) 14 Q. Correct? 15 A. Yes. 16 MR. COX: You do need to answer 17 out loud. That's the first 18 time you did it. 19 Q. (By Ms. Malow) Did you get the sense 20 when you left this meeting -- Strike 21 that. 22 After this meeting with 23 Mr. Branchfield in February of 2001 did

Page 109 1 you feel like you had an understanding 2 of what the extent is of the 3 contamination at the Anniston plant? 4 MR. COX: Object to the form. 5 A. No. I think it was just an initial look 6 at the broad picture. 7 Q. (By Ms. Malow) Well, what was your 8 sense after you got this initial look at 9 the broad picture of the extent of the 10 contamination in Anniston? 11 MR. COX: Object to the form. 12 A. What do you mean, what was my sense? 13 Q. (By Ms. Malow) What did you conclude 14 based on your meeting with 15 Mr. Branchfield about the extent of 16 contamination in Anniston? 17 MR. COX: Object to the form. 18 A. I guess I concluded that we were working 19 with the state and federal regulators on 20 a program to do sampling to determine 21 the extent of any PCBs in Snow Creek. 22 Q. (By Ms. Malow) Did you have any 23 conversations with Mr. Branchfield in	Page 111 1 A. Yes. 2 Q. Who? 3 A. Some with -- 4 Q. Some colleague of Mr. Cox? 5 A. Yes. 6 Q. Was it Adam Peck? Does that ring a 7 bell? 8 MR. COX: I think it was Adam. 9 A. I believe so. 10 Q. (By Ms. Malow) Was it just one lawyer 11 with really dark hair? 12 A. I believe so. 13 Q. What was the purpose of this trip in 14 March or April of this year? 15 A. It was a status review of the project, 16 various pieces of the project. 17 Q. When you say the project, what project 18 are you referring to? 19 A. Anniston project. 20 Q. Specifically are you dealing with air, 21 soil, fish, all of the above? I'm 22 trying to get a sense of what project 23 you're talking about. There's a lot of
Page 110 1 that February meeting about mercury? 2 A. No. 3 Q. Any conversations about lead? 4 A. Not that I remember. 5 Q. Okay. You said there was a third trip 6 to Anniston. I guess that would have 7 been after February 2001? 8 A. Yes. 9 Q. When was that, approximately? 10 A. March or April of this year. 11 Q. Who went on that visit? Did Mr. Felder 12 go again? 13 A. Yes. 14 Q. Anyone else? 15 A. Not from St. Louis. 16 Q. Who was there from Anniston? 17 A. Craig Branchfield. 18 Q. Anyone else? 19 A. A number of consultants were there. 20 Q. From which firms? 21 A. I believe Golder and BBL. 22 Q. Were any lawyers present for that 23 meeting?	Page 112 1 different projects. 2 A. Well, it was basically an overview of 3 all the major pieces of work that's 4 going on, the status. 5 Q. And what was the status at that time? 6 At what stage are things in or were in 7 in April of this year? 8 A. Again, there were a number of projects. 9 Oxford Park was one of them that I 10 believe was either planned or had been 11 just initiated. 12 Q. Do you have any specific knowledge about 13 the Oxford Park cleanup, levels 14 detected, things of that nature, what 15 remediation consisted of? 16 A. Just a very general knowledge of some 17 excavation. I believe it was three or 18 four ball fields, some excavation of 19 topsoil and then fill in off site. I 20 think there's a plan for a parking lot 21 in another area of Oxford Park. 22 Q. Do you know what the levels were that 23 were found on the ball fields?

1 A. No.

2 Q. Do you know if any of the excavated

3 PCB-contaminated soils were taken to

4 Emelle?

5 A. Craig Branchfield would know that. I

6 don't know.

7 Q. What other projects were talked about

8 other than the Oxford ball park at that

9 meeting in April of this year? Was the

10 Quintard Mall discussed at all?

11 A. That was one of the subjects.

12 Q. Was there any discussion whatsoever

13 about any cleanup of Snow Creek or

14 Choccolocco Creek?

15 A. The discussion I remember was -- I don't

16 remember the specifics but basically

17 having to do with the various fish data,

18 again showing --

19 Q. That's when the chart was shown?

20 A. Right.

21 Q. Do you think that chart was prepared by

22 one of these consultants?

23 A. As I recall it had data from a number of

1 different sources, individual entities.

2 Q. But who prepared the actual chart? Do

3 you know?

4 A. One of the consultants.

5 Q. Do you know who it was from BBL? Was it

6 Mark Brown or somebody else?

7 A. I believe it was Alan Fowler, one of the

8 consultants.

9 Q. And how about from Golder and

10 Associates? Do you know who their

11 representative was at that meeting?

12 A. Not offhand.

13 Q. Do you know what the FDA acceptable

14 limit is for PCBs in fish presently?

15 A. No.

16 MR. COX: Object to the form.

17 Q. (By Ms. Malow) Do you know if the fish

18 levels are still in excess of FDA limits

19 in the bodies of water near the Anniston

20 plant?

21 MR. COX: Object to the form.

22 A. My understanding is there's a fish

23 advisory.

1 Q. (By Ms. Malow) Is that fish advisory

2 still in place to your knowledge?

3 A. I believe it is.

4 Q. Do you know if the levels in the fish

5 still exceed FDA acceptable limits?

6 MR. COX: Object to the form.

7 A. I don't specifically know the answer to

8 that.

9 Q. (By Ms. Malow) But you would assume

10 they do, which is why the fish advisory

11 is still in place?

12 MR. COX: Object to the form.

13 Q. (By Ms. Malow) You can answer.

14 A. Well, as I recall, there was some

15 discussion based upon new data of

16 appealing to get that fish advisory

17 lifted because of new data.

18 Q. Has that been done or initiated?

19 A. I don't know. Not to my knowledge.

20 Q. Is that something that you as leader of

21 the remediation group recommend, that

22 that be appealed?

23 MR. COX: Object to the form.

1 A. I did not recommend that.

2 Q. (By Ms. Malow) Well, sitting here now

3 as the leader of the remedial group for

4 Solutia, do you recommend that Solutia

5 try to get that fish advisory lifted?

6 MR. COX: Object to the form.

7 A. Well, I recommend that we continue to

8 monitor to see if this favorable trend

9 continues, and if it does, I think we

10 should in fact try to appeal that

11 decision.

12 Q. (By Ms. Malow) Right now, given the

13 levels that you have seen in that chart,

14 do you think that the fish advisory

15 should be lifted?

16 MR. COX: Object to the form.

17 A. As I recall, the decision was to take

18 some more data before pursuing that.

19 Q. (By Ms. Malow) Is that ongoing,

20 collecting more data?

21 A. I believe it either is or is being

22 planned.

23 Q. Was there any discussion in that meeting

Page 117 1 in April of this year about the 2 conservation corridor program? 3 A. Yes. 4 Q. What do you recall being discussed about 5 that project? 6 A. Just a general discussion of who might 7 -- which entities might be interested in 8 participating in setting up the 9 corridor. 10 Q. Do you know what stage that project is 11 in right now? 12 A. It is still basically in the planning 13 stage. 14 Q. Have any easements been obtained? 15 A. Not to my knowledge. 16 Q. What is the purpose of this conservation 17 corridor program? 18 A. It would actually work to set up a 19 corridor along Choccolocco Creek which 20 would not be developed, would be 21 essentially a nature reserve. 22 Q. What benefit if any does that provide to 23 Solutia?	Page 119 1 be? 2 A. Not offhand. 3 Q. Anything else you can recall discussed 4 in terms of projects at this meeting in 5 April of this year? 6 A. No. 7 Q. During this April time frame -- Strike 8 that. 9 During April of 2001 did you do 10 any off-site drive-by inspections, or 11 was this all conducted at the plant 12 site? 13 A. I don't recall a specific inspection. I 14 mean, obviously when you drive in, you 15 see the plant. 16 Q. It wasn't like your February orientation 17 meeting? 18 A. Right. 19 Q. Because you had already seen those 20 areas? 21 A. From the highway. 22 Q. All right. Was this just a one-day 23 trip, this one in April and March of
Page 118 1 A. Well, this obviously would be a benefit 2 to the community. It would be a benefit 3 to Solutia, I think, to the environment, 4 by setting up the corridor. Then you 5 would not have third parties excavating 6 or building immediately adjacent to that 7 part of Choccolocco to the river. 8 Q. Anything else that you can recall being 9 discussed during this April 2001 10 meeting, any other projects? We talked 11 about Oxford, Quintard, fish levels, 12 conservation corridor. 13 A. There is a Highway 30 -- is that right 14 -- one of the highways, working with the 15 Department of Transportation. 16 Q. To do what? 17 A. If as I understand, there was some PCB 18 material found where they were wanting 19 to widen this highway. And I believe 20 the agreement -- It is being negotiated 21 with them to pay the differential cost 22 of that work. 23 Q. Do you know what the cost is going to	Page 120 1 this year? 2 A. When you say one day, because of the 3 flight schedule, you have to go up -- 4 Q. The night before? 5 A. Essentially the morning and then meet in 6 the afternoon and then fly back the next 7 morning. 8 Q. Did you actually spend the night in 9 Anniston? 10 A. No. 11 Q. Where did you stay? 12 A. Birmingham. Well, outside of 13 Birmingham, close to the airport. 14 Q. Would the same have been true back when 15 you went the first time in February? 16 A. Yes. 17 Q. You have never spent the night in 18 Anniston? 19 A. First, I don't remember where I stayed 20 back in '93 or '94. The last two trips, 21 definitely not. 22 Q. All right. 23 A. Because it is more convenient because

Page 121 1 you have a very early flight out of 2 Birmingham. 3 Q. Right. Okay. I want to switch gears 4 for a minute and cover other -- Well, 5 have you had responsibility -- You 6 mentioned Motco, Brio, and there's 7 another one. 8 A. Skinner landfill. 9 Q. Are all three of those Superfund sites? 10 A. Yes. 11 Q. I want to just get a brief explanation 12 from you as to Solutia's participation 13 in each of those three sites. Let's 14 start with Brio. 15 MR. COX: Can we take a break? 16 MS. MALOW: Yes, we can. 17 [A break was taken.] 18 Q. (By Ms. Malow) Mr. Smith, let's talk 19 about the Brio site. I understand that 20 Solutia is just one of several PRPs 21 involved in that site, correct? 22 A. Yes. 23 Q. And I think you told me earlier that	Page 123 1 some other way? 2 A. I don't know the history of it. 3 Q. Was it self-reported by Monsanto, that 4 they had used the Brio site? 5 A. I would assume so, but I don't know that 6 for a fact. 7 Q. Okay. Are you responsible for 8 supervising Solutia's role in the 9 Superfund cleanup sites where Solutia is 10 a PRP? 11 A. Would you rephrase that question? 12 Q. Do you have responsibility for 13 supervising the cleanup of sites, 14 Superfund sites, where Solutia is a PRP, 15 on behalf of Solutia? 16 A. For specific sites. 17 Q. Just the Motco, Brio, and Skinner and 18 then the ones you oversee that your 19 other managers are working on? 20 A. Correct. Bob's Home Service is probably 21 still on my list, although it has little 22 or no activity. 23 Q. Let's go to that one now. Where is that
Page 122 1 PCBs were not a constituent at that 2 site; is that correct? Or were they? 3 A. Yes. 4 Q. And how is it that Solutia was asked to 5 be involved in the cleanup of the Brio 6 site? How did that come about? 7 A. The Texas City plant used the Brio 8 recycling facility for primarily styrene 9 tars. 10 Q. Do you know how much has been expended 11 so far by Monsanto or Solutia in the 12 cleanup of the Brio site, rough 13 estimate? 14 A. Roughly 40 to 45 million dollars. 15 Q. Is that the largest amount spent by any 16 PRP, or is there another PRP that has 17 spent more? 18 A. At the Brio site? 19 Q. Yes. 20 A. That's the largest spent. 21 Q. Okay. Did the Texas City plant come 22 forward and disclose that it had used 23 the Brio site, or did that come about	Page 124 1 site? 2 A. It was located near St. Louis. 3 Q. And what is Solutia's involvement at 4 that site? 5 A. It was a RCRA permitted hazardous waste 6 landfill. 7 Q. And what was deposited there by Solutia 8 or Monsanto? Were PCBs? 9 A. I don't recall. I don't remember PCBs 10 specifically, but I don't recall 11 specifically what chemicals were. 12 Q. Were there a number of different 13 chemicals? 14 A. It seems like there were a couple of 15 potential waste streams, but this was 16 really related to a possible transfer 17 from another site also. 18 Q. From another Solutia or Monsanto site? 19 A. No, another landfill facility. 20 Q. Well, where were the waste streams 21 coming from that were Solutia or 22 Monsanto waste streams that went to 23 Bob's Home Service?

1 A. I believe, if I recall, the Queeny plant
 2 and/or the Krummrich plant.
 3 Q. And during what time frame did the
 4 Queeny plant and/or the Krummrich plant
 5 dispose of waste streams at Bob's Home
 6 Service?
 7 A. I don't know the specifics, but it would
 8 be early '80s. That would be what I
 9 would assume.
 10 Q. Do you know the volume of waste that was
 11 deposited from the Queeny and Krummrich
 12 facilities?
 13 A. No.
 14 Q. How much money has been spent so far by
 15 Solutia or Monsanto to clean up the
 16 Bob's Home Service site?
 17 A. Less than \$100,000.
 18 Q. Is that cleanup still under way?
 19 A. Yes. Actually it is an ongoing pump and
 20 treat of leachate. The owner/operator
 21 did some remediation and capping before
 22 they left the site.
 23 Q. All right. Then let's go to the Motco

1 facility. Where is that located?
 2 A. In Lamar, Texas.
 3 Q. Lots of good Texas sites. What waste
 4 streams did Solutia or Monsanto dispose
 5 of at the Motco facility?
 6 A. It was, again, primarily styrene tars.
 7 Q. From the Texas City plant?
 8 A. Yes.
 9 Q. And during what time frame did Monsanto
 10 or Solutia dispose of styrene tars at
 11 the Motco facility?
 12 A. I believe the '60s or '70s. I don't
 13 know specifically.
 14 Q. How much money has been expended so far
 15 by Solutia and Monsanto for the cleanup
 16 of the Motco facility, approximately?
 17 A. Approximately eighty to 100 million
 18 dollars.
 19 Q. Has any other PRP expended that much
 20 money at the Motco site?
 21 A. No.
 22 Q. Do you know the total volume of styrene
 23 tars deposited there?

1 A. No.
 2 Q. Were any PCBs deposited there by
 3 Monsanto?
 4 A. Not to my knowledge.
 5 Q. Do you know how it is that Monsanto or
 6 Solutia got involved as a PRP at the
 7 Motco facility?
 8 A. No.
 9 Q. I mean the determination.
 10 A. That happened probably in the late '70s
 11 or early '80s.
 12 Q. Okay. Do you know how Monsanto or
 13 Solutia got involved as a PRP at Bob's
 14 Home Service site?
 15 A. Bob's Home Service is actually not a
 16 Superfund site.
 17 Q. How many other entities are involved in
 18 the cleanup of Bob's Home Service site
 19 other than Monsanto or Solutia?
 20 A. Approximately eight to twelve are
 21 participating in the funding of it.
 22 Q. And then let's talk about the Skinner
 23 landfill. Where is that located?

1 A. Just outside of Cincinnati, Ohio.
 2 Q. Is that a hazardous waste facility?
 3 A. That is a Superfund site.
 4 Q. What waste streams did Solutia or
 5 Monsanto send to the Skinner landfill?
 6 A. To our knowledge only actually two
 7 shipments of ABS material.
 8 Q. ABF?
 9 A. ABS material.
 10 Q. Which is?
 11 A. It is used in the manufacture of
 12 plastics.
 13 Q. And from which facility was that ABS
 14 generated?
 15 A. Monsanto had a Cincinnati plastics
 16 facility.
 17 Q. How much money has been expended by
 18 Monsanto or Solutia for the cleanup of
 19 the Skinner landfill?
 20 A. Less than 200,000.
 21 Q. Is that project still ongoing, cleanup
 22 on Skinner?
 23 A. Yes.

1 Q. What stage is that in?
 2 A. As I recall, they are currently either
 3 putting on the cap or it will be put on
 4 very shortly. I believe they are
 5 installing some wells for a pump and
 6 treat system.
 7 Q. Any other Superfund sites that you have
 8 been involved in from the remediation
 9 group standpoint that we haven't talked
 10 about? I know you have got other
 11 project managers that report to you
 12 about other ones, correct?
 13 A. Correct.
 14 Q. Why don't you give me the ongoing ones
 15 that are reporting to you, what
 16 Superfund sites?
 17 A. The ones I'm currently managing now are
 18 the ones we talked about.
 19 Q. But then there are others that you have
 20 other project managers that report to
 21 you about, correct?
 22 A. Well, the other project managers each
 23 have a list of projects which they are

1 managing.
 2 Q. And then do you have some knowledge
 3 about the work that's being done for
 4 those other Superfund sites?
 5 A. In general on some of them.
 6 Q. Let me ask you this: Are there any
 7 Superfund projects that your project
 8 managers are handling in which PCBs were
 9 disposed of as a waste stream that you
 10 know of?
 11 A. I don't know specifically.
 12 Q. You know the Motco one is, so far that
 13 we have talked about, seems to be the
 14 most expensive one in terms of cost to
 15 the company. Is there one that one of
 16 your project managers is handling that's
 17 even greater in cost than Motco, or is
 18 that the largest?
 19 A. I believe that's the largest.
 20 Q. Do you know the total number of sites
 21 where Monsanto was a PRP that were
 22 transferred to Solutia by Monsanto when
 23 Solutia was spun off?

1 A. You want the total number?
 2 Q. Uh-huh (indicating yes).
 3 A. No.
 4 Q. Do you have any rough estimate as to how
 5 many Solutia assumed when it was spun
 6 off?
 7 A. It is hard to answer because there are
 8 what we call active sites and then
 9 there's sites that were settled long
 10 ago. You don't expect them to --
 11 Q. How many active sites are there today
 12 that Solutia assumed from Monsanto when
 13 it was spun off?
 14 A. I don't know the specific number.
 15 Q. Do you think it is more than ten?
 16 A. Yes.
 17 Q. Do you think it is more than twenty?
 18 A. I would estimate sixty to eighty type
 19 number. Again, it is a little hard --
 20 Q. Are those all Superfund?
 21 A. -- to say because if you spend a
 22 thousand dollars every five years, is
 23 that an active site or not?

1 Q. All of those, though, are Superfund
 2 sites?
 3 A. No.
 4 Q. Do you know how many Superfund sites
 5 actively -- Do you know how many active
 6 Superfund sites Solutia is involved in
 7 that they assumed from Monsanto?
 8 A. No.
 9 Q. Do you know why Solutia bought
 10 Monsanto's environmental liabilities?
 11 MR. COX: Object to the form.
 12 A. I don't believe Solutia bought any of
 13 their liabilities. I believe it was a
 14 spin, as I understand it.
 15 Q. (By Ms. Malow) Was there any revenue
 16 generated for Solutia from acquiring
 17 these sites?
 18 A. Any revenue?
 19 Q. Yes.
 20 A. If there is, it is very little.
 21 Q. I want to go back to the Anniston site.
 22 Are you familiar with the geology in the
 23 area around the Anniston site?

Page 133 1 A. No. 2 Q. Do you know of any dye test that has 3 ever been performed by Monsanto or 4 Solutia before the monitoring wells were 5 installed in the Anniston area? 6 A. No. 7 Q. You just don't know one way or the 8 other? 9 A. I don't know one way or the other. 10 Q. Are you familiar with a pipe located 11 adjacent to the Solutia Anniston 12 facility where there is lead, arsenic, 13 and mercury being discovered? 14 A. No. 15 Q. Do you know if mercury was used at the 16 Anniston facility? 17 A. It was my understanding they had a 18 chloralkylide facility in the past. 19 Q. Do you know in what years it was in 20 operation? 21 A. No. 22 Q. Do you know if -- Strike that. 23 Are you familiar with the	Page 135 1 Q. Do you know the depth of the monitoring 2 wells at the Solutia facility in 3 Anniston? 4 A. No. 5 Q. Do you know the total number of 6 monitoring wells you have at that site? 7 A. No. 8 Q. Do you know that Solutia monitors for 9 PCBs in the groundwater at Anniston? 10 A. I don't know if they do or not. 11 Q. Do you know when the groundwater 12 monitoring program began at the Anniston 13 site? 14 A. I believe it was some time ago, but I 15 don't know specifically. 16 Q. Do you know who designed the protocol 17 for the groundwater monitoring program? 18 A. No. 19 Q. Can you tell me why it is that you don't 20 know the answer to those questions about 21 the groundwater monitoring program since 22 you are the leader of the remedial 23 group?
Page 134 1 hydrology at the Anniston site? 2 A. No. 3 Q. Who do you think would have the most 4 knowledge about the hydrology at the 5 site that's a Monsanto or Solutia 6 employee, not a consultant? 7 A. Craig Branchfield. 8 Q. Would the same be true with respect to 9 the geology? 10 A. I believe so. 11 Q. Do you agree that it is important to 12 know the hydrology of a particular site 13 before you decide where to place 14 monitoring wells? 15 MR. COX: Object to the form. 16 A. I think it depends on the circumstances, 17 why you're putting wells in and time 18 frame. 19 Q. (By Ms. Malow) Do you know what impact 20 it would have if wells, monitoring 21 wells, were installed in an area where 22 there is coarse terrain? 23 A. Not specifically.	Page 136 1 MR. COX: Object to the form. 2 A. Number one, I haven't been involved 3 until March of this year. Those details 4 typically would be known by the project 5 manager and consultants working for the 6 manager. 7 Q. (By Ms. Malow) Okay. So you would 8 expect Mr. Branchfield to know that 9 stuff? 10 A. Or the consultants that are working for 11 him. 12 Q. Do you know how often the groundwater is 13 sampled in Anniston? 14 A. No, I don't. 15 Q. Do you know if PCBs have been detected 16 in the groundwater from the monitoring 17 wells at the Solutia facility? 18 A. My understanding is they had not been 19 detected in filtered samples, but I 20 don't know for a fact. 21 Q. Do you know how PCBs got into the 22 groundwater? 23 MR. COX: Object to the form.

Page 137 1 A. No. 2 Q. (By Ms. Malow) Do you know the source 3 of the PCBs found in the unfiltered 4 samples? 5 MR. COX: Object to the form. 6 A. No. 7 Q. (By Ms. Malow) Do you know if PCBs have 8 been found in two of the deep wells that 9 are not part of the on-site groundwater 10 action systems? 11 MR. COX: Object to the form. 12 A. I don't know if that is true or not. 13 Q. (By Ms. Malow) Is it a conventional 14 technique to filter groundwater samples 15 for PCB analysis? 16 MR. COX: Object to the form. 17 A. I'm not a laboratory expert, but I would 18 think yes. 19 Q. (By Ms. Malow) Is it a conventional 20 technique to filter the groundwater 21 twice with a point one and a point four 22 five micron size filter? 23 A. I don't know the specifics.	Page 139 1 groundwater leaving the Solutia 2 property? 3 MR. COX: Object to the form. 4 A. I don't know that to be true or false. 5 Q. (By Ms. Malow) Do you know if there's a 6 relationship between groundwater flowing 7 from the Solutia property and 8 Jacksonville Fault? 9 A. I don't know. 10 Q. Do you know if EPA has expressed concern 11 about a relationship between groundwater 12 flow from the Solutia property and the 13 Jacksonville Fault? 14 A. I don't know. 15 MR. COX: Object to the form. 16 Q. (By Ms. Malow) Do you know if 17 Jacksonville Fault -- Strike that. 18 Are the monitoring wells that 19 Solutia has at the Anniston site in the 20 correct position to effectively monitor 21 the groundwater quality of the west end 22 landfill? 23 MR. COX: Object to the form.
Page 138 1 Q. Do you know if ADEM accepts results from 2 filtered groundwater samples? 3 A. I don't specifically know the answer to 4 that question. 5 Q. Assume with me that PCBs have been 6 detected in off-site monitoring wells. 7 Does that demonstrate that the 8 groundwater containing PCBs have 9 migrated off site? 10 MR. COX: Object to the form. 11 Q. (By Ms. Malow) You can answer. 12 A. I think just detection of PCBs nearby 13 does not necessarily mean it comes from 14 any one particular source. 15 Q. Have you done any investigation in terms 16 of identifying any sources other than 17 Monsanto or Solutia of PCBs in the 18 Anniston area? 19 A. No. 20 Q. Hasn't EPA determined that the 21 corrective action system -- that 22 Solutia's corrective action system may 23 not be completely capturing the	Page 140 1 A. I would assume that would certainly be 2 our intent, but I don't know where or 3 how many wells they have. 4 Q. (By Ms. Malow) Has EPA said they are 5 not in position to effectively monitor 6 the groundwater quality of the west end 7 landfill? 8 A. Not to my knowledge. 9 Q. Let's switch gears again and talk about 10 surface water regarding the Anniston 11 facility. Has Solutia ever tested any 12 water in Snow Creek or tributaries 13 leading into Snow Creek? 14 A. I believe it has. 15 Q. Has Solutia found PCBs in the surface 16 water at Snow Creek? 17 A. I believe they found PCBs in the 18 sediments. 19 Q. Do you know the source of those PCBs in 20 the sediments of Snow Creek? 21 A. Not specifically. 22 Q. Are you denying that Solutia is the 23 source of those sediments,

Page 141 1 PCB-containing sediments in Snow Creek? 2 MR. COX: Object to the form. 3 A. I'm not denying that nor affirming that. 4 Q. (By Ms. Malow) Do you think that 5 Solutia is a likely source for the 6 PCB-contaminated sediments of Snow Creek 7 based on the fact that they manufactured 8 PCBs in Anniston? 9 MR. COX: Object to the form. 10 A. It is probably true. 11 Q. (By Ms. Malow) Is Snow Creek a source 12 of PCB contamination of fish in 13 Choccolocco Creek and Lake Logan Martin? 14 MR. COX: Object to the form. 15 A. It potentially could be, but of course 16 there are other potential sources of 17 PCBs in the area as well. 18 Q. (By Ms. Malow) Sitting here now, 19 Mr. Smith, has Solutia come up with any 20 plan to treat Snow Creek for PCB 21 contamination? 22 MR. COX: Object to the form. 23 A. My understanding is Solutia is working	Page 143 1 sediments since PCBs tie up very firmly 2 in sediments. 3 Q. (By Ms. Malow) Is it possible for PCBs 4 to become soluble? 5 MR. COX: Object to the form. 6 A. I'm certainly not an expert in that 7 field. My understanding is they are 8 extremely insoluble. 9 Q. (By Ms. Malow) Do you know if there was 10 a time that PCBs were visible with the 11 naked eye in Snow Creek? 12 A. I have never heard that. 13 Q. Were you aware that the attorney general 14 of the State of Alabama had looked at 15 Snow Creek contamination back in the 16 '80s? 17 A. No. 18 Q. Are you familiar with a guy named Joe 19 Crockett with the Alabama Water 20 Improvement Commission? 21 A. No. 22 Q. Have you ever -- Strike that. 23 Have the in-plant sewer systems at
Page 142 1 with both ADEM and USEPA through various 2 agreements to do sampling in and around 3 Snow Creek. 4 Q. (By Ms. Malow) And then what's the next 5 step? 6 A. It is my understanding that the AOC has 7 requirements where if you find a certain 8 level of PCBs, certain actions would be 9 taken as far as eliminating the surface 10 soils and replacing that soil. 11 Q. Have you seen any of the recommendations 12 made by the plaintiffs' experts in this 13 case as to what should be done with Snow 14 Creek? 15 A. No. 16 Q. Do you know of any aqueous phase PCB 17 testing that has been performed by 18 Solutia of Snow Creek? 19 A. I don't know if that's been done or not. 20 Q. Do you think aqueous phase testing 21 should be done? 22 MR. COX: Object to the form. 23 A. I think the primary concern would be	Page 144 1 the Anniston facility been tested and 2 analyzed to your knowledge? 3 A. I don't know. 4 Q. Have you had any conversations with Bob 5 Kaley regarding any Anniston remediation 6 issues? 7 A. Nothing specific. 8 Q. How about something general? 9 A. Well, I mean Bob's office is a hundred 10 feet away from mine, so -- I mean, we 11 certainly see each other. 12 Q. But have y'all talked at all about the 13 PCB contamination issues or remediation 14 issues at the Anniston facility? 15 A. Not specifically about health effects or 16 any of those type of issues. 17 Q. Well, that was going to be my next 18 question, whether or not you had ever 19 talked with him about PCB toxicity 20 issues. 21 A. No. 22 Q. How about plans in terms of what sort of 23 remediation work is ongoing for the

Page 145 1 Anniston facility? Has that been 2 discussed with Dr. Kaley? 3 A. No. 4 Q. Have you ever had any conversations with 5 Mark Brown of BBL about any remediation 6 or investigation of the Anniston 7 facility? 8 A. Mark Brown may have been at that last 9 meeting. 10 Q. In April? 11 A. The March, April time frame. 12 Q. Have you ever had any one-on-one 13 conversations with Mr. Brown about the 14 Anniston site? 15 A. No. 16 Q. How about Mr. Price of Genesis? Have 17 you ever talked to him? 18 A. No. I do not believe so. 19 MS. MALOW: Let's take a break. 20 [A break was taken.] 21 Q. (By Ms. Malow) Can PCBs be moved 22 through the air? 23 A. I believe PCBs can be volatilize to some	Page 147 1 together budgets, forecasts, estimates 2 of the work. Those budgets or forecasts 3 are reviewed. 4 Q. By whom? 5 A. Typically -- Well, in the past, Mike 6 Foresman, currently myself. 7 Q. Have you in fact reviewed any budgets or 8 forecasts or estimates of work for the 9 Anniston facility? 10 A. I have seen the budgets that Craig put 11 together and discussed those at the two 12 meetings. 13 Q. Were there any things in his budget or 14 forecast that you did not approve? 15 A. No. 16 Q. As far as the type of remediation work 17 to be performed at a site such as 18 Anniston, would that be within 19 Mr. Branchfield's authority, to make 20 those determinations? For example, if 21 he said, "I think we should excavate 22 Snow Creek," does he have the authority 23 to do that, to start that project?
Page 146 1 extent. 2 Q. Do you know of any EPA region that has 3 established an acceptable risk-based 4 concentration for PCBs in the ambient 5 air? 6 MR. COX: Object to the form. 7 A. Not that I recall. 8 Q. (By Ms. Malow) Do you know how the 9 level of PCBs in the Anniston air 10 compares with acceptable levels? 11 A. No. 12 Q. Have you seen any of the tree bark data 13 around the Anniston area? 14 A. Not that I can recall. 15 Q. Has Solutia's own monitoring detected 16 PCBs around the plant site at Anniston? 17 A. I don't know. 18 Q. Does Mr. Branchfield have the authority 19 to make decisions about what remediation 20 work should be performed for the 21 Anniston site without getting approval 22 from anybody else? 23 A. As project manager he would be -- put	Page 148 1 MR. COX: Object to the form. 2 A. I don't think he would make that 3 decision on his own. 4 Q. (By Ms. Malow) Who else would he have 5 to confer with before he could select a 6 particular type of remediation technique 7 or plan? 8 A. Are you still talking about money 9 approval? 10 Q. Well, I guess maybe there's two 11 components to it. Let's talk about -- 12 just forget how much it costs. Let's 13 just say does Craig Branchfield have the 14 authority to determine what type of 15 remediation things would be appropriate 16 at Anniston, for example, with respect 17 to the waterways? 18 A. Well, the appropriateness would be 19 determined based upon the remedial 20 investigation, studies, various 21 consultants, those type of sources. 22 Q. Does he have a certain amount of 23 monetary authority that he can expend

Page 149 1 without having to confer with you or 2 anybody else? 3 A. He has authority I would say to spend 4 budgeted money, forecasted money, on 5 those type of activities. 6 Q. Since he's already shared with you at 7 the meetings that you attended in 8 Anniston his forecasts and budgets and 9 it has been approved, he can at his 10 discretion spend funds within those 11 budgets and forecasts to do the work 12 necessary in Anniston, correct? 13 A. Yes. 14 Q. Do you know of any testing that Monsanto 15 ever did in the past on Snow Creek for 16 example in the 1980s? 17 A. Not to my knowledge. 18 Q. Do you know of any testing that Monsanto 19 did of Snow Creek in the 1960s? 20 A. No. 21 Q. And I showed you earlier Exhibit Two, 22 which was work done on Choccolocco Creek 23 by a consultant hired by Monsanto. And	Page 151 1 from the ball field? 2 A. No. 3 Q. Do you know how much PCB-contaminated 4 material was transported to Emelle? 5 A. No. 6 Q. Do you know how it was determined which 7 material to take to Emelle and which to 8 leave on site? 9 A. No. 10 Q. My understanding is that some of the 11 contaminated material was placed under a 12 parking lot that Solutia is building. 13 Is that your understanding? 14 A. Yes. 15 Q. Is there any other site other than the 16 Oxford ball field where Monsanto or 17 Solutia has used that same remediation 18 technique that you know of? 19 MR. COX: For PCBs or anything? 20 Q. (By Ms. Malow) Let's start with PCBs. 21 A. Not that I recall at this point. 22 Q. Have you -- Are you familiar with 23 Monsanto or Solutia using the technique
Page 150 1 you haven't seen that before, correct? 2 A. Correct. 3 MR. COX: Object to the form. 4 Q. (By Ms. Malow) Are you familiar with 5 hog testing or hog analyses performed by 6 Monsanto? 7 A. No. 8 Q. Do you know what sorts of levels have 9 ever been found in the hogs in the 10 Anniston area, PCBs? 11 A. No. 12 Q. I can't remember if we covered this or 13 not. But do you know what levels were 14 found at the Oxford ball field of PCBs? 15 MR. COX: Objection, asked and 16 answered. 17 Q. (By Ms. Malow) I guess I did ask. What 18 was your answer? 19 MR. COX: You can go ahead and 20 answer. 21 A. No, not specifically. 22 Q. (By Ms. Malow) Do you know how much 23 PCB-contaminated material was removed	Page 152 1 of placing contaminants under a parking 2 lot for any type of contaminant, not 3 just limited to PCBs? 4 A. Yes. 5 Q. Tell me about that. 6 A. At the Krummrich plant they found some 7 low levels of dioxin that was paved over 8 as a parking lot. 9 Q. What area were the dioxins found in the 10 Krummrich plant? 11 A. The north side of the plant. 12 Q. Do you know what the levels were? 13 A. I don't recall offhand. 14 Q. And do you know when those were buried 15 under the parking lot, what year? 16 A. Sometime during the '80s, 1980s. 17 Q. Do you know how much waste, dioxin 18 waste, was buried? 19 A. I don't know that it was waste. It was 20 just soil that -- 21 Q. How much contaminated soil was buried? 22 A. No, I don't know. 23 Q. Do you know of any other contaminant

Page 153 1 that's been buried under a parking lot 2 as a remediation technique at a Solutia 3 or Monsanto facility? 4 A. Not that I recall at this point. 5 Q. Do you know if the PCBs found at the 6 Oxford ball field were in the flood 7 plain? 8 A. It was a relatively low area. I don't 9 recall whether it was a five hundred 10 year flood plain or a hundred year flood 11 plain. 12 Q. Do you know how Solutia characterized 13 the ball field -- what technique it used 14 to characterize it? 15 A. Other than surface soil sampling, I 16 don't know the specific technique. 17 Q. Do you know if it was gridded off or if 18 composite sampling was used? 19 A. I don't know. 20 Q. Do you know the difference between the 21 two types? 22 MR. COX: Object to the form. 23 A. Yes.	Page 155 1 A. I don't know. 2 Q. Do you know why EPA was overseeing that 3 cleanup at the Oxford ball fields rather 4 than ADEM? 5 A. Not specifically. 6 Q. What's your general understanding? 7 A. My general understanding is that EPA is 8 becoming more involved with the 9 off-plant, off-site issues, whereas ADEM 10 is more concentrated on the in-plant 11 RCRA issues. 12 Q. Do you have any knowledge about the 13 community's perception of ADEM in 14 Anniston? 15 MR. COX: Object to the form. 16 A. No. 17 Q. (By Ms. Malow) Was there any other 18 company involved in the cleanup of the 19 Oxford ball park other than Solutia? 20 A. You mean in financing? 21 Q. Correct. 22 A. No. 23 Q. I want to talk with you now about the
Page 154 1 Q. (By Ms. Malow) Does the composite 2 sampling approach work well for 3 understanding what corrective measures 4 to take? 5 MR. COX: Object to the form. 6 A. Depends on the circumstances, the 7 project. 8 Q. (By Ms. Malow) Well, under what 9 circumstances would it be appropriate to 10 use a composite sampling approach? 11 A. Well, composite samples are frequently 12 used in remediation where you want to 13 test the wide area without testing 14 numerous samples. You can get a 15 composite sample that will give you an 16 idea basically of the average over the 17 larger area. 18 Q. Did Monsanto pay for the cleanup of PCBs 19 found at the Oxford ball field, or 20 Solutia? 21 A. Solutia, yes. 22 Q. How much was spent to clean up the 23 Oxford ball fields?	Page 156 1 Quintard Mall PCB cleanup. Do you know 2 how much PCB-contaminated material was 3 removed from the Quintard Mall? 4 A. No. 5 Q. Do you know to what level the Quintard 6 Mall was cleaned up? 7 MR. COX: Object to the form. 8 A. No. 9 Q. (By Ms. Malow) Do you know how much 10 PCB-contaminated material was 11 transported to Emelle? 12 A. No. 13 Q. Do you know how much Solutia paid to 14 clean up the PCBs found at the mall? 15 A. No. 16 Q. Do you know if anyone else participated 17 financially in the cleanup of Quintard 18 Mall other than Solutia? 19 A. I don't know the answer to that one. 20 Q. Okay. Do you know why Solutia agreed to 21 clean up PCBs at Quintard Mall? 22 MR. COX: Object to the form. 23 A. No.

Page 157 1 Q. (By Ms. Malow) Do you agree that as a 2 company you have a responsibility to 3 clean up any areas that are contaminated 4 by your waste streams? 5 MR. COX: Object to the form. 6 A. I believe we have a responsibility to 7 comply with laws and regulations. 8 Q. (By Ms. Malow) Do you have any sort of 9 moral responsibility to your neighbors 10 regardless of regulations not to pollute 11 their properties and their bodies? 12 MR. COX: Object to the form. 13 A. Well, you're making an assumption that 14 we have polluted property or polluted 15 their bodies and that's had some 16 negative impact. I think that's yet to 17 be determined. 18 Q. (By Ms. Malow) Well, assume with me 19 that it is proven that the PCBs in the 20 bodies of Anniston residents came from 21 Monsanto. Do you think that Monsanto 22 has a responsibility to those neighbors? 23 MR. COX: Object to the form.	Page 159 1 have any responsibility that goes beyond 2 just what the laws and the regulations 3 state. 4 MR. COX: Object to the form. 5 A. I think there's probably circumstances 6 where they do. 7 Q. (By Ms. Malow) If, for example, 8 Monsanto, when it was manufacturing 9 PCBs, had PCBs that discharged onto the 10 neighbor's property and caused harm to 11 the property, would there be a 12 responsibility for Monsanto to clean 13 that up? 14 MR. COX: Object to the form. 15 A. I don't know what harm you would be 16 talking about or if there are 17 regulations at that time that would 18 prevent one from doing that. 19 Q. (By Ms. Malow) So if the regulations 20 don't say you can't discharge something 21 onto your neighbor's property, then it 22 is okay to do so? Is that what you're 23 telling the jury?
Page 158 1 A. You're assuming that there's PCBs that 2 is a health hazard? 3 Q. (By Ms. Malow) I'm assuming that there 4 are PCBs in the bodies -- well, I don't 5 have to assume it. There's serum data 6 that shows that there are levels, PCB 7 levels in the Anniston residents. If we 8 are able to prove that those PCBs came 9 from Monsanto, do you think Monsanto has 10 a responsibility to those neighbors? 11 MR. COX: Object to the form. 12 A. I think there's a serious question as to 13 whether or not trace levels of PCBs in 14 one's body causes a health hazard. 15 Q. (By Ms. Malow) Well, we got to all 16 this, Mr. Smith, because we were talking 17 about what responsibilities Solutia or 18 Monsanto has as a company in terms of 19 handling their waste streams, right? 20 A. Uh-huh (indicating yes). 21 Q. And you said their responsibility is to 22 comply with laws and regulations. I'm 23 asking you whether or not you think you	Page 160 1 A. No. 2 MR. COX: Object to the form. 3 Q. (By Ms. Malow) Doesn't Monsanto have a 4 pledge that it is supposed to follow to 5 protect the community, including its 6 neighbors? 7 MR. COX: Object to the form. 8 A. Monsanto had a pledge at one point that 9 was published by the CEO. 10 Q. (By Ms. Malow) Did it have anything in 11 there about protecting the community? 12 A. As I recall I think it did. 13 Q. Didn't it in fact state that it was 14 Monsanto's pledge to ensure that no 15 Monsanto operation poses any undue risk 16 to its employees and communities? 17 MR. COX: Object to the form. 18 A. I assume you're reading that. That 19 sounds correct. 20 Q. (By Ms. Malow) Okay. Have you signed 21 the Monsanto Pledge before, Mr. Smith? 22 A. Yes. 23 Q. Does Solutia have a similar pledge to

Page 161 1 prevent undue risk from its operations 2 to its own employees and its neighbors? 3 A. I believe it does. 4 Q. All right. I want to talk with you 5 about some Oxford residences that have 6 been cleaned up. Are you familiar with 7 how much money has been spent by Solutia 8 to clean up properties in Oxford? 9 A. No. 10 Q. Do you know what levels of PCBs were 11 found on any of the Oxford properties? 12 A. No. 13 Q. Do you know what was done with the 14 contaminated soil removed from the 15 Oxford properties, residential 16 properties? 17 A. No, not specifically. 18 Q. Do you know if it was taken to a 19 particular disposal facility? 20 A. My understanding is some of the material 21 was going to the Emelle landfill. 22 Q. Do you know of any that's going to the 23 Three Corners landfill?	Page 163 1 Q. But you don't know the amount as we sit 2 here now? 3 A. Not as we sit here. 4 Q. Okay. Do you know how high the levels 5 of PCBs were that were found in the 6 flood plain adjacent to Smith Creek? 7 MR. COX: Where? 8 MS. MALOW: Anywhere. 9 A. No. 10 MR. COX: Object to form. 11 Q. (By Ms. Malow) We talked earlier about 12 a conservation corridor. Would it be 13 cheaper to have the conservation 14 corridor in place rather than to remove 15 sediments and dredge Choccolocco Creek? 16 MR. COX: Object to the form. 17 A. Well, the EPA and/or ADEM will make the 18 decision ultimately on what happens with 19 the sediments in Choccolocco Creek. 20 Q. (By Ms. Malow) That really wasn't my 21 question. My question is whether it is 22 cheaper to have a conservation corridor 23 than to dredge just as a general
Page 162 1 A. I'm not familiar with that. 2 Q. Do you know what type of landfill the 3 Three Corners landfill is? 4 A. No. 5 Q. Have you heard of Live Oak in Georgia? 6 A. No. 7 Q. I take it that decisions as to which 8 facility -- Well, let me ask you. Whose 9 decision is it as to which facility 10 contaminated PCB waste should be taken? 11 A. Well, the EPA regulates the facilities 12 which can take PCB-contaminated 13 materials. 14 Q. Do you know how much money Solutia has 15 budgeted for the cleanup of residential 16 properties in the Anniston area? 17 A. No. 18 Q. Has Solutia budgeted any money for 19 cleanup of residential properties in 20 Anniston? 21 A. There's money budgeted or forecasted for 22 the RIFS work and for the AOC work 23 sampling.	Page 164 1 remediation technique. 2 A. In general probably, yes. 3 Q. Has Solutia proposed any removal of 4 sediment from Choccolocco Creek? 5 A. I believe there's a sampling plan 6 proposed. I don't know if there is any 7 removal triggers in that right offhand. 8 Q. Do you know if there's any dredging 9 plans or proposals for Choccolocco Creek 10 or Snow Creek? 11 A. Not that I'm aware of. 12 Q. Back to Snow Creek. Based on Solutia's 13 recent evaluation of Snow Creek, was it 14 determined corrective measures are 15 necessary for Snow Creek? 16 MR. COX: Object to the form. 17 A. I don't know. 18 Q. (By Ms. Malow) Do you know if Solutia 19 found high levels of PCBs in the upper 20 third of Snow Creek and the lower 21 portions of the creek -- the sediments 22 of Snow creek? 23 A. I have been told there's PCBs in the

Page 165 1 sediments of Snow Creek. 2 Q. Who told you that? 3 A. Probably Craig Branchfield. 4 Q. Have you had that conversation with 5 anyone else other than a lawyer and 6 Mr. Branchfield? 7 MR. COX: Object to the form. 8 A. Would you repeat the question? 9 Q. (By Ms. Malow) Have you had any 10 conversations or -- Strike that. 11 Have you been told by anyone other 12 than Mr. Branchfield or one of the 13 attorneys representing Solutia that PCBs 14 have been found in the sediment of Snow 15 Creek? 16 MR. COX: Same objection. 17 A. That may well have been discussed by one 18 or more consultants in the one meeting 19 in March or April. I don't know exactly 20 when. 21 Q. (By Ms. Malow) All right. Are you 22 familiar with the remedial measure of 23 using a concrete liner for Snow Creek?	Page 167 1 become a concrete culvert if it was 2 lined? 3 A. I would think so. 4 Q. Is removal of sediment from Snow Creek a 5 potential remedial option? 6 A. I would think so, but I don't know 7 specific options being looked at. 8 Q. Was Snow Creek discussed in any of the 9 meetings you attended in Anniston? 10 A. I'm sure it was. 11 Q. And you don't remember specifically 12 anything other than the mention of a 13 concrete liner? 14 A. Well, as I mentioned, we drove by 15 various places of Snow Creek just to get 16 an understanding of how large it is. 17 There was also discussion of the AOC 18 work that's being done and sampling in 19 residents' yards where we were given 20 access. 21 Q. If sediments -- contaminated sediments 22 aren't removed, can they be 23 redistributed in the water column?
Page 166 1 A. Just the fact that that would certainly 2 be something to be considered. 3 Q. That's something you're in favor of? 4 A. I have not formed an opinion one way or 5 the other. 6 Q. Do you know if that is probably the 7 remedial measure that will be 8 recommended or proposed by Solutia for 9 Snow Creek? 10 A. I don't know whether it is or not. 11 Q. Do you know how much it would cost to 12 have a concrete liner in Snow Creek? 13 A. No. 14 Q. What would happen to the creek if a 15 concrete liner was used on it? Would it 16 no longer be a creek? 17 MR. COX: Assuming it is a creek 18 now? 19 MS. MALOW: Right. That is a big 20 assumption. 21 MR. COX: Part of it is already 22 lined. 23 Q. (By Ms. Malow) Would it basically just	Page 168 1 MR. COX: Object to the form. 2 A. I would think if, for example, you used 3 a concrete liner, you would prevent PCBs 4 from being reinjected into Snow Creek, 5 for example. 6 Q. (By Ms. Malow) Would not prevent it? 7 A. It would. 8 Q. You would prevent it? 9 A. Uh-huh (indicating yes). 10 Q. Are you aware that EPA recently came out 11 with a decision requiring General 12 Electric to dredge the Hudson River? 13 A. I read a headline in the paper to that 14 effect. 15 Q. Do you know how the PCB levels in the 16 fish and in the sediments in the areas 17 around Anniston compare to the Hudson 18 River levels? 19 A. No. 20 Q. Assuming that the levels are comparable, 21 do you think that the residents in 22 Anniston should be entitled to the same 23 remediation as the Hudson River

Page 169 1 residents? 2 MR. COX: Object to the form. 3 A. I think each site has to be looked at 4 individually, risk assessment, and the 5 situation be considered on a 6 case-by-case basis, as does EPA, their 7 policies. 8 Q. (By Ms. Malow) Has Solutia ever 9 considered diverting the water from Snow 10 Creek to a treatment facility? 11 A. I don't know. 12 Q. Are you familiar with a study performed 13 of the southern landfill in the early 14 1970s by ADEM that found that the 15 landfill was not in a suitable location? 16 MR. COX: Object to the form. 17 A. I'm not aware of any such study. 18 Q. (By Ms. Malow) Do you think that the 19 siting of a landfill is important? 20 A. Yes. 21 Q. Are there certain places that, based on 22 geology or hydrology or other aspects of 23 the site, would not be appropriate for a	Page 171 1 Q. Do you know whether or not the synthetic 2 membrane cover is permeable? 3 MR. COX: Object to the form. 4 A. I don't know. 5 Q. (By Ms. Malow) What was the philosophy 6 behind the property purchase program in 7 the Anniston area? 8 MR. COX: Object to the form. 9 A. I was not involved with any of the 10 discussions related to property purchase 11 decisions. 12 Q. (By Ms. Malow) In general is it 13 Monsanto and Solutia philosophy that if 14 you have a waste stream that you dispose 15 of on site, you are better able to 16 control it? 17 MR. COX: Object to the form. 18 A. Would you rephrase the question? I 19 don't understand the question. 20 Q. (By Ms. Malow) Well, Monsanto and 21 Solutia through their manufacturing 22 processes generate waste streams, 23 correct?
Page 170 1 landfill? 2 A. The siting of landfills have evolved 3 over the decades. In the '50s and '60s 4 it was very common for landfills to be 5 located even right next to a river, for 6 example; whereas today of course there 7 are extensive regulations governing 8 where you locate a landfill, getting 9 permits, and the actual construction of 10 a landfill. So the whole siting issue 11 and design of landfills has really 12 evolved over the last few decades. 13 Q. Do you know why the western portion of 14 the south landfill was covered with a 15 synthetic membrane? 16 A. No, not specifically. 17 Q. What's your general understanding of why 18 the western portion of the south 19 landfill was covered with a synthetic 20 membrane covering? 21 A. I assume someone looked at the surface 22 water runoff and made that decision. I 23 have no personal knowledge of that.	Page 172 1 A. Yes. 2 Q. Is it Monsanto's and Solutia's 3 preference to dispose of those waste 4 streams on site rather than off site? 5 MR. COX: Object to the form. 6 A. I don't think you can make a generalized 7 philosophy statement on Monsanto 8 practices over seventy-five years. 9 Q. (By Ms. Malow) Well, as a remediation 10 leader for Solutia, if you have the 11 option to dispose of a waste stream on 12 site or off site, which would you 13 select? 14 A. When you're referring to waste stream on 15 site, are you talking landfilling 16 material on site? 17 Q. Sure, rather than sending it off site. 18 A. I'm trying to think if we even have an 19 on-site landfill that's currently 20 operating. 21 Q. Well, we know there was one at the 22 Krummrich facility for years. 23 A. Sure.

Page 173 1 Q. Why was that done rather than sending 2 all that waste to an off-site facility? 3 MR. COX: Object to the form. 4 A. Well, back in the '50s and '60s it was a 5 very common practice to have your own 6 landfill for any industry. 7 Q. (By Ms. Malow) What was the reason for 8 that? Why did all the industries do 9 that? 10 A. Well, it was less expensive, and you 11 could control it yourself. 12 Q. All right. Do you know if it would be 13 -- if it was cheaper for Solutia to buy 14 up the properties in the property 15 purchase program than to clean up the 16 properties? 17 A. I don't know. 18 Q. What would you expect? 19 MR. COX: Object to the form. 20 A. I don't know if the property was 21 purchased because the seller wanted to 22 buy it or whether Solutia wanted to buy 23 it.	Page 175 1 area, where they paid the salaries and 2 the cost to the contractors to do the 3 sampling work under CERCLA? 4 MR. COX: Object to the form. 5 A. I'm sorry. I think that was a different 6 question than what you asked before. 7 MR. COX: Very different. 8 MS. MALOW: Want to read that 9 back? 10 [Requested portion of record 11 read.] 12 A. I'm sorry. I don't understand the 13 question. Could you rephrase it? 14 Q. (By Ms. Malow) I'll try. Are there 15 certain costs that are recoverable 16 against Solutia under CERCLA at a 17 particular site, for example the cost of 18 the contractors who do the sampling 19 work? 20 A. Yes. 21 Q. Are you familiar with the sites where 22 Solutia has agreed to pay for those 23 costs rather than having EPA come back
Page 174 1 Q. (By Ms. Malow) Isn't it the case that 2 Solutia actually approached the 3 residents to see if they would sell 4 their properties rather than the other 5 way around? 6 A. I don't know that for a fact. 7 Q. Have you had any role in the agreement 8 with EPA on the emergency cleanup level 9 for the Anniston area? 10 A. No. 11 Q. Do you have any understanding of how the 12 level stated in the AOC was determined? 13 A. No. 14 Q. Do you know if Solutia's paying for the 15 EPA office that's set up in Anniston in 16 terms of the rent, fax machine, copy 17 machine? 18 A. I don't know. 19 Q. Would that be unusual? 20 MR. COX: Object to the form. 21 Q. (By Ms. Malow) Are you aware of other 22 sites where Solutia or Monsanto has done 23 that when EPA has had to come into an	Page 176 1 later to recover those costs against 2 them, pay for it on the front end rather 3 than coming back later to recover those 4 costs? 5 MR. COX: Object to the form. 6 A. Certainly we have agreed to pay costs in 7 various AOC documents where we will 8 receive a bill from the EPA usually once 9 a year. And then we reimburse EPA for 10 those costs. 11 Q. (By Ms. Malow) Are you familiar at all 12 with what's going on with respect to 13 Anniston in terms of those costs? 14 A. I believe under AOC we have agreed to 15 pay those costs. 16 Q. Were you involved in the preparation of 17 the EPA Section 104-E letter in 18 connection with the Anniston site? 19 A. No. 20 Q. Do you know how many pounds of PCBs were 21 buried in the west end landfill -- 22 A. No. 23 Q. -- at the Anniston site? How about in

Page 177 1 the southern landfill? 2 A. No. 3 Q. Do you know how much PCB, how many PCBs 4 -- pounds of PCBs went into Snow Creek? 5 A. No. 6 Q. How about Choccolocco Creek? 7 A. No. 8 Q. Lake Logan Martin? 9 A. No. 10 Q. Have you asked any of your consultants 11 for their best estimates as to the 12 amount of PCBs in those various areas I 13 listed? 14 A. No. 15 Q. Are you familiar with the nature of the 16 PCBs that were put into the various 17 landfills, that is, whether they were 18 solid or liquid? 19 A. I don't know. 20 Q. Do you know how big the cells are at any 21 of the landfills in Anniston? 22 A. No. 23 Q. Are you familiar with the recent	Page 179 1 manufactured at the Anniston plant? 2 A. I have been advised that, yes. 3 Q. Do you know what years it was 4 manufactured there? 5 A. No. 6 Q. Do you know that Monsanto had a mercury 7 cell on site that was part of the 8 chlorine manufacturing process? 9 A. That's what I have been told. 10 Q. And who told you that? 11 A. Probably Buddy. 12 Q. You're not supposed to tell me that. 13 Have you had any conversation with 14 Mr. Branchfield about mercury production 15 at the Anniston plant? 16 A. In one phone call we briefly discussed 17 the Anniston -- I mean, the Anniston 18 Star press article. 19 Q. Was anyone else on the call other than 20 you and Mr. Branchfield? 21 A. No. 22 Q. When was that call? 23 A. Within the last few weeks.
Page 178 1 Anniston Star article on mercury? 2 A. I saw the headline. 3 Q. You saw the headline? 4 A. Yes. 5 Q. Did you actually read the article? 6 A. I scanned the first couple of 7 paragraphs. 8 Q. When is the first time that you became 9 aware that the Solutia facility 10 discharged mercury into Snow Creek? 11 MR. COX: Object to the form. 12 A. Probably when I saw the headline in the 13 Anniston Star. 14 Q. (By Ms. Malow) Do you have any reason 15 to believe that the Solutia facility did 16 not discharge mercury into Snow Creek? 17 MR. COX: Object to the form. 18 A. I don't have information one way or the 19 other. 20 Q. (By Ms. Malow) Have you spoken with 21 Mr. Kaley about that? 22 A. No. 23 Q. Are you aware that chlorine was	Page 180 1 Q. Tell me as best you can recall what was 2 said during that conversation with 3 Mr. Branchfield about the mercury issue. 4 A. As I recall the conversation, he advised 5 me that they really had not found 6 mercury downstream in Snow Creek, that 7 it has not been an issue in the sampling 8 results. 9 Q. Anything else you can recall from the 10 conversation? 11 A. No. 12 Q. Do you know that mercury is used to make 13 chlorine and biphenyl, which were both 14 used in the PCB manufacturing process in 15 Anniston? 16 A. My understanding of the chloralkylide 17 facility, it definitely uses mercury. 18 Q. Just because mercury is used in a closed 19 process doesn't mean it won't be 20 released, does it? 21 A. No. You would expect trace amounts to 22 be released. 23 Q. Do you know at what capacity the

Page 181 1 chlorine plant was operating in the mid 2 to late 1960s in Anniston? 3 A. No. 4 Q. Do you know how many tons of liquid 5 mercury went into the waste stream 6 during the years of operation? 7 A. No. 8 Q. Do Monsanto's own records show a 9 discharge of mercury into the waste 10 stream? 11 MR. COX: Object to the form. 12 A. I don't know. 13 Q. (By Ms. Malow) Could mercury have gone 14 into the storm sewer through drainage 15 pathways from the plant site? 16 MR. COX: Object to the form. 17 A. I don't know. 18 Q. (By Ms. Malow) Was Monsanto trying to 19 find a viable way to cycle mercury back 20 into the manufacturing process because 21 of lost money from lost mercury? 22 MR. COX: Object to the form. 23 A. I don't know.	Page 183 1 admitted that there were mercury 2 discharges? 3 MR. COX: Object to the form. 4 A. I don't know. 5 Q. (By Ms. Malow) Did Monsanto keep track 6 of mercury emissions from the Anniston 7 plant? 8 A. I'm not familiar with the Anniston plant 9 operations. 10 Q. Do you know what the maximum of the 11 mercury waste stream for the Anniston 12 plant was shortly before the chlorine 13 plant was closed in '69? 14 A. No. 15 Q. Has mercury been a constituent of 16 concern that Solutia has been looking at 17 as part of the on-site and off-site 18 investigations? 19 A. I believe to some extent, although I 20 don't specifically know. 21 Q. Are you familiar with ADEM's request 22 that Monsanto investigate further 23 mercury?
Page 182 1 Q. (By Ms. Malow) Are you familiar with a 2 recommendation to build a sump to 3 temporarily place the mercury? 4 MR. COX: Same objection. 5 A. I'm not aware of a sump. 6 Q. (By Ms. Malow) Do you know what 7 happened to the mercury that was 8 discharged after the operations were 9 dismantled? 10 MR. COX: Object to the form. 11 A. No. 12 Q. (By Ms. Malow) And the article in the 13 Star says that that mercury was -- some 14 of that mercury was sent back to St. 15 Louis. Are you familiar with that? 16 A. No. 17 Q. Do you know what happened to the mercury 18 that went into the ground in the 19 Anniston area? 20 MR. COX: Object to the form. 21 A. I'm not aware of mercury going into the 22 ground in the Anniston area. 23 Q. (By Ms. Malow) Hasn't Dr. Kaley	Page 184 1 A. Not that I recall. 2 [Plaintiffs' Exhibit Number 3 Three was marked for 4 identification.] 5 [A break was taken.] 6 MR. COX: Just for the record, 7 Exhibit Three consists of a 8 two -- or two pages of a 9 longer document from ADEM and 10 one page of a response to 11 that document by Solutia to 12 ADEM. And neither document 13 is complete. To the extent 14 it is not complete, then of 15 course we object to the 16 witness having to talk about 17 it. But that's okay. You 18 can ask him questions about 19 it. 20 Q. (By Ms. Malow) Have you had a chance to 21 look at that incomplete document, 22 Exhibit Three, or are you still reading? 23 A. I'm looking at it.

Page 185 1 MR. COX: Off the record. 2 [Discussion held off the 3 record.] 4 Q. (By Ms. Malow) As your lawyer has 5 pointed out, the document I gave you is 6 incomplete. All I have is what I gave 7 you. Have you ever seen, though, before 8 any of those pages which we marked as 9 Exhibit Three? 10 A. No. 11 Q. My understanding is there's actually a 12 request from ADEM, that is what begins 13 on the first page, dated January 4, 14 1999, to Mr. Faust where they ask for a 15 brief description regarding the mercury 16 -- historical information of mercury, 17 which goes on to page 2. Then 18 apparently Monsanto or Solutia provided 19 a twenty-six-page response to that 20 question, but we only have the first 21 page of that response. 22 MR. COX: For the record, the 23 twenty-six pages was in	Page 187 1 anybody within your department that 2 would have had input or supervision of 3 this response? 4 A. You mean other than Alan and Craig? 5 Q. Correct. 6 A. No. Within my group it would be Alan or 7 Craig. 8 Q. So you don't know where BBL got their 9 information on mercury, do you? 10 A. No. 11 Q. You don't know what access or what 12 documents BBL was given access to? 13 A. No. 14 Q. Do you know who BBL interviewed to 15 prepare the reply to ADEM about the 16 mercury? 17 A. No. 18 Q. Do you know where the mercury documents 19 for the Anniston plant would be located? 20 A. No. 21 Q. Do you know if there are any documents 22 about the mercury production in the St. 23 Louis offices of Solutia or Monsanto?
Page 186 1 response to the entire 2 document. There were several 3 comments in ADEM's document, 4 and the response goes to each 5 of those comments. 6 Q. (By Ms. Malow) All right. And really 7 all I want to know from you, Mr. Smith, 8 is whether or not you have ever seen the 9 full response that Solutia made to this 10 ADEM request about mercury. 11 A. No, not that I recall. 12 Q. Do you know who worked with BBL in 13 formulating this response? 14 A. No, I don't know. 15 Q. Do you know who within -- Well, was 16 anyone in your group responsible for 17 preparing this response to the question 18 about mercury? Do you know? 19 A. Well, the response I would assume would 20 come from either Alan Faust or Craig 21 Branchfield, depending on the timing. 22 Q. Right. And since this was '99, it is 23 Mr. Faust. But would there have been	Page 188 1 A. I don't know. 2 Q. Do you know Gene Coley, the plant's 3 former environmental manager? 4 A. No. 5 Q. Have you seen any memos that he's 6 authored regarding mercury emissions at 7 Anniston? 8 A. Not that I recall. 9 Q. Are you aware of memo from Mr. Coley, 10 C-O-L-E-Y, in January of '67 in which he 11 says that work has begun immediately to 12 put into effect a plan to investigate 13 mercury concentrations in Snow Creek at 14 its confluence with Choccolocco Creek? 15 MR. COX: Object to the form. 16 A. No. 17 Q. (By Ms. Malow) Do you know why Solutia 18 told ADEM in 1999 or 2000, when asked to 19 account for historic mercury and lead 20 emissions, that there were likely none? 21 MR. COX: Object to the form. 22 A. I don't see that statement in this 23 letter. Maybe I'm missing it.

Page 189 1 Q. (By Ms. Malow) Well, was the 2 information that Solutia gave ADEM about 3 its mercury discharges complete and 4 accurate? 5 MR. COX: Object to the form. 6 A. I have no knowledge to base an answer on 7 to that question. 8 Q. (By Ms. Malow) When did the chemical 9 industry first become aware of the 10 dangers of mercury? 11 MR. COX: Object to the form. 12 A. I don't know a specific year. 13 Q. (By Ms. Malow) When did you personally 14 become aware of the dangers with 15 mercury? 16 A. Mercury was a regulated substance in 17 waste water in Sauget when I worked in 18 Sauget. 19 Q. How long ago was that, in the '80s? 20 A. Yes. 21 Q. So you have known at least since the 22 '80s that mercury was a regulated 23 substance?	Page 191 1 regarding the Anniston facility on 2 PCB-related issues? 3 A. Not that I recall. 4 MS. MALOW: Off the record. 5 [Discussion held off the 6 record.] 7 Q. (By Ms. Malow) When mercury gets into 8 the aquatic environment, does it 9 continue to circulate? 10 MR. COX: Object to the form. 11 Q. (By Ms. Malow) Do you know? 12 A. I don't know the specifics of that 13 question. 14 Q. Is mercury a persistent chemical like 15 PCBs? 16 MR. COX: Object to the form. 17 A. I would think. 18 MR. COX: Mercury is not a 19 chemical. It is a metal. It 20 is an element. 21 Q. (By Ms. Malow) Is mercury persistent in 22 the environment? 23 A. I would think it would be persistent.
Page 190 1 A. In Illinois, yes. 2 Q. Are you aware that when mercury is 3 discharged into water it can convert to 4 a highly toxic compound called methyl 5 mercury? 6 MR. COX: Object to the form. 7 A. I believe it can convert to methyl 8 mercury. I'm not really familiar with 9 the toxicity of that compound. 10 Q. (By Ms. Malow) Are you familiar with 11 any of the toxicity studies on PCBs? 12 A. No. 13 Q. Have you read any epidemiological 14 studies on PCBs? 15 A. No. 16 Q. Have you read any animal studies on 17 PCBs? 18 A. No. 19 Q. Have you had any conversations with any 20 of the experts -- Well, let me come at 21 that another way. Other than BBL and 22 Golder and Associates, have you had any 23 discussions with any consultants	Page 192 1 Q. Are you aware that ADEM's predecessor, 2 which was the Alabama Water Improvement 3 Commission, found high levels of mercury 4 in sediment and fish near the Anniston 5 plant site? 6 MR. COX: Object to the form. 7 A. No. 8 Q. (By Ms. Malow) Are you familiar with 9 the ADEM report that shows that as 10 recently as 1993 some creek fish 11 downstream of Snow Creek exceeded 12 Alabama's one part per million advisory 13 for mercury? 14 A. No. 15 Q. Do you know the status of any mercury 16 testing that's presently being performed 17 by Solutia at the Anniston -- in the 18 Anniston area? 19 A. No. 20 Q. Are there plans for testing mercury in 21 the Anniston area that have been 22 developed by Solutia? 23 A. I believe there are plans or else they

1 may well have already been done. I'm
 2 just not familiar with who.
 3 Q. Do you know who is doing the testing for
 4 mercury?
 5 A. What lab?
 6 Q. Is it consultants? Has Solutia hired
 7 some consultants to do that testing?
 8 A. I believe it was being tested as part of
 9 an ongoing program, but I cannot swear
 10 to you that I know that for a fact or do
 11 I know exactly what program.
 12 Q. Do you think that more testing needs to
 13 be done for mercury?
 14 MR. COX: Object to the form.
 15 A. Based upon a comment that Craig made to
 16 me, I would say I have no reason to
 17 think more testing should be done.
 18 Q. (By Ms. Malow) Did Solutia's own
 19 consultants, BBL, state to ADEM that
 20 Solutia was taking mercury in its
 21 sampling -- soil sampling locations on
 22 Choccolocco Creek near Boiling Springs
 23 Road?

1 MR. COX: For your information,
 2 that's upstream Snow Creek.
 3 A. I don't know.
 4 Q. (By Ms. Malow) Did Solutia detect
 5 mercury in twenty-four of the
 6 twenty-seven sediment samples from Snow
 7 Creek?
 8 A. I don't know.
 9 Q. Do you know what happened to core or
 10 deep sediment samples collected in
 11 Choccolocco downstream of Snow Creek
 12 that were scrapped?
 13 MR. COX: Object to the form.
 14 A. No.
 15 Q. (By Ms. Malow) Do you know what
 16 happened to the eight sediment samples
 17 collected from Snow Creek that were
 18 rejected by the lab?
 19 A. No.
 20 Q. I can't remember if I asked this
 21 specifically. If I did, I'm sure Buddy
 22 will object. But do you know how much
 23 mercury was disposed of in the Anniston

1 landfills?
 2 A. No.
 3 Q. Do you know into which SWMUs, or however
 4 you guys say it, the mercury was
 5 disposed?
 6 A. No.
 7 Q. Do you know how much mercury was ever
 8 disposed of in the sewage of the
 9 Anniston site?
 10 A. No.
 11 Q. How much mercury was disposed of in the
 12 drainage ditches at the Anniston site?
 13 A. No.
 14 Q. Do you know how much mercury was
 15 discharged from the Anniston site into
 16 the Anniston environment?
 17 A. No.
 18 Q. Has Solutia done tests to determine the
 19 amount of mercury discharged from its
 20 facility into the Anniston environment
 21 to your knowledge?
 22 MR. COX: Object to the form.
 23 A. Not to my knowledge.

1 Q. (By Ms. Malow) Do you know if Solutia
 2 has ever reported any release of mercury
 3 from the Anniston site to any
 4 governmental agency?
 5 A. I don't know.
 6 Q. Do you know under what permit order or
 7 direction of any regulatory body Solutia
 8 disposed of mercury from its Anniston
 9 facility?
 10 A. I don't know.
 11 Q. Has Solutia ever told the Anniston
 12 neighbors that it discharged mercury
 13 into landfills on its property or that
 14 mercury went into the Anniston
 15 environment?
 16 MR. COX: Object to the form.
 17 A. I don't know.
 18 Q. (By Ms. Malow) Has Solutia ever told
 19 Anniston residents the potential health
 20 and environmental effects of mercury?
 21 A. I don't know.
 22 Q. Do you know if Solutia or Monsanto has
 23 ever commissioned any studies regarding

Page 197 1 mercury health effects? 2 MR. COX: Object to the form. 3 A. I don't know. 4 Q. (By Ms. Malow) Has Solutia ever or 5 Monsanto ever commissioned any studies 6 regarding PCB health effects to your 7 knowledge? 8 MR. COX: Object to the form. 9 A. I don't recall any. 10 Q. (By Ms. Malow) Was lead used by 11 Monsanto to produce the raw materials to 12 manufacture PCBs at Anniston in the '50s 13 and '60s? 14 A. Not to my knowledge. 15 Q. Would pots of molten lead be needed to 16 make biphenyl? 17 A. I don't know. 18 Q. Do you know of any processes at the 19 Anniston plant that used lead? 20 A. No. I'm not familiar with the Anniston 21 plant processes. 22 Q. In your few trips to Anniston did you 23 ever cover any sort of historical	Page 199 1 MR. COX: Object to form. 2 A. No. 3 Q. (By Ms. Malow) How about in the 4 drainage ditches? 5 MR. COX: Same objection. 6 A. No. 7 Q. (By Ms. Malow) How about into the 8 Anniston environment? 9 A. No. 10 Q. Do you have any tests that Solutia has 11 conducted to determine the amount of 12 lead discharged from its facility into 13 the Anniston environment? 14 A. No. 15 Q. Are you aware of whether Solutia has 16 ever reported any release of lead from 17 the Anniston site to any regulatory 18 body? 19 MR. COX: Object to the form. 20 A. I don't know whether they have or 21 haven't. 22 Q. (By Ms. Malow) Has Solutia ever told 23 Anniston residents about potential
Page 198 1 information about the PCB manufacturing 2 process at Anniston? Was that a topic? 3 A. Not that I recall. 4 Q. Who do you think would have the most 5 knowledge regarding lead that may have 6 been used at the Anniston plant in your 7 group, Mr. Branchfield? 8 A. Yes. 9 Q. Do you know how much lead was disposed 10 of in the landfills at the Anniston 11 site? 12 A. No. 13 Q. Do you know in which SWMUs lead was 14 disposed? 15 A. No. 16 Q. Do you know why lead emissions are not 17 tracked? 18 MR. COX: Object to the form. 19 A. No. Nor do I know that there were any 20 lead emissions. 21 Q. (By Ms. Malow) Do you know how much 22 lead was disposed of in the sewers at 23 the Anniston site?	Page 200 1 health and environmental effects of 2 lead? 3 MR. COX: Object to the form. 4 A. I don't know. 5 Q. (By Ms. Malow) Has Solutia ever 6 commissioned any study regarding lead 7 health effects? 8 MR. COX: Object to the form. 9 A. Not that I'm aware of. 10 Q. (By Ms. Malow) Did Monsanto ever 11 manufacture Seran in Anniston? 12 A. I don't know. 13 Q. Did Monsanto ever use Seran in its 14 Anniston facility? 15 MR. COX: I hope not. 16 A. I don't know. 17 Q. (By Ms. Malow) Do you know whether or 18 not PCBs at the Anniston Water Works 19 site came from Solutia? 20 A. No. 21 Q. Has Solutia been characterizing the 22 Anniston Water Works site? 23 A. My understanding is Solutia is working

Page 201 1 with the waste treatment plant, 2 providing them information. 3 Q. What kind of information? 4 A. I believe they have suggested a sampling 5 plan perhaps. I'm not familiar with -- 6 Q. Suggested a what? 7 A. Sampling plan. 8 Q. Okay. When was it first known to the 9 chemical industry that dumping toxic 10 chemicals in the neighboring streams 11 could be harmful to the environment? 12 MR. COX: Object to the form. 13 A. I don't know the answer to that 14 question. 15 Q. (By Ms. Malow) Have you seen EPA Region 16 IV's environmental response team's May 17 2001 report? 18 A. No, not that I recall. 19 Q. Do you know what the tiger team is? 20 Have you heard that? 21 A. No. 22 Q. Have you heard of some people from 23 Cincinnati that have been asked to come	Page 203 1 A. No, not that I recall. 2 Q. Do you know if Monsanto or Solutia has 3 ever been cited, fined, investigated, or 4 charged by any regulatory body for 5 underreporting, misreporting, 6 falsifying, or otherwise misrepresenting 7 the chemical nature, characteristics, 8 health effects, environmental effects, 9 carcinogenicity, mutagenicity 10 teratogenicity, and/or environmental 11 persistence of mercury, lead, or PCBs? 12 MR. COX: Object to the form. 13 A. I don't know that I can answer such a 14 broad question. But I can state I'm not 15 aware of fines or citations having to do 16 with PCBs or dioxins or furans. 17 Q. (By Ms. Malow) Would that be something 18 that would be brought to your attention 19 in your remediation group if there was 20 such fine or violation? 21 A. Not necessarily. 22 Q. Who would that generally be handled by? 23 A. Typically the plant environmental and
Page 202 1 look at the Anniston site -- 2 A. No. 3 Q. -- by EPA? You're not familiar with 4 that? 5 A. I'm not. 6 MR. COX: I think they're from New 7 Jersey, but I may be mixed 8 up. 9 Q. (By Ms. Malow) Do you know anyone from 10 New Jersey that's come down to look at 11 the Anniston site? 12 A. Not that I recall. 13 Q. Has Monsanto or Solutia ever been cited 14 or fined for any violations of any state 15 or federal regulatory body in connection 16 with discharge of PCBs? 17 A. Not that I recall. 18 Q. Are you aware of any citation or fine to 19 Monsanto or Solutia for discharges of 20 mercury? 21 A. Not that I recall. 22 Q. Same question for lead, dioxin, or 23 furans?	Page 204 1 plant manager. 2 Q. Do you know any reason why houses in an 3 up-scale neighborhood of San Antonio, 4 Texas, should be remediated to 5 background levels for PCB contamination 6 but not in Anniston, Alabama? 7 MR. COX: Object to the form. 8 A. I'm not aware of that circumstance. 9 Q. (By Ms. Malow) Could you think of a 10 possible reason why houses in a San 11 Antonio neighborhood should be 12 remediated to lower levels than houses 13 in Anniston, Alabama? 14 MR. COX: Object to the form. 15 A. The remediation levels are set by 16 regulatory bodies, usually EPA or state 17 agencies. They are not necessarily 18 consistent from state to state. 19 Certainly each site has a number of 20 unique characteristics which have to go 21 into considering any remedial action 22 levels. 23 MS. MALOW: Let's take a break. I

Page 205 1 want to look at my notes and 2 maybe wrap it up here. 3 [A break was taken.] 4 MS. MALOW: All right. Thank you, 5 Mr. Smith. I'll pass the 6 witness. 7 MR. COX: I don't have any 8 questions. 9 10 11 (AND FURTHER DEPONENT SAITH NOT.) 12 13 14 15 16 17 18 19 20 21 22 23	Page 207 SIGNATURE PAGE _____ STEVE SMITH Subscribed and sworn before me on this _____ day of _____, 2001 _____ [NOTARY PUBLIC] My commission expires:_____.
Page 206 August 13, 2001 Mr. Steve Smith C/O William S. Cox, III, Esq. Lightfoot, Franklin & White, L.L.C. The Clark Building 400 North 20th Street Birmingham, AL 35203 Dear Mr. Smith: This page is incorporated as page 206 of your deposition. Your deposition transcript has been completed and, as per requested, is ready for you to read over. Please do not write on the transcript but make any changes you wish on the errata sheet provided. If there are no corrections, write across the page "no corrections." Please sign the signature page before a notary, and then return the errata and signature pages. Under the Rules of Civil Procedure you have thirty days to read and sign your deposition transcript. If you have any questions, please feel free to call me at (314) 729-0575 and I'll be glad to help in any way I can. Sincerely, Sheila L. Ford, RPR, CSR KRIEGSHAUSER REPORTING & VIDEO cc: Ellen B. Malow, Esq.	Page 208 NOTARIAL CERTIFICATE I, SHEILA L. FORD, a Registered Professional Reporter and duly commissioned Notary Public within and for the State of Missouri, do hereby certify that there came before me at offices of Kriegshauser Reporting, 319 N. 4th Street, Suite 322, St. Louis, MO 63102, STEVE SMITH, Who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; and that the signature of the witness was not waived by agreement of witness and all parties, and that this deposition is a true and correct record of the testimony given by the witness. I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action. IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 13th day of August 2001. My commission expires: March 13, 2002 _____ Sheila L. Ford Notary Public

Transcript Word Index

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&	1994	5	93
& 1:19 2:14 3:4,7 206:1,1	100:14 1999 185:14 188:18	5 3:15,19,20	98:8,19 101:11 102:17 120:20
1	2	6	94
1 43:17 100:14	2 185:17	50s 31:16 57:2,7,19 170:3 173:4 197:12	98:8,19 100:16 101:11 102:17 120:20
10 65:23 90:13	200,000 128:20	58-59 57:3	96-269 1:6 2:7
10:00 2:14 4:9	2000 188:18	60s 126:12 170:3 173:4 197:13	99 3:21 186:22
100 126:17	2001 1:14 2:14 4:9 104:16 105:3 105:8 108:23 110:7 118:9 119:9 201:17 206:1 207:1 208:1	62 81:21	a a.m. 2:14 4:9
100,000 125:17	2002 208:1	621-4408 1:21	abernathy 1:4 2:5
104 176:17	202 104:20,21	621-4533 1:22	abf 128:8
13 206:1 208:1	202 104:20,21	63102 1:21 2:15 208:1	able 59:11 158:8 171:15
13th 208:1	206 206:1	67 188:10	abs 128:7,9,13
15 8:7,8	20th 3:8 206:1	69 183:13	absolutely 9:21
184 3:21	2200 3:4	7	acceptable 114:13 115:5 146:3,10
1900s 61:20	24 23:23	70 81:21	accepts 138:1
1958-59 56:18	3	700 3:4	access 66:7 167:20 187:11,12
1960s 149:19 181:2	30 118:13	70s 57:3,8,10,11,11 72:4 107:7 126:12 127:10	account 188:19
1967 3:20 6:2 9:11 11:1	314 1:21,21 206:1	729-0575 206:1	accurate 40:19 189:4
1970s 169:14	319 1:20 2:15 208:1	74 30:4,10,13 32:23	acid 33:12
1974 25:16 26:8,12 29:11,16	322 1:20 2:15 208:1	77002 3:5	acquiring 132:16
1978 32:19 57:5	35203 3:8 206:1	8	acre 81:20
1980 58:15	4	8 1:14 2:14 4:8 65:23 90:13	acres 31:14
1980s 46:21 149:16 152:16	4 3:21 185:13	80s 62:23 63:6 125:8 127:11 143:16 152:16 189:19,22	act 14:15 15:2,19 17:18
1984 32:19	40 122:14	85 30:5,10,13 32:23	action 1:6 2:6 77:21,22 97:8 137:10 138:21,22 204:21 208:1,1
1985 17:11 25:21 26:20	400 3:8 206:1	88 34:4	actions 142:8
1988 27:5 33:20,21	40s 57:18	89 23:8	active 131:8,11,23 132:5
1990 17:12 23:8	45 122:14	9	actively 132:5
1991 35:8	4th 1:20 2:15 208:1	90s 107:8	activities 45:19 94:21 95:3 149:5
1993 102:10 192:10		91 35:19 36:1,3	

[activity - areas]

activity 123:22	agreed 4:3,11,19 156:20 175:22 176:6,14	anniston (cont.) 97:23 98:6,18 100:23 101:8 102:15,19,23 103:4 104:2 105:22 106:2,8,12,15,18 107:16 108:1,4 109:3,10,16 110:6,16 111:19 114:19 120:9,18 132:21,23 133:5 133:11,16 134:1 135:3,9,12 136:13 138:18 139:19 140:10 141:8 144:1,5,14 145:1,6,14 146:9,13,16,21 147:9,18 148:16 149:8,12 150:10 155:14 157:20 158:7 162:16,20 167:9 168:17,22 171:7 174:9,15 176:13,18,23 177:21 178:1 178:13 179:1,15,17,17 180:15 181:2 182:19,22 183:6,8,11 187:19 188:7 191:1 192:4,17,18,21 194:23 195:9,12,15,16,20 196:3,8,11,14,19 197:12,19 197:20,22 198:2,6,10,23 199:8,13,17,23 200:11,14 200:18,22 202:1,11 204:6 204:13	appear 20:6
actual 64:21 84:8 114:2 170:9	agreement 75:16 118:20 174:7 208:1		appearance 22:10
adam 111:6,8	agreements 104:5 142:2		approach 154:2,10
adams 39:1	ahead 44:15 70:12 150:19		approached 174:2
additional 66:12	air 62:4 77:2,4,13 108:3 111:20 145:22 146:5,9		appropriate 148:15 154:9 169:23
addressed 82:14	airport 120:13		appropriateness 148:18
adem 3:22 105:19 106:2,15 108:6 138:1 142:1 155:4,9,13 163:17 169:14 184:9,12 185:12 186:10 187:15 188:18 189:2 192:9 193:19	al 1:4,7 2:5,8 206:1		approval 146:21 148:9
adem's 183:21 186:3 192:1	alabama 1:1,2 2:2,2 3:8 55:13 86:9 98:13 99:5,7 102:2 106:6 143:14,19 192:2 204:6,13		approve 147:14
adjacent 56:11 64:23 66:10,11 88:9 118:6 133:11 163:6	alabama's 192:12		approved 149:9
administrative 38:21	alan 39:10 44:12 60:15 114:7 186:20 187:4,6		approximately 24:17 25:21 31:14 32:18 86:6 92:9 110:9 126:16,17 127:20
administratively 43:19	allegation 17:23 18:3		april 100:14 110:10 111:14 112:7 113:9 117:1 118:9 119:5,7,9,23 145:10,11 165:19
admitted 183:1	alleviate 63:8	answer 9:16 28:1 45:16 50:15 59:12 69:12 85:18 93:1,5 108:16 115:7,13 131:7 135:20 138:3,11 150:18,20 156:19 189:6 201:13 203:13	aquatic 191:8
advice 84:3,4	allowed 76:12		aqueous 142:16,20
advised 179:2 180:4	ambient 146:4		area 28:13 33:7 34:16 44:10,13 44:18,19 45:6 46:16,16,20 47:3,11,11,14 50:17,17,21 50:21 51:5,6,7,8 52:1,8,13 52:17,18 53:4,13,23 54:3,6 54:13,21 55:15,18 56:1,21 59:22,23 60:15 61:14 62:8 62:12,19 64:2,10,11,14 66:3 67:2,4,13 68:2,11,13 74:14 76:19 78:18 81:19 85:17 88:22 91:22 101:10 112:21 132:23 133:5 134:21 138:18 141:17 146:13 150:10 152:9 153:8 154:13,17 162:16 171:7 174:9 175:1 182:19,22 192:18,21
advisory 74:16,21 114:23 115:1,10 115:16 116:5,14 192:12	amec 67:14,17,20	answered 69:23 150:16	
affiliation 18:23 19:7	american 18:12,14,15 19:8 26:22 27:7,17,21 28:7,17 29:4 30:5 32:20 33:18	antonio 204:3,11	
affirmatively 108:13	amount 16:11 21:8,12 102:5 122:15 148:22 163:1 177:12 195:19 199:11	anybody 10:23 86:15 92:15 105:1,22 106:6 146:22 149:2 187:1	
affirming 141:3		anyway 80:3	
afternoon 120:6	amounts 180:21	aoc 67:7 104:5 142:6 162:22 167:17 174:12 176:7,14	
age 5:8	analyses 150:5	apologize 73:15	
agencies 63:13 204:17	analysis 47:21 137:15	apparently 185:18	
agency 196:4	analyzed 144:2	appeal 116:10	
ago 12:7,11 81:6 97:14 131:10 135:14 189:19	animal 190:16	appealed 115:22	
agree 69:15 134:11 157:1	anniston 39:8,22 41:9 42:4 43:16 55:12 66:23 72:5,12,16	appealing 115:16	areas 41:20 43:5 52:1,2,2 53:23 62:18 64:1 79:12 81:22 94:20 97:7 103:7,9 104:15 119:20 157:3 168:16 177:12

[arsenic - break]

arsenic 133:12	august (cont.) 208:1	bbl 106:22 107:1 110:21 114:5	billing 27:16
article 178:1,5 179:18 182:12	authored 188:6	145:5 186:12 187:8,12,14	biologist 5:23
asked 21:12,17 44:1 73:14 95:16 96:9 122:4 150:15 175:6 177:10 188:18 194:20 201:23	authority 146:18 147:19,22 148:14 148:23 149:3	190:21 193:19	biphenyl 180:13 197:16
asking 9:7 46:13 80:17 96:10 158:23	average 154:16	becoming 155:8	birmingham 3:8 120:12,13 121:2 206:1
aspects 169:22	aware 5:19 11:5 30:21 35:1,5 49:17 77:8 92:13 94:19 97:1 143:13 164:11 168:10	bedrock 68:23,23	bit 11:10
assessment 77:1 169:4	169:17 174:21 178:9,23 182:5,21 188:9 189:9,14 190:2 192:1 199:15 200:9 202:18 203:15 204:8	began 31:15 90:7 135:12	blew 22:22
assign 4:15	b	begins 185:12	blocks 49:11 93:17
assignment 101:5,6 102:22	bachelor's 25:8,14 26:2,6	begun 188:11	bob 108:5 144:4
assistant 38:21	back 11:1 25:5 41:19 43:1 44:17 46:20 54:6 61:8 62:23 71:19 75:6 85:14 96:3 98:22 99:3,4,17 101:2 102:2 107:3 120:6,14,20 132:21 143:15 164:12 173:4 175:9,23 176:3 181:19 182:14	behalf 1:13 2:13 5:9 22:3 123:15	bob's 43:6 123:20 124:23 125:5 125:16 127:13,15,18 144:9
assisting 27:13	background 84:6 204:5	believe 14:10 18:8 19:18 20:2,22 26:15 43:7 55:14 57:10 63:17 66:18 68:9 69:22 70:2 72:3 73:13 74:18 76:4 76:14 77:20 79:3 82:11,17 82:21 84:2 85:7,12 90:7,13 91:21 93:23 94:2 95:10,15 97:14 100:3 101:15 102:20 106:23 110:21 111:9,12 112:10,17 114:7 115:3 116:21 118:19 125:1 126:12 129:4 130:19 132:12,13 134:10 135:14 140:14,17 145:18,23 157:6 161:3 164:5 176:14 178:15 183:19 190:7 192:23 193:8 201:4	bodies 49:21 63:20 74:14 104:8 114:19 157:11,15,20 158:4 204:16
associated 12:11 14:17 51:17 53:15 54:4 62:1 65:20 80:19 94:21 95:3	backwards 11:10	bell 111:7	body 158:14 196:7 199:18 202:15 203:4
associates 68:14 114:10 190:22	ball 61:16 66:1 112:18,23 113:8 150:14 151:1,16 153:6,13 154:19,23 155:3,19	belleville 19:22 20:3,18,19 23:10	boiling 193:22
assume 5:21 6:13 9:8 20:18 36:8 38:3 40:2 57:22 81:17 115:9 123:5 125:9 138:5 140:1 157:18 158:5 160:18 170:21 186:19	bark 146:12	benefit 117:22 118:1,2	boss 101:21
assumed 131:5,12 132:7	base 189:6	benson 3:4	bottom 27:7 58:19
assuming 60:4 158:1,3 166:17 168:20	based 8:19 16:19 76:23 89:1 103:23 109:14 115:15 141:7 146:3 148:19 164:12 169:21 193:15	benzene 61:5	bottoms 18:12,15,16 19:8 26:22 27:8,9,18,21 28:7,17 29:4 30:5 33:18
assumption 6:5,9 49:23 157:13 166:20	basically 33:3 45:23 48:5 60:12 66:10 101:4 103:21 107:9 112:2 113:16 117:12 154:16 166:23	best 40:2 73:20 93:1 177:11 180:1	bought 22:20 96:23 132:9,12
assumptions 9:13	basics 69:9	better 46:17 171:15	branchfield 23:22 39:2,7,10,13,21 43:15 103:3,16,19 104:7 105:2 108:23 109:15,23 110:17 113:5 134:7 136:8 146:18 148:13 165:3,6,12 179:14,20 180:3 186:21 198:7
atmosphere 30:22	basis 169:6	beyond 159:1	branchfield's 147:19
attended 149:7 167:9		big 31:13 33:15 87:11 166:19 177:20	brand 104:13
attention 203:18		bill 176:8	breach 22:18
attorney 143:13 208:1,1			break 69:3,5 70:3 121:15,17 145:19,20 184:5 204:23 205:3
attorneys 11:16 165:13			
august 1:14 2:14 4:8 43:17 206:1			

[bridgeport - cleanup]

bridgeport 80:12	called 28:13 190:4	certain (cont.) 148:22 169:21 175:15	chlorobenzine 61:5
brief 47:20 121:11 185:15	candidate 40:3	certainly 6:20,22 41:18 42:12,20 83:14 86:20 140:1 143:6 144:11 166:1 176:6 204:19	chlorophenol 19:19
briefly 44:7 179:16	cap 32:4 129:3	certificate 208:1	chocolocco 6:2 7:12 10:18 104:9 113:14 117:19 118:7 141:13 149:22 163:15,19 164:4,9 177:6 188:14 193:22 194:11
bring 11:9 70:20	capability 73:1,7	certify 208:1,1	cincinnati 128:1,15 201:23
brings 33:19	capacity 180:23	chance 23:13,15 184:20	circuit 1:1 2:1
brio 12:12,15,20 13:10,16 14:5 14:13 15:18 40:11,23 43:3 100:15,19,21 121:6,14,19 122:5,7,12,18,23 123:4,17	capped 31:23	change 30:10	circulate 191:9
broad 50:14 79:18 109:6,9 203:14	capping 97:17 125:21	changed 30:11 33:2,10 102:1	circulated 108:10
brought 17:6 22:13 203:18	caps 95:21	changes 206:1	circumstance 204:8
brown 114:6 145:5,8,13	capturing 138:23	characteristic 59:16	circumstances 6:10 14:20 134:16 154:6,9 159:5
buddy 46:18 70:15 80:5 179:11 194:21	carcinogenecity 203:9	characteristics 203:7 204:20	citation 202:18
buddy's 89:1 91:6	career 19:14	characterization 48:6	citations 203:15
budget 71:15 147:13	carefully 208:1	characterize 153:14	cited 202:13 203:3
budgeted 65:21 90:12 149:4 162:15 162:18,21	carriers 16:1,8 22:4	characterized 153:12	city 5:1 28:13 49:11 122:7,21 126:7
budgets 147:1,2,7,10 149:8,11	case 12:8,11,15 13:10,13,19 14:8 15:3,23 17:14 19:21 20:9,13,21 21:2,6,13,15,21 22:15,18 23:1,5 71:17 142:13 169:6,6 174:1	charge 11:4 90:3	civil 1:6 2:6 25:10,13 206:1
build 66:13 75:18 96:8 182:2	cases 14:11,16 15:5,19,20 17:2 83:13	charged 203:4	claim 5:20 20:14 21:2 22:16
building 3:8 64:22 118:6 151:12 206:1	cause 208:1	chart 107:10,15 113:19,21 114:2 116:13	clarify 9:5 27:12
buildings 96:22	caused 159:10	cheaper 163:13,22 173:13	clark 3:8 206:1
built 88:18,20 96:17	causes 158:14	chemical 7:23 28:22 30:20 47:21 51:18,19 53:16 79:19 86:8 189:8 191:14,19 201:9 203:7	clay 32:1 62:22
buried 31:3 152:14,18,21 153:1 176:21	cc 206:1	chemicals 45:20 124:11,13 201:10	clean 5:16 6:17 8:22 9:9,20 17:17 46:10 62:18 76:12 125:15 154:22 156:14,21 157:3 159:12 161:8 173:15
buy 173:13,22,22	cell 64:23 65:5,7,18,22 66:13 75:3,5,14,18,21 76:3 88:9 88:12,17 89:9,11 90:7 91:15 96:9,16 179:7	chicago 23:12 60:14	cleaned 6:4 41:16,17 43:11 76:6 156:6 161:6
c	cells 177:20	chloralkylide 78:11 133:18 180:16	cleanup 7:1 12:20 42:18 44:9 45:11 50:8,12 61:13 62:1,8 64:9 64:13,21 80:6,18 82:13 83:5 84:23 85:6 89:14 91:20 95:23 96:13 97:12
cahokia 28:12,14	ceo 160:9	chlordan 74:18,20,22	
calhoun 1:2 2:2	cercla 77:19 175:3,16	chlorine 78:14 178:23 179:8 180:13 181:1 183:12	
call 29:7 48:11 49:1 83:14 131:8 179:16,19,22 206:1	certain 7:10 14:20 77:11 142:7,8		

[cleanup - correct]

cleanup (cont.)	company (cont.)	considering	continue
99:23 112:13 113:13 122:5	158:18	204:21	116:7 191:9
122:12 123:9,13 125:18	comparable	considers	continues
126:15 127:18 128:18,21	168:20	77:20	116:9
154:18 155:3,18 156:1,17	compare	consist	continuing
162:15,19 174:8	168:17	44:19	10:6,17
close	compares	consisted	contract
49:9 93:15 120:13	146:10	112:15	7:22
closed	complete	consistent	contractor
57:4 88:5 180:18 183:13	184:13,14 189:3	204:18	15:8
coarse	completed	consists	contractors
134:22	90:9 206:1	44:21 81:20 184:7	14:17 15:6 175:2,18
coarser	completely	consolidated	contribute
68:22	138:23	1:7 2:7	67:19
coley	comply	constituent	contributed
188:2,9	157:7 158:22	122:1 183:15	64:9
colleague	components	constituents	contributing
111:4	148:11	60:20 61:3	65:17
collected	composite	construction	control
194:10,17	153:18 154:1,10,11,15	90:7 170:9	171:16 173:11
collecting	compound	consultant	controversy
116:20	190:4,9	46:20 68:6 106:20 134:6	208:1
column	concentrated	149:23	convenient
167:23	155:10	consultants	120:23
coming	concentration	46:21,23 47:17 67:12,14,22	conventional
124:21 176:3	107:11 146:4	68:1,3,12 110:19 113:22	137:13,19
comment	concentrations	114:4,8 136:5,10 148:21	conversation
193:15	107:13 188:13	165:18 177:10 190:23	165:4 179:13 180:2,4,10
comments	concern	193:6,7,19	conversations
186:3,5	61:3 139:10 142:23 183:16	consultations	23:21 24:11 105:21 106:1,5
commercial	concerning	106:11	109:23 110:3 144:4 145:4
93:11 96:10,12,22 104:23	208:1	contact	145:13 165:10 190:19
commission	conclude	90:2 101:7	convert
143:20 192:3 207:1 208:1	109:13	contactors	190:3,7
commissioned	concluded	14:18	cook
196:23 197:5 200:6 208:1	109:18	containing	20:22
commissioner	concrete	138:8 141:1	cooperation
4:7,20	165:23 166:12,15 167:1,13	containment	75:18
common	168:3	64:23 65:7,18,22 75:3,5,14	coordination
28:13 170:4 173:5	conditions	75:20 76:2 77:16 88:9,17	40:13
communication	77:11	89:9 91:15 96:9,16	copy
83:15	conducted	contaminant	174:16
communities	119:11 199:11	41:9,16 152:2,23	core
160:16	confer	contaminants	194:9
community	148:5 149:1	14:4 152:1	corners
118:2 160:5,11	confluence	contaminated	161:23 162:3
community's	188:14	60:18 86:13 92:10,17,22	correct
155:13	connection	94:3,9 113:3 141:6 150:23	6:5,9,14 8:1,2 13:6 16:14
comp	176:18 202:15	151:3,11 152:21 156:2,10	30:6 38:5 39:8,20 40:6
14:21	consent	157:3 161:14 162:10,12	41:10 43:13 48:10,18 51:5
companies	67:5 82:14	167:21	52:9,10 55:6 58:22 60:1,6
16:21	conservation	contamination	70:21 96:1,2 108:14 121:21
company	117:2,16 118:12 163:12,13	10:7,11,17 104:8 109:3,10	122:2 123:20 129:12,13,21
1:7 2:8 7:23 22:4 52:11	163:22	109:16 141:12,21 143:15	139:20 149:12 150:1,2
65:16 83:4 98:13,22 99:5,8	considered	144:13 204:5	155:21 160:19 171:23
102:3 130:15 155:18 157:2	39:18 40:2 166:2 169:5,9		187:5 208:1

[corrections - deposition]

corrections 206:1,1	cox (cont.) 132:11 134:15 136:1,23	culvert 167:1	decree 67:6
corrective 138:21,22 154:3 164:14	137:5,11,16 138:10 139:3	currently 67:9 68:9 129:2,17 147:6	deep 137:8 194:10
corridor 117:2,9,17,19 118:4,12	139:15,23 141:2,9,14,22	172:19	defendant 18:7
163:12,14,22	142:22 143:5 146:6 148:1	cv 1:6 2:7	defendants 1:8 2:9 3:6
cost 16:19 22:23 61:9 63:2,16	150:3,15,19 151:19 153:22	cycle 181:19	define 41:6
64:16 65:17,20 67:19 90:11	154:5 155:15 156:7,22	d	defined 44:10,18 50:22
90:12 95:17 96:18 118:21	157:5,12,23 158:11 159:4	damage 20:14 21:2	definitely 43:14 59:19 120:21 180:17
118:23 130:14,17 166:11	159:14 160:2,7,17 163:7,10	dangers 189:10,14	definition 10:11 15:14 58:14 59:4,6
175:2,17	163:16 164:16 165:7,16	dark 111:11	59:10,13,15
costs 16:22 148:12 175:15,23	166:17,21 168:1 169:2,16	data 60:9 74:8 106:14,17,19	degree 25:8,10,15 26:2,7
176:1,4,6,10,13,15	171:3,8,17 172:5 173:3,19	107:1,4,10,23 108:4 113:17	delaware 80:11 81:1,7,8,14 82:5,8,13
counsel 4:4,13,14 208:1,1	174:20 175:4,7 176:5	113:23 115:15,17 116:18	83:21 84:22 85:5,17,21
country 38:13 41:13	178:11,17 181:11,16,22	116:20 146:12 158:5	87:14
county 1:1,2 2:1,2	182:4,10,20 183:3 184:6	date 50:8 61:13 64:13	demonstrate 138:7
couple 69:8 96:6 124:14 178:6	185:1,22 188:15,21 189:5	dated 185:13	density 32:3 65:11,13
course 28:11 34:10 141:15 170:6	189:11 190:6 191:10,16,18	day 42:22,22 103:5,14 119:22	denying 140:22 141:3
184:15	192:6 193:14 194:1,13	120:2 207:1 208:1	denzel 5:22 7:14
courses 84:10,12,14	195:22 196:16 197:2,8	days 206:1	department 33:12 34:12 82:15 83:11,17
court 1:1 2:1	198:18 199:1,5,19 200:3,8	dead 44:23 50:2,5 65:1 66:11	83:23 85:10 86:11 89:4
cover 32:2 62:22 69:8 121:4	200:15 201:12 202:6	74:1,4 75:2,13 76:1,5,12,19	106:7 118:15 187:1
171:2 197:23	203:12 204:7,14 205:7	79:2	departments 61:21,23
coverage 22:2	206:1	deal 48:21	depend 10:10
covered 22:9 97:20 102:16 150:12	craig 23:22 39:1 43:15,17 103:3	dealing 34:14,22 111:20	depending 15:14 186:21
170:14,19	105:4 110:17 113:5 134:7	dealt 34:8	depends 83:13 134:16 154:6
covering 170:20	147:10 148:13 165:3	dear 206:1	deponent 205:11
cox 3:7 5:18 6:7,18 8:4 9:1,4	186:20 187:4,7 193:15	decades 170:3,12	deposed 15:22 17:3,5 18:10 21:1
10:9,20 11:6 16:15 23:15	creating 88:8	decide 83:4 134:13	22:12
27:10 30:23 31:5 34:17	creek 5:16 6:1,2,4,17 7:12 8:23	decided 76:10,14	deposes 5:9
42:19 45:13,15 46:11,13	9:10,20 10:5,16,18 44:22	decision 91:18 116:11,17 148:3	deposited 78:16 85:16 91:14 124:7
49:5,16,22 50:10 51:2,22	44:23 50:2,5 65:1,4 66:7,11	162:9 163:18 168:11	125:11 126:23 127:2
55:20 56:22 57:17 58:13	74:2,5 75:2,13 76:1,5,13,19	170:22	deposition 1:12 2:13 4:5,16 11:15,21
59:1,7,11 60:19 62:20 69:3	79:2 96:8 104:9,9,12,22	decisions 146:19 162:7 171:11	11:22 12:5,14 13:10,15
70:10,16,19,22 71:1,9	109:21 113:13,14 117:19	decreasing 107:11	
72:14 73:3,8 76:9 77:9 78:7	140:12,13,16,20 141:1,6,11		
79:10 80:16 81:15,18 93:14	141:13,20 142:3,14,18		
98:15 99:10,21 102:12	143:11,15 147:22 149:15		
105:12 108:16 109:4,11,17	149:19,22 163:6,15,19		
111:4,8 114:16,21 115:6,12	164:4,9,10,12,13,15,20,21		
115:23 116:6,16 121:15	164:22 165:1,15,23 166:9		
	166:12,14,16,17 167:4,8,15		
	168:4 169:10 177:4,6		
	178:10,16 180:6 188:13,14		
	192:10,11 193:22 194:2,7		
	194:11,17		
	critical 77:22		
	crockett 143:19		
	csr 4:6 206:1		
	cubic 75:11 86:7 92:10		

[deposition - electric]

deposition (cont.) 14:7 19:15 21:20 23:4,11 23:16,22 24:3,5,7,9,12 69:7 70:7,11,20 206:1,1,1 208:1 208:1	difference 153:20	disposal 81:19 82:9 85:17 161:19	duly 208:1,1
depositions 14:12 15:18,21 19:11 22:8 71:16	different 6:20,23 9:22,22 33:11 36:23 41:20 45:21 65:10 68:3,4 112:1 114:1 124:12 175:5,7	dispose 52:12,19 125:5 126:4,10 171:14 172:3,11	dumping 201:9
depth 135:1	dioxin 152:7,17 202:22	disposed 31:18 32:12 53:5 62:15 73:17 81:14,23 82:4 86:8 92:9 130:9 194:23 195:5,8 195:11 196:8 198:9,14,22	duties 30:15 40:7
describe 88:17	dioxins 152:9 203:16	distance 49:12	dye 133:2
description 185:15	direct 3:15 5:11 8:7 37:16 38:20 43:10 44:8	distribution 108:11	e
design 26:11 30:9 32:22 33:6 65:8 65:15 75:10 88:20 89:12 170:11	direction 64:15 75:17 89:3 196:7	ditches 195:12 199:4	earlier 38:3 45:4 84:5 121:23 149:21 163:11
designated 51:15 52:1	director 36:17 37:2	diverting 169:9	early 19:14,14 57:8,9 61:20 98:8 121:1 125:8 127:11 169:13
designations 56:1	disagreement 17:21	divided 36:11,12	earmarked 86:17
designed 135:16	discharge 159:20 178:16 181:9 202:16	document 8:5 9:10 47:19 70:15 184:9 184:11,12,21 185:5 186:2,3	easements 117:14
detail 15:16 42:2 44:16 45:10	discharged 10:14 159:9 178:10 182:8 190:3 195:15,19 196:12 199:12	documents 17:19 45:22 70:6,20,23 71:4,8 176:7 187:12,18,21	east 28:10
details 80:6 100:4 136:3	discharges 28:21 183:2 189:3 202:19	doing 7:1 27:6 33:3 34:19 64:15 68:12 69:7,19 159:18 193:3	easy 22:11
detect 76:7 77:3 194:4	disclose 122:22	dollar 16:11 21:7 90:14	ed 82:21
detected 74:1 112:14 136:15,19 138:6 146:15	disclosure 98:13,16 99:8,11 133:13	dollars 22:23 63:3,18 64:19 122:14 126:18 131:22	educate 103:21
detection 28:4 138:12	discretion 149:10	doubt 93:4	education 25:7 104:13
detections 74:13	discussed 24:6 113:10 117:4 118:9 119:3 145:2 147:11 165:17 167:8 179:16	douglas 11:13	eeia 64:16
determination 127:9	discussing 84:17,19	downstream 10:7 180:6 192:11 194:11	effect 168:14 188:12
determinations 147:20	discussion 8:12 104:11 113:12,15 115:15 116:23 117:6 167:17 185:2 191:5	dr 5:15,19,22 7:21 8:15,22 9:9 9:14 11:1,5 145:2 182:23	effectively 139:20 140:5
determine 47:23 48:4 109:20 148:14 195:18 199:11	drive 76:17 171:10 190:23	drainage 7:12 181:14 195:12 199:4	effects 144:15 196:20 197:1,6 200:1,7 203:8,8
determined 138:20 148:19 151:6 157:17 164:14 174:12	dismantled 62:10 182:9	dredge 163:15,23 168:12	effluent 28:15,19
developed 117:20 192:22		dredging 63:19 164:8	effort 89:14
devices 77:2		dried 88:11	efforts 44:12 83:9
dichloro 34:12		drive 103:10 119:10,14	eight 32:1 47:18 62:22 64:5 93:17 127:20 194:16
dichlorobenzene 33:13		drove 103:9 104:12,18 167:14	eighty 126:17 131:18
			either 17:6,20 54:19 59:15 73:18 76:15 84:8 94:13 112:10 116:21 129:2 186:20
			electric 168:12

[element - falsifying]

element 191:20	environmental (cont.) 87:7 89:4 132:10 188:3	exact 21:7 72:1 83:2 87:8	experts 142:12 190:20
eliminating 142:9	196:20 200:1 201:16 203:8 203:10,23	exactly 27:6 36:15 44:19 77:23 100:7 107:3 165:19 193:11	expires 207:1 208:1
ellen 3:3 11:15 59:8 206:1	epa 17:6,6,21 21:20 44:11,18 46:8,19 47:8,17 53:8 60:10 60:13 64:15 67:7 77:20 89:3 104:4 105:15,16,22 138:20 139:10 140:4 146:2 155:2,7 162:11 163:17 168:10 169:6 174:8,15,23 175:23 176:8,9,17 201:15 202:3 204:16	examination 3:12,14,15 5:11 208:1	explain 5:13 6:5 65:6
emelle 75:15 86:9 91:16 113:4 151:4,7 156:11 161:21	epidemiological 190:13	examined 2:13 5:8 208:1	explanation 6:14 121:11
emergency 77:21 174:8	equipment 22:21,22,22 60:12	example 34:19 84:22 85:1 147:20 148:16 149:16 159:7 168:2 168:5 170:6 175:17	expressed 139:10
emissions 183:6 188:6,20 198:16,20	eroding 63:14	excavate 147:21	extensive 170:7
employ 87:12	erosion 63:9,12	excavated 32:8 75:1 113:2	extent 83:18,23 109:2,9,15,21 146:1 183:19 184:13
employed 208:1,1	errata 206:1,1	excavating 118:5	extremely 99:8 143:8
employee 134:6 208:1	esq 206:1,1	excavation 112:17,18	eye 143:11
employees 20:15 21:10 160:16 161:2	essentially 20:14 22:16 25:11 66:7 68:21 79:13 84:12 96:15 100:16,18 103:5 117:21 120:5	exceed 115:5	f
employer 14:22	established 146:3	exceeded 192:11	facilities 10:2 48:20 100:19 125:12 162:11
employment 19:2	establishments 104:23	excess 114:18	facility 15:13 19:6,8,10 20:15 26:22 28:16 29:5,10,11,15 29:20 30:22 31:4 32:13 48:9,22 49:3,14 50:9,13,16 56:7 64:7 68:16 73:17 77:14,16 78:2,12,17 86:9 87:10,11,14 91:16 94:17,20 122:8 124:19 126:1,5,11,16 127:7 128:2,13,16 133:12 133:16,18 135:2 136:17 140:11 144:1,14 145:1,7 147:9 153:3 161:19 162:8,9 169:10 172:22 173:2 178:9 178:15 180:17 191:1 195:20 196:9 199:12 200:14
encompass 45:3 60:7	estimate 49:11 61:17 64:17 122:13 131:4,18	exclusively 41:14	fact 46:23 86:6 91:4 94:19 96:5 116:10 123:6 136:20 141:7 147:7 160:13 166:1 174:6 193:10
encompassed 51:7	estimated 90:9	exhibit 7:3,8 8:16 70:14 149:21 184:2,7,22 185:9	fair 59:8 87:22
encompasses 60:3	estimates 147:1,8 177:11	exhibits 3:17 5:3	fairness 43:9
engineer 30:14,17 32:17	et 1:4,7 2:5,8	existence 32:7	fall 45:6
engineered 62:22 64:6 65:14	etowah 1:1 2:1	expect 131:10 136:8 173:18 180:21	false 139:4
engineering 25:9,9,11 32:23	evaluation 164:13	expected 6:23 42:21 77:7	falsifying 203:6
ensure 160:14	everett 94:16,16 95:5,10	expend 148:23	
entire 8:5 29:20 30:8 64:7 186:1	evidence 4:17 54:14 55:17 56:2 63:11	expended 50:11 122:10 126:14,19 128:17	
entities 96:22 114:1 117:7 127:17	evolved 170:2,12	expenditures 63:23	
entitled 7:9 168:22		expense 64:13	
entrenched 42:15		expenses 16:9	
environment 34:15 118:3 191:8,22 195:16,20 196:15 199:8,13 201:11		expensive 22:20 130:14 173:10	
environmental 16:3,9,19,22 25:12 30:14 30:16 32:16,22 34:1,2,4,5,8 35:3,7 36:17 37:2,7 62:3 82:15 83:3 84:12 85:7 87:6		expert 137:17 143:6	

[familiar - full]

familiar 42:5 80:13,18 86:2,5 132:22 133:10,23 143:18 150:4 151:22 161:6 162:1 165:22 169:12 175:21 176:11 177:15,23 182:1,15 183:8,21 190:8,10 192:8 193:2 197:20 201:5 202:3	fifteen 61:22 fifty 75:10 figure 28:5 figures 96:20 file 14:23 45:20 filed 11:18 20:1,17,19 22:6 23:8 filing 4:20 fill 112:19 filter 61:1 137:14,20,22 filtered 136:19 138:2 final 3:20 7:9 77:17 financially 156:17 208:1 financing 155:20 find 142:7 181:19 finding 21:9,11 findings 11:1 47:16 fine 8:10 9:2 68:21 69:7 202:18 203:20 fined 202:14 203:3 fines 203:15 firm 3:3,7 13:12 20:20 21:15 51:13 firmly 143:1 firms 110:20 first 6:8 11:7,11 35:15 42:5 80:11 86:15 98:5 108:17 120:15,19 178:6,8 185:13 185:20 189:9 201:8 208:1	fish (cont.) 116:14 118:11 141:12 168:16 192:4,10 five 74:9 81:20 131:22 137:22 153:9 172:8 flight 120:3 121:1 flood 153:6,10,10 163:6 florida 87:23 89:3 flow 139:12 flowing 139:6 fly 120:6 follow 6:16 7:1 8:21 160:4 foot 62:22 64:5 ford 2:15 4:6 206:1 208:1,1 forecast 147:14 forecasted 149:4 162:21 forecasts 147:1,2,8 149:8,11 foresman 24:12,14 36:5 38:2 101:19 147:6 foresman's 24:21 36:8 38:4,8 forget 148:12 forgot 84:4 96:3 form 4:14 5:18 6:7,18 9:1 10:9 10:20 11:6 16:15 30:23 34:17 42:19 45:13 46:11 49:5,16,22 50:10 55:20 57:17 58:13 59:1 60:19 62:20 72:14 73:3 76:9 77:9 78:7 81:15 98:15 99:10,21 102:12 109:4,11,17 114:16 114:21 115:6,12,23 116:6 116:16 132:11 134:15 136:1,23 137:5,11,16 138:10 139:3,15,23 141:2,9 141:14,22 142:22 143:5 146:6 148:1 150:3 153:22 154:5 155:15 156:7,22 157:5,12,23 158:11 159:4	form (cont.) 159:14 160:2,7,17 163:10 163:16 164:16 165:7 168:1 169:2,16 171:3,8,17 172:5 173:3,19 174:20 175:4 176:5 178:11,17 181:11,16 181:22 182:10,20 183:3 188:15,21 189:5,11 190:6 191:10,16 192:6 193:14 194:13 195:22 196:16 197:2,8 198:18 199:1,19 200:3,8 201:12 203:12 204:7,14 formats 6:23 formed 67:5 166:4 former 44:21 45:2 46:22 50:22 51:8,16 54:7 188:3 formulating 186:13 forty 69:1 86:6 92:9 forward 122:22 found 79:1 91:2,5 102:11,21 112:23 118:18 137:3,8 140:15,17 150:9,14 152:6,9 153:5 154:19 156:14 161:11 163:5 164:19 165:14 169:14 180:5 192:3 four 12:7,10 112:18 137:21 194:5 fowler 114:7 frame 17:12 23:9 24:20 30:13 33:1 56:19 57:3,7 71:23 72:1 98:8 119:7 125:3 126:9 134:18 145:11 franklin 3:7 206:1 free 206:1 frequently 154:11 friedman 3:4 front 176:2 full 6:1 100:18 186:9
--	---	--	---

[functionally - hours]

functionally 43:18	go 8:3,8 11:10 29:1 42:2 44:15 53:2 61:8,10 68:23 70:12 80:3,8 85:13 92:3 101:9 103:6 104:17 105:16 110:12 120:3 123:23 125:23 132:21 150:19 204:20	guy 143:18	heard 55:8 99:11 143:12 162:5 201:20,22
functions 40:13	goes 29:3 159:1 185:17 186:4	guys 48:23 67:16 71:5 96:8 99:16 102:6 195:4	hearing 99:19
funding 127:21	going 8:6 42:2,13 49:18 64:18 71:19 75:4,13,23 76:5,7 77:17 89:8 91:6,14 96:11 98:18 99:15 101:1 103:22 104:1,3,14,21 112:4 118:23 144:17 161:21,22 176:12 182:21	h	held 8:12 33:1 185:2 191:5
funds 149:10	golfer 110:21 114:9 190:22	hair 111:11	help 46:14 206:1
furans 202:23 203:16	good 11:10 126:3	half 56:9,13 63:17	herbicides 79:15
further 183:22 205:11 208:1,1	gotten 107:19	hand 70:13 208:1	hereto 208:1
g	governing 170:7	handed 7:8 100:17	hereunto 208:1
gary 68:6	governmental 196:4	handle 44:4 45:19 83:8	hi 105:5
gears 121:3 140:9	gravel 65:11	handled 83:5,22 86:22 92:21 203:22	high 32:3 65:11,13 99:8 163:4 164:19 192:3
gene 188:2	greater 130:17	handling 60:16 83:12 92:21 130:8,16 158:19	higher 61:6
general 35:10 44:17 47:17 112:16 117:6 130:5 143:13 144:8 155:6,7 163:23 164:2 168:11 170:17 171:12	gridded 153:17	hands 102:1,7	highest 74:5,8,8
generalized 172:6	ground 69:2 182:18,22	hanson 37:17,20 101:3,17	highly 190:4
generally 15:1 203:22	grounds 4:15	happen 23:3 166:14	highway 104:18 118:13,19 119:21
generate 171:22	groundwater 60:9,18,23 61:4 68:5 135:9 135:11,17,21 136:12,16,22 137:9,14,20 138:2,8 139:1 139:6,11,21 140:6	happened 39:14 127:10 182:7,17 194:9,16	highways 118:14
generated 47:18 92:11 94:4,8 128:14 132:16	group 11:8 25:4 26:11 30:9 33:6 35:11,12,19 36:21,23 37:4 37:6,15,19,22,23 40:9,14 40:14 67:4,15 82:10 83:6 84:21 86:16,17 89:16,18 92:15 95:2 97:11 115:21 116:3 129:9 135:23 186:16 187:6 198:7 203:19	happens 163:18	hired 5:22 149:23 193:6
genesis 145:16		hard 131:7,19	hiring 27:15
gentlemen 5:14		harm 159:10,15	historic 188:19
geology 132:22 134:9 169:22		harmful 201:11	historical 185:16 197:23
georgia 162:5		hayden 37:10	history 26:6 47:20 91:17 99:6 123:2
getting 26:1,6 102:1 146:21 170:8		hayden's 37:11	hog 150:5,5
give 13:15 25:6 26:5 33:15 36:19 71:6 74:7 85:1 129:14 154:15		hazard 158:2,14	hogs 150:9
given 11:21 14:7,12 15:20 24:2 69:6 71:17 116:12 167:19 187:12 208:1		hazardous 32:9 57:15 58:10,14,20 59:5,14 124:5 128:2	hold 30:12
giving 24:4		head 108:13	home 43:6 123:20 124:23 125:5 125:16 127:14,15,18
glad 206:1		headline 168:13 178:2,3,12	hope 200:15
	guess 12:6 28:2,5 33:19 46:6 63:3 67:6 109:18 110:6 148:10 150:17	health 36:18 37:3,7 106:7,10 144:15 158:2,14 196:19 197:1,6 200:1,7 203:8	hopper 105:5
			hours 44:2

[house - know]

house 39:2 82:11,12 85:3,11 92:19 93:4	incinerate 73:2	inspections 119:10	iv's 201:16
houses 96:7 204:2,10,12	incinerated 71:21 72:9,12,16,19,22	installed 62:21 63:7 133:5 134:21	j
houston 3:4 12:12	incineration 72:6	installing 129:5	jacksonville 139:8,13,17
hudson 168:12,17,23	incinerator 73:12	institution 25:17,22	jamro 82:21
huh 68:8 131:2 158:20 168:9	incinerators 73:10	insurance 15:22,23 16:20 22:1,3	jan 3:21
hundred 69:1,1 74:9 144:9 153:9,10	include 53:20 79:12	intent 140:2	january 185:13 188:10
hundreds 61:18	included 79:20	interested 117:7 208:1	jeff 36:7,8 43:18 103:2,21
hydrology 68:18,20 134:1,4,12 169:22	includes 51:8 54:7	interim 77:18	jerry 37:10 39:2 89:20 95:6 105:5
i	including 38:15 62:15 81:23 160:5	intermixed 53:19	jersey 80:12 97:3 202:7,10
idea 29:18 154:16	incomplete 184:21 185:6	interviewed 187:14	jo 37:17,20 101:3,17
identification 5:5 184:4	incorporated 206:1	investigate 183:22 188:12	job 25:1 40:3 42:7,8 84:8
identified 50:4 97:8	incurred 16:10	investigated 203:3	joe 143:18
identifying 138:16	index 3:12,17	investigation 7:10 46:15 47:14 67:8 88:22 138:15 145:6 148:20	jones 101:15
iepa 75:17	indicating 51:22 68:8 131:2 158:20 168:9	investigations 79:8 183:18	july 23:23
iii 3:7 206:1	individual 51:12 100:15 114:1	investigator 7:15	jury 5:14 11:12 38:10 159:23
illinois 14:15,18 15:19 17:6 19:22 46:19 47:8,17 48:8 53:8 55:11 60:10 190:1	individually 169:4	involve 16:23	k
imagine 105:4	industries 28:10 53:18,22 54:10 55:4 173:8	involved 13:12 15:6 17:19 41:2,13 42:17 43:15 61:10 64:11 67:3 76:16 83:3 84:1,14 86:18 89:22 91:20 95:9 99:17 101:5,6 105:10 121:21 122:5 127:6,13,17 129:8 132:6 136:2 155:8,18 171:9 176:16	kaley 108:5 144:5 145:2 178:21 182:23
immediately 64:23 66:9,11 88:9 118:6 188:11	industry 173:6 189:9 201:9	involvement 26:16 84:2 100:21 124:3	kasowitz 3:4
impact 34:14 134:19 157:16	information 91:6 178:18 185:16 187:9 189:2 194:1 198:1 201:2,3	involves 62:8,13	kearny 97:2,3,13,18
impacted 86:7 92:1	initial 35:18 109:5,8	involving 14:8	keep 63:14 183:5
important 81:12 134:11 169:19	initially 28:23	issue 17:14 43:21 170:10 180:3,7	kind 12:8 14:16 61:9 201:3
imported 55:14	initiated 46:19 112:11 115:18	issues 42:23 68:5 96:1 144:6,13 144:14,16,20 155:9,11 191:2	know 6:8,10 8:10 10:5 11:3 13:21 13:23 15:4 16:11,16 17:1 18:9 20:1 21:21 22:6 23:11 23:14 24:2 28:1 29:6,12,14 29:23 31:15,17 37:20 40:1 41:6,8,12 42:14,16,22 46:3 46:9 54:16,19,23 55:2,9,10 56:16 58:10 59:4,17 62:13 62:23 63:1,4,16 64:8 66:14 68:15,18,19 69:6 70:4 72:1 72:2,5,7,8,11,15,17,18,22 73:1,4,6,15,22,23 74:3,7,12
impoundment 88:4	injured 14:20	it'll 81:10	
improvement 143:20 192:2	input 187:2		
improvements 10:1	insoluble 143:8		
inch 47:19	inspection 119:13		

know (cont.) 74:15,21 75:3 77:12,23 78:4 79:3,4 80:4,9,23 81:11 81:13,16,18 83:2 85:2,5,15 85:20 86:15,19 87:2,7,13 87:15,17,19 88:6,13,21 89:7,11 90:6,11,15,17,18 90:21 91:1,4,13,17,19,22 92:8,16,20,23 93:4,5,19 94:3,6,11 95:1,11,13 96:18 98:16 99:6,7,12 100:4 101:13,23 102:6,13 105:8,9 106:21 107:5 112:22 113:2 113:5,6 114:3,5,10,13,17 115:4,7,19 117:10 118:23 122:10 123:2,5 125:7,10 126:13,22 127:5,12 129:10 130:10,11,12,20 131:14 132:4,5,9 133:2,7,9,15,19 133:22 134:12,19 135:1,5,8 135:10,11,15,16,20 136:8 136:12,15,20,21 137:2,7,12 137:23 138:1,3 139:4,5,9 139:10,14,16 140:2,19 142:16,19 143:9 144:3 146:2,8,17 149:14,18 150:8 150:13,22 151:3,6,18 152:12,14,17,19,22,23 153:5,12,16,17,19,20 155:1 155:2 156:1,5,9,13,16,19 156:20 159:15 161:10,13 161:18,22 162:2,14 163:1,4 164:6,8,17,18 165:19 166:6 166:10,11 167:6 168:15 169:11 170:13 171:1,4 172:21 173:12,17,20 174:6 174:14,18 176:20 177:3,19 177:20 179:3,6 180:12,23 181:4,12,17,23 182:6,17 183:4,10,20 186:7,12,14,15 186:18 187:8,11,14,18,21 188:1,2,17 189:12 191:11 191:12 192:15 193:3,10,11 194:3,8,9,15,22 195:3,7,14 196:1,5,6,10,17,21,22 197:3,17,18 198:9,13,16,19 198:21 199:20 200:4,12,16 200:17 201:13,19 202:9 203:2,13 204:2	knowledge (cont.) 112:12,16 115:2,19 117:15 127:4 128:6 130:2 134:4 140:8 144:2 149:17 155:12 170:23 189:6 195:21,23 197:7,14 198:5 208:1 known 58:20 136:4 189:21 201:8 knows 86:16 93:3 kriegshauser 1:19 2:14 206:1 208:1 krummrich 20:16 26:9,13,19,20 29:7,8 29:10,15,20 30:1,6,17,22 31:4,7,9,11,18 32:13,17 33:21 39:16 45:3 48:9,12 48:16,23 49:10,14,18,20 50:9 51:5 52:2,3 55:12 56:7 60:4,21,23 61:4 68:16 71:19,21 72:6,9,19 73:17 77:3,14 78:1,5,10,17 79:10 97:21 125:2,4,11 152:6,10 172:22 krummrick 29:7 I I.l.c. 3:7 206:1 I.l.p. 3:4 lab 193:5 194:18 laboratory 137:17 ladies 5:13 lagoons 51:16 53:15 lake 10:18 104:10 141:13 177:8 lamar 126:2 land 45:18 landfill 31:6,7,11,12,13,19,23 32:7 32:14 40:12 44:21 45:2,3 47:2,4,20 50:22 51:4,8 52:8 52:13,16 53:7,8 54:7,8,12 54:20 56:8 58:4 59:20 64:7 65:14 81:21 82:5 85:21 98:11,14,20 99:9 100:1,13 100:23 101:10 102:11 103:7,9,10,12 121:8 124:6 124:19 127:23 128:5,19	landfill (cont.) 139:22 140:7 161:21,23 162:2,3 169:13,15,19 170:1 170:8,10,14,19 172:19 173:6 176:21 177:1 landfilling 172:15 landfills 31:3,9 46:2,10,23 48:1 55:3 55:3 56:5,23 57:12,13,14 57:15 58:1 62:14 78:17 170:2,4,11 177:17,21 195:1 196:13 198:10 large 4:8 63:7 167:16 larger 83:8 154:17 largest 122:15,20 130:18,19 larry 39:1 late 31:16 57:2,7,11 62:23 98:7 127:10 181:2 law 3:3,7 13:12 41:21 lawful 5:8 laws 157:7 158:22 159:2 lawsuit 11:17 14:23 17:5 22:12 lawsuits 14:15 lawyer 13:8 19:21 21:19 111:10 165:5 185:4 lawyers 22:3 105:7,10,12 110:22 layer 65:11,12 layers 65:10 laymen's 22:19 leachate 125:20 lead 79:20 85:7 87:2 110:3 133:12 188:19 197:10,15 197:19 198:5,9,13,16,20,22 199:12,16 200:2,6 202:22 203:11 leader 11:7 25:3 36:21 37:14 40:8 115:20 116:3 135:22	leader (cont.) 172:10 leading 4:14 140:13 leave 151:8 leaving 139:1 left 26:20 108:20 125:22 lengthy 17:18 leo 51:9,11 letter 3:21 47:2 80:6 89:2 176:17 188:23 level 28:20 60:23 74:6 76:5,11 142:8 146:9 156:5 174:8,12 levels 10:13 61:7 73:23 74:3,4 76:6,17 77:13 78:20 79:4 91:1,10 94:12 97:16 99:8 99:13 102:10 112:13,22 114:18 115:4 116:13 118:11 146:10 150:8,13 152:7,12 158:6,7,13 161:10 163:4 164:19 168:15,18,20 192:3 204:5,12,15,22 liabilities 16:10 132:10,13 liability 15:3 16:4 lifted 115:17 116:5,15 light 39:3 44:11 46:2,4,5 lightfoot 3:7 206:1 limit 28:3 100:11 114:14 limited 92:7 152:3 limits 114:18 115:5 line 58:19 lined 58:1,3 166:22 167:2 liner 65:12,14 91:2 165:23 166:12,15 167:13 168:3 liquid 72:20 177:18 181:4
---	---	---	--

[liquids - mention]

liquids 72:21	lots 9:21 126:3	malow (cont.) 189:1,8,13 190:10 191:4,7 191:11,21 192:8 193:18 194:4,15 196:1,18 197:4,10 198:21 199:3,7,22 200:5,10 200:17 201:15 202:9 203:17 204:9,23 205:4 206:1	master's 25:10,19 26:2,3 84:11
list 42:1 47:7 59:15 100:17 108:12 123:21 129:23	loud 108:17	manage 38:15,17 42:21 44:13	match 58:18
listed 47:7,19 177:13	louis 1:21 2:15 4:8 5:1 12:17,18 28:11 35:16 83:6 85:3 86:11 110:15 124:2 182:15 187:23 208:1	managed 44:11,12	material 19:16,17 118:18 128:7,9 150:23 151:4,7,11 156:2,10 161:20 172:16
litigation 13:18 15:18,22 16:2,6 18:1 22:1 65:19	louisiana 3:4	management 25:3 36:21 37:4,6,14,19 38:9,11 39:19 40:9,17,22 86:9	materials 10:13 21:13 81:22 88:10 162:13 197:11
little 11:10 44:15 45:10 123:21 131:19 132:20	low 152:7 153:8	manager 12:16,21 13:3 18:12 26:21 27:7 33:17 35:20,21 39:8 42:21 44:8 76:22 82:22 95:7 136:5,6 146:23 188:3 204:1	matter 17:8,14
live 12:18 20:6 21:4 162:5	lower 164:20 204:12	managers 38:14,22 40:18 123:19 129:11,20,22 130:8,16	matters 208:1
loan 19:5 27:1,2,4 30:5	m	managing 34:5 40:16 41:5 43:14 82:17 129:17 130:1	maximum 183:10
locate 170:8	machine 174:16,17	manufacture 128:11 197:12 200:11	mcleod 90:4
located 18:20 48:9 81:1 87:18 90:16 93:9 124:2 126:1 127:23 133:10 170:5 187:19	main 20:23 51:4 52:7,12 104:18	manufactured 29:15,19,21 30:1 81:7,8 90:18 93:20 95:14 141:7 179:1,4	mean 9:21,23 10:1 27:19 46:5,8 50:15 60:4 109:12 119:14 127:9 138:13 144:9,10 155:20 179:17 180:19 187:4
location 76:1 169:15	major 27:14 42:2 45:3 112:3	manufacturer 55:6	means 38:11
locations 193:21	making 34:11 157:13	manufacturing 26:13,17 78:6 94:1 159:8 171:21 179:8 180:14 181:20 198:1	meant 9:9,14
log 71:11	mall 113:10 156:1,3,6,14,18,21	march 11:8 24:19 35:22 36:1,4 42:8 100:16 110:10 111:14 119:23 136:3 145:11 165:19 208:1	measure 77:17,18 165:22 166:7
logan 10:18 104:10 141:13 177:8	malow 3:3,15 5:12,21 6:13 7:2 8:6 8:14 9:2,18 10:15,22 11:9 11:14,16 16:16 27:12 31:2 31:8 34:18 43:1 45:14,16 46:12,17 47:9 49:6,19 50:3 50:11 51:3,23 55:22 57:1 57:12,20 58:17 59:3,9,21 60:22 63:1 69:4,6 70:12,18 71:4,14 72:15 73:6,11 75:6 76:11 77:12 78:9 79:11,18 80:21 81:17 93:19 98:17 99:12,23 102:14 105:15 108:19 109:7,13,22 111:10 114:17 115:1,9,13 116:2,12 116:19 121:16,18 132:15 134:19 136:7 137:2,7,13,19 138:11 139:5,16 140:4 141:4,11,18 142:4 143:3,9 145:19,21 146:8 148:4 150:4,17,22 151:20 154:1,8 155:17 156:9 157:1,8,18 158:3,15 159:7,19 160:3,10 160:20 163:8,11,20 164:18 165:9,21 166:19,23 168:6 169:8,18 171:5,12,20 172:9 173:7 174:1,21 175:8,14 176:11 178:14,20 181:13 181:18 182:1,6,12,23 183:5 184:20 185:4 186:6 188:17	marie 87:4	measures 154:3 164:14
long 26:19 27:3 35:6,21 56:20 74:21 81:4 97:14 103:4 131:9 189:19		mark 114:6 145:5,8	mechanical 25:9 26:11 30:9 32:22 33:6
longer 39:18 166:16 184:9		marked 5:4 7:3,8 8:16 70:14 184:3 185:8	mediation 11:7
look 7:13 8:4 70:9 71:8 98:10,19 108:6 109:5,8 184:21 202:1 202:10 205:1		martin 10:19 104:10 141:13 177:8	meet 120:5
looked 41:17,20,23 47:3 59:22 71:6 107:2 143:14 167:7 169:3 170:21		massachusetts 94:16	meeting 103:18,23 108:20,22 109:14 110:1,23 113:9 114:11 116:23 118:10 119:4,17 145:9 165:18
looking 79:17 183:16 184:23			meetings 105:1,6 147:12 149:7 167:9
loop 83:16,17			membrane 170:15,20 171:2
lost 101:7 181:21,21			memo 188:9
lot 61:20 104:22 111:23 112:20 151:12 152:2,8,15 153:1			memory 21:22
			memos 188:5
			mention 167:12

[mentioned - notice]

mentioned 40:21 45:4 56:3 59:21 62:21 121:6 167:14	misreporting 203:5	monsanto (cont.) 159:12 160:3,8,15,21 171:13,20 172:7 174:22 179:6 181:18 183:5,22 185:18 187:23 196:22 197:5,11 200:10,13 202:13 202:19 203:2	necessary 4:12 62:2 149:12 164:15
mercury 78:1,4,9,13,16,19,21 79:1,6 79:16 110:1 133:13,15 178:1,10,16 179:6,14 180:3 180:6,12,17,18 181:5,9,13 181:19,21 182:3,7,13,14,17 182:21 183:1,6,11,15,23 185:15,16 186:10,18 187:9 187:16,18,22 188:6,13,19 189:3,10,15,16,22 190:2,5 190:8 191:7,14,18,21 192:3 192:13,15,20 193:4,13,20 194:5,23 195:4,7,11,14,19 196:2,8,12,14,20 197:1 202:20 203:11	misrepresenting 203:6	monsanto's 13:1 19:7 48:22 51:19 53:20 55:1 64:12 132:10 160:14 172:2 181:8	need 70:3 108:16
met 11:14 101:15 103:3	missing 188:23	monthly 71:15	needed 197:15
metal 191:19	mississippi 8:1 63:8,10	moral 157:9	needs 193:12
metals 79:13	missouri 1:21 2:16 4:7,8 5:1 19:16 21:14 25:18,23 208:1	morning 120:5,7	negative 157:16
meth yl 190:4,7	misunderstand 51:4	motco 40:11,23 43:3 100:14,19,20 121:6 123:17 125:23 126:5 126:11,16,20 127:7 130:12 130:17	negotiated 118:20
michigan 86:2	mixed 57:21 58:11,21 202:7	move 65:3 94:15 97:2,22	negotiating 67:10
micron 137:22	mo 2:15 208:1	moved 89:8 145:21	neighborhood 49:4,7,15,18 81:2 87:18 90:16 93:10 204:3,11
mid 57:10 63:6 181:1	molten 197:15	municipal 57:14	neighboring 201:10
middle 24:19	monetary 148:23	mutagenicity 203:9	neighbors 102:9 157:9,22 158:10 160:6 161:2 196:12
migrated 48:1 138:9	money 50:7 61:12 62:17 64:8 102:1,4,6 125:14 126:14,20 128:17 148:8 149:4,4 161:7 162:14,18,21 181:21	n	neighbor's 159:10,21
migration 49:13,17,20	monies 50:12	naked 143:11	neither 184:12 208:1
mike 24:11 36:5 39:2,3 44:11 82:11,12 85:3 92:19 93:4 147:5	monitor 116:8 139:20 140:5	name 11:11,15 21:19 77:23 79:19	new 42:15 43:2 80:1,12 97:3 101:5,6 102:22 104:13 115:15,17 202:6,10
mile 56:9,13	monitoring 68:15 77:2 108:3 133:4 134:14,20 135:1,6,12,17,21 136:16 138:6 139:18 146:15	named 18:6 143:18	nice 80:5
mill er 68:6	monsanto 1:7 2:8 5:16,22 6:3,15 7:23 11:18 12:16,21 13:21 15:7 15:11,23 16:8,13 18:1,4,5 19:1,3,4,9 20:16 26:8 28:16 28:21 31:12 45:22,23 46:9 50:3,7,11,19,23 52:6,14,19 53:5,9,14 54:1,11,14 55:3,5 55:17,19 56:2,16,20 61:13 62:14,17 63:20 64:1,9,14 66:3,22 67:22 99:4 100:2 102:9 122:11 123:3 124:8 124:18,22 125:15 126:4,9 126:15 127:3,5,12,19 128:5 128:15,18 130:21,22 131:12 132:7 133:3 134:5 138:17 149:14,18,23 150:6 151:16,23 153:3 154:18 157:21,21 158:9,9,18 159:8	names 20:22	night 26:3,3 71:13 120:4,8,17
million 22:23 63:3,17 64:19 65:23 66:1 74:10 90:14 122:14 126:17 192:12		name's 90:4	nitrochlorobenzene 61:6
millions 61:17		nature 16:2 34:21 84:9 91:11 94:13 97:17 112:14 117:21 177:15 203:7	nods 108:13
mine 144:10		near 74:16 77:13 81:1,3 87:18 90:16 93:9 114:19 124:2 192:4 193:22	non 76:7 77:22
minute 107:22 121:4		nearby 49:8 138:12	nonhazardous 58:11,21
		nearest 49:9	nonprivileged 71:14
		necessarily 138:13 203:21 204:17	north 1:20 2:15 3:8 74:10 152:11 206:1
			notarial 208:1
			notary 2:16 4:7 206:1 207:1 208:1 208:1
			notes 205:1
			notice 3:19 4:19 70:11

[number - pcb]

number 6:19 8:18 10:3 12:22 29:18 38:12 44:2 45:19 46:22 61:15,16 62:3 65:9 68:7 93:21 100:9 104:3 110:19 112:8 113:23 124:12 130:20 131:1,14,19 135:5 136:2 184:2 204:19	objective 47:4 obtain 25:20 obtained 117:14 obviously 54:9 104:21 118:1 119:14 occurred 62:9 offered 4:17 66:21 offhand 78:19 114:12 119:2 152:13 164:7 office 35:10 144:9 174:15 offices 2:14 187:23 208:1 officials 105:16 ohio 128:1 okay 27:9 31:8 35:6 36:22 47:13 48:19 50:21 52:6 55:15 57:1 60:15 62:16 63:5 64:5 64:20 65:2 70:5 73:14 80:10,15 84:20 86:5 93:6 94:11 96:3 98:17 101:9 107:12,22 110:5 121:3 122:21 123:7 127:12 136:7 156:20 159:22 160:20 163:4 184:17 201:8 once 33:14 42:14 176:8 ones 17:3 19:12 47:1 123:18 129:12,14,17,18 one's 158:14 ongoing 60:8 62:4 116:19 125:19 128:21 129:14 144:23 193:9 operated 51:9 57:2,6,10,18 operating 172:20 181:1 operation 47:20 133:20 160:15 181:6 operations 37:12 161:1 182:8 183:9 operator 125:20	opinion 166:4 opposed 27:10 option 167:5 172:11 options 167:7 order 70:7 82:14 196:6 ordinances 17:19 organic 81:22 organics 79:14,15 organized 36:14 orientation 119:16 originally 46:4 outside 120:12 128:1 oversee 37:13 40:17 123:18 overseeing 12:19 89:18 155:2 oversight 15:12,15 83:10,14 overview 112:2 owner 15:1,7 125:20 owner's 14:19 66:9 owns 50:19 oxford 112:9,13,21 113:8 118:11 150:14 151:16 153:6 154:19,23 155:3,19 161:5,8 161:11,15	paper 70:9 168:13 para 33:13 34:12 paragraphs 178:7 pardon 74:19 park 61:16 66:1 112:9,13,21 113:8 155:19 parking 112:20 151:12 152:1,8,15 153:1 part 13:1,5 37:3,6 39:18,23 45:21,21 52:3,8,13 54:13 54:20 62:12,19 79:6 104:10 118:7 137:9 166:21 179:7 183:17 192:12 193:8 participated 156:16 participating 117:8 127:21 participation 121:12 particular 13:19 61:22 65:5 134:12 138:14 148:6 161:19 175:17 particularly 48:4 parties 4:4 12:22 118:5 208:1,1,1 partners 20:23 parts 24:23 74:9 party 18:6 73:9 pass 104:22 205:5 pathways 181:15 paved 152:7 pay 118:21 154:18 175:22 176:2,6,15 paying 174:14 pcb 10:17 16:23 26:17 28:20 35:1,5 41:4,6 43:11 53:2 62:8 64:1 76:6 80:6,18 86:7 86:13 92:10,17,22 94:3,9	
o				
oak 162:5 oath 69:10 208:1 object 5:18 6:7,18 9:1 10:9,20 11:6 16:15 30:23 34:17 42:19 45:13 46:11 49:5,16 49:22 50:10 55:20 57:17 58:13 59:1 60:19 62:20 72:14 73:3 76:9 77:9 78:7 81:15 98:15 99:10,21 102:12 109:4,11,17 114:16 114:21 115:6,12,23 116:6 116:16 132:11 134:15 136:1,23 137:5,11,16 138:10 139:3,15,23 141:2,9 141:14,22 142:22 143:5 146:6 148:1 150:3 153:22 154:5 155:15 156:7,22 157:5,12,23 158:11 159:4 159:14 160:2,7,17 163:10 163:16 164:16 165:7 168:1 169:2,16 171:3,8,17 172:5 173:3,19 174:20 175:4 176:5 178:11,17 181:11,16 181:22 182:10,20 183:3 184:15 188:15,21 189:5,11 190:6 191:10,16 192:6 193:14 194:13,22 195:22 196:16 197:2,8 198:18 199:1,19 200:3,8 201:12 203:12 204:7,14 objection 9:3,4,7 31:5 45:15 73:8 150:15 165:16 182:4 199:5 objections 4:12,15				
		page 3:14,18 7:14,17 8:7,8 184:10 185:13,17,19,21 206:1,1,1,1 207:1 pages 8:18,20 184:8 185:8,23 206:1 paid 13:21,23 14:1 102:4,6 156:13 175:1 paint 20:14 21:2	p	

[pcb - potentially]

pcb (cont.)	performed	place (cont.)	please
96:1 113:3 118:17 137:15	40:13 79:8 133:3 142:17	134:13 163:14 182:3	11:12 25:7 206:1,1,1
141:1,6,12,20 142:16	146:20 147:17 150:5	placed	pledge
144:13,19 150:23 151:3	169:12 192:16	32:6 39:14 75:2 76:2 88:11	160:4,8,14,21,23
156:1,2,10 158:6 162:10,12	period	151:11	plus
168:15 177:3 180:14 191:2	27:3	places	81:6
197:6 198:1 204:5	perjury	32:12 55:10 167:15 169:21	point
pcbs	69:13	placing	18:11 60:13 81:20 100:9
14:4,9 26:14 27:17,20 28:3	permeable	152:1	137:21,21 151:21 153:4
29:6,9,14,21,23 30:21 31:3	171:2	plain	160:8
31:6,17,21 32:6,11 34:9,15	permission	153:7,10,11 163:6	pointed
34:22 41:2,9,15,21 47:23	63:13	plaintiffs	185:5
49:20 50:1,1,5 54:19,23	permit	1:5,13 2:6,14 3:3,18 5:3,9	points
55:1,2,6 60:22 62:16 71:20	17:8,9,14 53:7 196:6	11:17 13:13 142:12 184:2	47:6
72:5,8,11,15,18 73:2,16,23	permits	plaintiff's	policies
74:13 77:3,8,13 78:6 81:13	60:11 170:9	19:20 20:20 21:15	16:20 169:7
81:23 82:4,9 85:16 88:5,13	permitted	plan	pollute
88:14 89:8 90:21 91:1,4	10:13 53:8 57:9 124:5	67:10 101:4 112:20 141:20	157:10
92:1 94:22 95:4,14 97:9,13	persistence	148:7 164:5 188:12 201:5,7	polluted
97:16,16 98:14,16 99:9,11	203:11	planned	157:14,14
109:21 114:14 122:1 124:8	persistent	112:10 116:22	pollution
124:9 127:2 130:8 135:9	191:14,21,23	planning	62:5
136:15,21 137:3,7 138:5,8	person	98:23 117:12	polyethylene
138:12,17 140:15,17,19	73:20 85:10 90:2 93:1	plans	65:12,13
141:8,17 142:8 143:1,3,10	personal	144:22 164:9 192:20,23	polyurethane
145:21,23 146:4,9,16	40:4 57:23 170:23	plant	32:3
150:10,14 151:19,20 152:3	personally	10:11,12 18:13,18 20:16	pond
153:5 154:18 156:14,21	189:13	26:9,13 27:15,18,22 28:15	66:10 88:4,10,11,15
157:19 158:1,4,8,13 159:9	pesticide	28:19,22 30:20 33:7,22	poorly
159:9 161:10 163:5 164:19	7:11	34:6 38:17 39:17 41:22	52:5
164:23 165:13 168:3	pesticides	44:12 46:1 48:12,12,23	portion
176:20 177:3,4,12,16	79:15	49:10 51:18,20 52:3,23,23	29:3 34:7 52:17 55:18 75:8
190:11,14,17 191:15	phase	53:9,17 55:12 59:20,23	170:13,18 175:10
197:12 200:18 202:16	142:16,20	60:4,21 61:14,19 62:7	portions
203:11,16	philosophy	67:23 71:20 77:3 80:12	53:4,13,23 164:21
pdcab	171:5,13 172:7	81:1,4,9,14 82:5,8,13,17,19	poses
33:13	phone	82:22 83:7,11,21 84:21,23	160:15
peck	179:16	85:5,8,18,22 86:1,3,4,14,19	position
111:6	phrase	86:22 87:3,17,23 89:15,21	12:13 24:22,23 26:10 30:11
penalties	9:20	89:22 90:3,15,19 91:3,23	33:18,23 35:16,18 36:9
69:13	phrased	92:5,6,9,18,20 93:6,12,20	37:11 42:15 43:2 80:2 83:1
pending	52:5	94:4,16 95:5 97:2,7,13	87:5,7 139:20 140:5
13:18	physical	101:16 103:15 109:3	positions
pennsylvania	28:22 30:20 51:17,19 53:16	114:20 119:11,15 122:7,21	30:10,12 32:21
89:14	physically	125:1,2,4,4 126:7 143:23	positive
pensacola	101:9	146:16 152:6,10,11 155:9	66:18
87:22,23 88:22 89:22 90:6	picture	155:10 179:1,15 181:1,15	possible
90:15 91:3,11,20,23	109:6,9	183:7,8,12,13 187:19 192:5	124:16 143:3 204:10
people	piece	197:19,21 198:6 201:1	possibly
9:22 27:15 37:13 87:12,15	22:20,21	203:23 204:1	87:4
201:22	pieces	plants	potential
perception	60:12 111:16 112:3	10:1 83:8	10:4 124:15 141:16 167:5
155:13	pipe	plant's	196:19 199:23
perform	133:10	188:2	potentially
94:1	place	plastics	141:15
	11:10 74:16,22 115:2,11	128:12,15	

pots 197:15	primary 30:18 31:11 142:23	prompted 45:11 46:8 88:21	pure 98:13
pounds 29:6,9,14,19 31:17 176:20 177:4	principal 7:15	promulgated 45:18	purpose 65:2,3 98:9,18 103:18 111:13 117:16
power 98:13 99:5,7 102:3	prior 4:17 19:1 39:10 56:18 100:20	properties 66:2,14 96:12 104:17 157:11 161:8,11,15,16 162:16,19 173:14,16 174:4	purposes 70:13
ppm 76:8	privileged 71:10	property 14:19,19,23 15:7 66:8,12 66:20 97:7 98:22 99:3,4,17 101:2 102:2,7 139:2,7,12 157:14 159:10,11,21 171:6 171:10 173:14,20 196:13	pursuing 116:18
practice 173:5	probably 12:2,10 15:15 23:8 46:2 81:6 93:13,16 98:7 123:20 127:10 141:10 159:5 164:2 165:3 166:6 178:12 179:11	proposals 164:9	put 17:16,20 22:19 63:13 75:18 106:19 129:3 146:23 147:10 177:16 188:12
practices 172:8	problem 63:9	proposed 47:11,12 75:20 164:3,6 166:8	putting 101:3 129:3 134:17
pre 17:9,13,17	procedure 206:1	protect 160:5	q
predecessor 192:1	process 26:17 60:8 64:22 67:9 78:6 179:8 180:14,19 181:20 198:2	protecting 160:11	quality 139:21 140:6
preference 172:3	processes 33:7 171:22 197:18,21	protection 82:16 89:4	quantities 73:16
premises 15:3	produce 197:11	protocol 135:16	quantity 78:4 97:16
preoccupied 105:13	produced 2:13 5:8 71:2	prove 158:8	queenly 92:5,6,8,17,20 93:6,11,20 94:4 125:1,4,11
preparation 23:19 176:16	production 78:13 179:14 187:22	proven 157:19	question 9:17 28:2 33:9 46:7,18 50:14 59:12 61:8 69:20,23 73:21 93:2,5 123:11 138:4 144:18 158:12 163:21,21 165:8 171:18,19 175:6,13 185:20 186:17 189:7 191:13 201:14 202:22 203:14
prepare 187:15	professional 1:20 2:16 208:1	provide 71:10 84:21 117:22	questions 4:13,14 5:12 16:3 44:17 69:12,16 85:15 95:16 107:1 135:20 184:18 205:8 206:1
prepared 106:11 113:21 114:2	program 17:17,22 25:12,13 30:19 34:5,8 45:17 46:1 66:21 77:20 84:11,18,18 104:4 109:20 117:2,17 135:12,17 135:21 171:6 173:15 193:9 193:11	provided 185:18 206:1	quick 8:19
preparing 186:17	project 12:16,21 13:2,3 18:11 26:21 27:6 33:17 40:10,22 42:21 44:8 82:18,20 84:23 86:18,20,21 89:23 90:5,12 100:11,13 111:15,16,17,17 111:19,22 117:5,10 128:21 129:11,20,22 130:7,16 136:4 146:23 147:23 154:7	providing 84:3 201:2	quintard 113:10 118:11 156:1,3,5,17 156:21
presence 97:9	projects 13:4 33:11 35:2,5,11,19 37:18 38:12,16,18 40:15 62:4 95:9,17 100:10 103:22 104:1,3 112:1,8 113:7 118:10 119:4 129:23 130:7	prp 50:4 67:4,15 122:16,16 123:10,14 126:19 127:6,13 130:21	r
present 41:22 110:22	promotions 35:23	prps 41:15 64:11 67:19 91:19 121:20	railroad 92:12 94:7
presently 10:5 36:14 38:23 41:5 73:6 82:12 93:22 114:14 192:16		public 2:16 4:7 106:7 207:1 208:1 208:1	range 79:18 90:14
president 37:12		published 160:9	ranked 47:10
press 179:18		pump 125:19 129:5	raw 197:11
pretty 101:6		purchase 66:21 171:6,10 173:15	rcra 41:23 45:17 46:1 58:15 60:8 84:18 104:4 124:5
prevent 159:18 161:1 168:3,6,8		purchased 66:3,9,12,15 96:7,13,15 173:21	
previous 16:20			
previously 26:23 37:17,22			
price 145:16			
primarily 43:21 68:21 78:11 83:5 105:4 122:8 126:6			

[rcra - residential]

rcra (cont.) 155:11	recoverable 175:15	relation 62:7	rent 174:16
read 8:15 24:9 75:6,9 106:10 168:13 175:8,11 178:5 190:13,16 206:1,1	recovery 65:20	relationship 139:6,11	reorganized 36:13
reading 160:18 184:22	recycling 122:8	relationships 7:11	repeat 165:8
ready 8:8,11 23:16 70:7 206:1	redistributed 167:23	relative 208:1	rephrase 123:11 171:18 175:13
real 10:15	reduce 44:1	relatively 153:8	replacement 92:12 94:7
really 43:9 50:14 59:14 62:11 63:4 111:11 124:16 163:20 170:11 180:5 186:6 190:8	reduced 208:1	release 196:2 199:16	replacing 142:10
reason 8:21 66:6 108:8 173:7 178:14 193:16 204:2,10	reduction 9:23	released 180:20,22	reply 187:15
reasons 6:20,22	referred 14:14 15:2	relocated 35:10 39:16	report 3:20 7:9,21 8:16 11:5 36:3 36:6 37:8 38:23 47:5 48:3,6 108:5,7 129:11,20 192:9 201:17
recall 12:2 13:17 17:11 18:3 19:12 48:3 57:4 65:23 75:10 78:19 98:21 99:22 101:16 102:4 103:2 105:14 107:6,13 108:2 113:23 115:14 116:17 117:4 118:8 119:3,13 124:9,10 125:1 129:2 146:7,14 151:21 152:13 153:4,9 160:12 180:1,4,9 184:1 186:11 188:8 191:3 197:9 198:3 201:18 202:12,17,21 203:1	referring 73:9 111:18 172:14	remain 35:6,21	reported 123:3 196:2 199:16
	regarding 13:16 76:17 104:7 106:11 106:15 140:10 144:5 185:15 188:6 191:1 196:23 197:6 198:5 200:6	remedial 35:11,19 37:18 38:14 67:7 94:21 95:3 97:8 116:3 135:22 148:19 165:22 166:7 167:5 204:21	reporter 1:20 2:16 208:1
	regardless 28:20 157:10	remediated 204:4,12	reporting 1:19 2:14 43:18 129:15 206:1 208:1
	region 60:13 146:2 201:15	remediation 11:4 13:4 25:3 36:21 37:3,5 37:14,19 38:9,11,12,18,22 39:7,19 40:9,14 50:12 76:22 83:9,12,18,19 84:7 84:15 112:15 115:21 125:21 129:8 144:5,13,23 145:5 146:19 147:16 148:6 148:15 151:17 153:2 154:12 164:1 168:23 172:9 203:19 204:15	reports 37:16 38:20 71:15
	regional 18:13 27:14 29:4		representative 114:11
	registered 1:20 2:15 208:1		represented 3:3,6
	regulated 189:16,22		representing 11:17 165:13
	regulates 162:11		request 183:21 185:12 186:10
receive 176:8	regulations 58:16 84:19 157:7,10 158:22 159:2,17,19 170:7	remediations 16:23	requested 75:8 76:12 175:10 206:1
received 98:21 99:16 101:2	regulators 109:19	remember 13:8,12 17:15 18:2 19:20 19:23 20:20 21:6,7,14,18 22:2,11 23:4 32:17 74:9 81:3 101:1 102:5 107:9 110:4 113:15,16 120:19 124:9 150:12 167:11 194:20	require 46:9
receiving 99:18	regulatory 196:7 199:17 202:15 203:4 204:16		required 17:16 45:18
recommend 115:21 116:1,4,7	reimburse 16:8 176:9		requirements 142:7
recommendation 6:11,17 8:22 76:21 182:2	reimbursement 16:18	removal 62:2 77:21,22 86:12 92:16 164:3,7 167:4	requiring 168:11
recommendations 142:11	reinjected 168:4		reserve 117:21
recommended 5:15 6:3 166:8	rejected 194:18	remove 9:6 163:14	residences 66:9 161:5
record 7:7 8:13 70:13 75:8 175:10 184:6 185:1,3,22 191:4,6 208:1	relate 63:23	removed 32:8 88:5,15 150:23 156:3 161:14 167:22	resident 49:9
records 181:8	related 17:8 19:15 35:1 96:1 97:13 124:16 171:10 191:2 208:1	renotece 70:16	residential 49:6,15 66:2,16 81:2 87:18 90:16 93:9 96:6,10 104:17 104:22 161:15 162:15,19
recover 14:21 176:1,3			

[residents - seran]

residents 28:12 66:22 81:3 93:12,16 157:20 158:7 167:19 168:21 169:1 174:3 196:19 199:23	right 11:14 15:17 18:19 21:18 23:3 30:3,7 39:5,6 43:12,16 44:4 48:8,21 49:2 51:14 55:5 56:11 60:5,16 71:19 79:22 83:18 85:20 91:9 92:3 94:15 97:20 102:14 113:20 116:12 117:11 118:13 119:18,22 120:22 121:3 125:23 158:19 161:4 164:7 165:21 166:19 170:5 173:12 186:6,22 205:4	saith 205:11	seal 208:1
resolved 13:20	rinaldi 39:2 89:20 95:6	salaries 175:1	secondary 29:3
resources 84:20	ring 111:6	sample 154:15	section 176:17
respect 100:22 134:8 148:16 176:12	risk 76:23 146:3 160:15 161:1 169:4	sampled 60:9 136:13	sector 65:4 74:10
respective 4:4	river 63:8,10 80:11 81:1,9,14 82:5,8,13 83:21 84:22 85:5 85:17,22 118:7 168:12,18 168:23 170:5	samples 46:22 61:1 99:19,20 136:19 137:4,14 138:2 154:11,14 194:6,10,16	sediment 34:20 107:23 164:4 165:14 167:4 192:4 194:6,10,16
response 184:10 185:19,21 186:1,4,9 186:13,17,19 187:3 201:16	road 193:23	sampling 34:21 67:11 99:1,15 101:4 109:20 142:2 153:15,18 154:2,10 162:23 164:5 167:18 175:3,18 180:7 193:21,21 201:4,7	sediments 65:4 74:1,5 75:1,12,19 79:2 140:18,20,23 141:1,6 143:1 143:2 163:15,19 164:21 165:1 167:21,21 168:16
responsibilities 30:16 34:19 38:4,7 40:8,10 40:23 158:17	robert 101:15	san 204:3,10	seeking 16:13,18
responsibility 13:6 30:18 34:3 35:3 42:14 43:5,10 44:9 45:8 52:4 95:2 121:5 123:12 157:2,6,9,22 158:10,21 159:1,12	rock 63:7,14	sand 65:12 68:21,22	seen 7:4,21 106:14,17,19 107:23 108:3 116:13 119:19 142:11 146:12 147:10 150:1 185:7 186:8 188:5 201:15
responsible 12:19 13:2 43:3 82:12,20 123:7 186:16	role 36:15,16 39:14 100:7,12 123:8 174:7	sauguet 15:9,12 17:7 18:21 19:5 21:21 22:13 27:2,4,23 28:10,11,16,22 30:20 34:15 41:18,19 42:3 44:6,9,10,14 44:20 45:12 47:11 48:7,7,8 48:11,16,20 49:1,15 50:13 50:16 51:9,11,17,19 55:11 63:21 66:3,22 74:14,17 80:7 88:20 89:11 96:5,13 96:23 189:17,18	select 148:5 172:13
restate 52:4	rolla 25:18,23	saw 107:15 108:5,6,9 178:2,3 178:12	selected 39:21
result 7:22 16:5	room 23:18	says 5:9 182:13 188:11	selection 39:23
resulted 23:1	rough 64:17 122:12 131:4	scaffolding 14:15 15:2,19	self 123:3
results 99:18,19 138:1 180:8	roughly 56:15 57:6 65:22,23 68:23 122:14	scale 204:3	sell 174:3
retire 24:16	roux 68:14	scanned 8:18 178:6	seller 173:21
retired 24:15 38:2 100:16	rpr 4:6 206:1	scanning 8:19	semi 79:14
return 206:1	rules 206:1	scans 79:13	seminars 84:9,16,17
returned 33:21	runoff 170:22	schedule 120:3	send 54:11 56:20 80:5 128:5
revenue 132:15,18		school 26:4 84:13	sending 29:10 172:17 173:1
review 70:6 71:16 111:15		scrapped 194:12	sense 33:9 61:10 108:19 109:8,12 111:22
reviewed 147:3,7			sent 27:17,19 54:10,14,17,19 55:17,19 56:2,17 57:16 72:6 75:15 91:15 182:14
revolving 16:3	s		separate 67:16
rifs 64:15 67:12 68:12 79:12 162:22	sabrina 1:4 2:5		seran 200:11,13
	safety 36:18 37:2,7		

[serious - solutia's]

serious 158:12	shut 61:21,23 72:3 95:10	site (cont.) 202:1,11 204:19	snow (cont.) 164:22 165:1,14,23 166:9
serum 158:5	side 13:9 23:5 152:11	sites 38:17 41:1,4 42:6,16,22	166:12 167:4,8,15 168:4
serves 10:16	sign 206:1,1	43:4,11 44:10,14,22 45:2	169:9 177:4 178:10,16
service 43:6 123:20 124:23 125:6 125:16 127:14,15,18	signature 206:1,1 207:1 208:1	45:18 47:6 50:22 51:6 54:5	180:6 188:13 192:11 194:2
set 17:19 76:18 117:18 174:15 204:15 208:1	signed 7:14 67:5 160:20	54:8,9,12,15,17,20 55:15	194:6,11,17
setting 117:8 118:4	significant 96:19	55:19 56:21 58:12,19 79:23	soil 62:2 86:7,13 94:9 111:21
settle 14:2	similar 65:8 66:23 88:19 89:10	80:7 83:19 84:22 100:15,17	142:10 152:20,21 153:15
settled 16:6,7 131:9	160:23	100:21 121:9,13 123:9,13	161:14 193:21
settlement 13:22 14:3 16:12	sincerely 206:1	123:14,16 126:3 129:7,16	soils 75:1,13 91:2 92:10,17,22
seven 37:16 38:14,20 194:6	single 70:9	130:4,20 131:8,9,11 132:2	94:3 113:3 142:10
seventy 172:8	sir 12:8 25:5	132:4,6,17 174:22 175:21	sole 55:5
sewage 195:8	sit 101:23 163:1,3	siting 169:19 170:2,10	solid 72:20 73:2 177:18
sewer 143:23 181:14	site 12:12 13:16 14:5 15:8	sitting 116:2 141:18	solids 72:23
sewers 198:22	31:10 32:9 40:11,11 41:7	situated 63:9	soluble 143:4
share 64:12 102:9	41:12,22 43:7 44:6 47:9	situation 43:16 169:5	solutia 6:16 8:21 10:23 11:19
shared 149:6	48:2 49:13,17,19 51:15,16	six 12:7 38:14,19,22 40:18	15:12 24:14 25:2 38:16
sheet 206:1	52:4,15,18,23 53:2,7,15	96:20 185:19,23	41:5,13 42:17 46:10 48:15
sheets 71:15	54:3 56:5 57:2,6,7,9,12	sixty 131:18	49:3 50:4,7,19 52:6,14,18
sheila 2:15 4:6 75:7 206:1 208:1,1	58:3,6,8 59:2,18,19,19,23	size 89:10 137:22	53:5,14 54:1,11 61:12
shipments 128:7	60:5 61:14,19 62:7,21 63:9	sketch 25:6 26:5	62:15,18 63:20 64:2,8,14
short 19:15	63:15 64:3 67:23 68:19	skinner 40:12 41:1 43:4 121:8	66:4,23 67:23 75:21 76:11
shortly 98:12 129:4 183:12	73:18,18 75:3,5,14,20 76:2	123:17 127:22 128:5,19,22	76:18 79:9 82:8 99:3 100:2
show 7:2 181:8	77:16 78:20 79:7,7 80:7,13	skip 62:12	116:4,4 117:23 118:3
showed 70:10 149:21	80:14,19 82:10,17,19 83:7	skydrol 94:2	121:20 122:4,11 123:9,14
showing 107:10,11 113:18	83:9,12,13,22 85:8 87:9	sludge 51:16 91:2	123:15 124:7,18,21 125:15
shown 70:15 113:19	88:18 89:21 90:3 91:14	small 43:6	126:4,10,15 127:6,13,19
shows 158:6 192:9	95:8 98:1,18 102:11,15	smaller 21:12	128:4,18 130:22,23 131:5
	103:15 104:14 105:22	smith 1:12 2:13 4:5 5:7,13 7:3	131:12 132:6,9,12,16 133:4
	106:3,8,12,15,18 108:1,4	8:15 9:15,19 11:13,14	133:11 134:5 135:2,8
	112:19 119:10,12 121:19	121:18 141:19 158:16	136:17 138:17 139:1,7,12
	121:21 122:2,6,12,18,23	160:21 163:6 186:7 205:5	139:19 140:11,15,22 141:5
	123:4 124:1,4,17,18 125:16	206:1,1 207:1 208:1	141:19,23 142:18 151:12
	125:22 126:20 127:14,16	snow 5:16 6:1,4,17 8:23 9:10,20	151:17,23 153:2,12 154:20
	127:18 128:3 131:23	10:5,16 104:9,12,21 109:21	154:21 155:19 156:13,18
	132:21,23 134:1,5,12 135:6	113:13 140:12,13,16,20	156:20 158:17 160:23
	135:13 137:9 138:6,9	141:1,6,11,20 142:3,13,18	161:7 162:14,18 164:3,18
	139:19 145:14 146:16,21	143:11,15 147:22 149:15	165:13 166:8 169:8 171:13
	147:17 151:8,15 155:9	149:19 164:10,12,13,15,20	171:21 172:10 173:13,22
	169:3,23 171:15 172:4,4,12		174:2,22 175:16,22 178:9
	172:12,15,16,17,19 173:2		178:15 183:16 184:11
	175:17 176:18,23 179:7		185:18 186:9 187:23
	181:15 183:17,17 192:5		188:17 189:2 192:17,22
	195:9,12,15 196:3 198:11		193:6,20 194:4 195:18
	198:23 199:17 200:19,22		196:1,7,11,18,22 197:4
			199:10,15,22 200:5,19,21
			200:23 202:13,19 203:2
			solutia's 48:22 64:12 67:12 121:12

[solutia's - systems]

solutia's (cont.) 123:8 124:3 138:22 146:15 164:12 172:2 174:14 193:18	spent 50:8 61:13 62:17 103:14 120:17 122:15,17,20 125:14 154:22 161:7	steve 1:12 2:13 4:5 5:7 206:1 207:1 208:1	suit 18:6 20:1,17 22:6 23:7
somebody 43:22 114:6	spill 19:16	steven 11:13	suitable 169:15
someplace 75:15	spilled 19:17 21:13	stick 15:17 33:16	suite 1:20 2:15 3:4 208:1
sorry 12:9 34:1 51:3 67:6 175:5 175:12	spin 132:14	stipulated 4:3,11,19	sulfuric 33:12
sort 34:20 66:20 84:7,20 144:22 157:8 197:23	spoke 23:17	stopped 34:11,13 105:5	sump 182:2,5
sorts 150:8	spoken 178:20	storm 181:14	superfund 12:12 13:16 14:5 41:21 47:7,10 84:18 121:9 123:9 123:14 127:16 128:3 129:7 129:16 130:4,7 131:20 132:1,4,6
sought 60:11	springs 193:22	stream 130:9 171:14 172:11,14 181:5,10 183:11	superintendent 34:2,4 35:4,7
sounds 160:19	spun 130:23 131:5,13	streams 57:20 58:10,12 59:18 124:15,20,22 125:5 126:4 128:4 157:4 158:19 171:22 172:4 201:10	supervise 40:17
source 9:23 10:6,17 28:6 137:2 138:14 140:19,23 141:5,11	st 1:21 2:15 4:8 5:1 12:17,18 28:10 35:16 83:6 85:3 86:11 110:15 124:2 182:14 187:22 208:1	street 1:20 2:15 3:4,8 206:1 208:1	supervising 123:8,13
sources 10:4 88:14 114:1 138:16 141:16 148:21	stage 67:2 112:6 117:10,13 129:1	strike 38:1 108:20 119:7 133:22 139:17 143:22 165:10	supervision 187:2
south 170:14,18	standpoint 129:9	structure 65:6,22	supervisor 34:1
southern 103:10 169:13 177:1	star 178:1,13 179:18 182:13	struggling 46:6	supposed 160:4 179:12
speaking 84:4	start 19:6 89:17 121:14 147:23 151:20	studies 34:20 148:20 190:11,14,16 196:23 197:5	sure 8:6 12:2 24:18 30:3 59:7 69:4 107:4 167:10 172:17 172:23 194:21
specific 10:15 17:13,23 18:3 33:7 38:7 40:7,15 45:20 62:13 86:18,20,21 97:15 112:12 119:13 123:16 131:14 144:7 153:16 167:7 189:12	started 26:8,10,12 69:9 70:18	study 6:1 46:19 64:18 67:8 79:16 169:12,17 200:6	surface 69:2 88:4 98:23 99:15,18 99:20 140:10,15 142:9 153:15 170:21
specifically 54:18,22 59:17 80:17 82:9 92:8,14 94:23 111:20 115:7 124:10,11 126:13 130:11 134:23 135:15 138:3 140:21 144:15 150:21 155:5 161:17 167:11 170:16 183:20 194:21	starting 27:13	stuff 71:14 136:9	swamp 27:10
specifics 17:22 42:20 85:2 91:10 94:11 95:23 104:6 113:16 125:7 137:23 191:12	state 1:1 2:2,16 5:1 8:1 9:4 11:11 17:21 109:19 143:14 159:3 160:13 193:19 202:14 203:14 204:16,18,18 208:1	sturgeon 19:16 21:14	swear 193:9
speculate 6:21	stated 47:4 174:12	styrene 122:8 126:6,10,22	switch 121:3 140:9
speed 42:10	statement 172:7 188:22	subject 69:13	swmus 195:3 198:13
spend 120:8 131:21 149:3,10	statements 172:7 188:22	subjects 113:11	sworn 2:13 5:8 207:1 208:1
	states 55:7 83:20	submitted 108:5	synonymous 48:14
	status 111:15 112:4,5 192:15	subscribed 207:1	synthetic 170:15,19 171:1
	stay 26:19 30:8 120:11	substance 189:16,23	system 27:16 129:6 138:21,22
	stayed 32:20 120:19	suggested 201:4,6	systems 137:10 143:23
	step 142:5	suing 15:6,10	

[taken - trenton]

t	tested	thousand	torres
taken	140:11 144:1 193:8	75:11 131:22	3:4
1:13 4:6 8:14 69:5 76:7	testified	thousands	tosca
113:3 121:17 142:9 145:20	20:8	61:18	65:8,14
161:18 162:10 184:5 205:3	testify	three	total
208:1	78:22 208:1	3:21 12:10 40:21 81:20	61:15 64:16 73:16 90:11
talk	testimony	94:20 97:7 98:4 102:16	126:22 130:20 131:1 135:5
23:15 79:22 121:18 127:22	7:20 208:1	112:17 121:9,13 161:23	touched
140:9 148:11 155:23 161:4	testing	162:3 184:3,7,22 185:9	44:6
184:16	142:17,20 149:14,18 150:5	thumbnail	touching
talked	154:13 192:16,20 193:3,7	25:6 26:5	208:1
19:13 23:14 26:22 96:5	193:12,17	tie	toxic
105:9 113:7 118:10 129:9	tests	143:1	190:4 201:9
129:18 130:13 144:12,19	195:18 199:10	tiger	toxicity
145:17 163:11	texas	201:19	144:19 190:9,11
talking	3:5 122:7,21 126:2,3,7	time	trace
50:16,18 61:17,18 64:3	204:4	4:16,16 6:3 8:15 12:4,13	158:13 180:21
84:5 96:4 107:7 111:23	thank	15:11 17:12 23:8 24:20	track
148:8 158:16 159:16	205:4	26:12 27:3 29:21 30:8,13	183:5
172:15	thanks	32:23 34:10 35:15 56:19	tracked
talks	46:18	57:3,7 70:3 71:12,23 72:1	198:17
10:3	thereto	73:4 77:22 81:4 95:6 97:14	tracks
tars	4:17	98:5,7,8,12 100:19 101:21	92:12 94:7
122:9 126:6,10,23	thick	102:10,17,20 105:13	training
team	47:19	108:18 112:5 119:7 120:15	84:7,8,13
39:19 201:19	thing	125:3 126:9 134:17 135:14	transcript
team's	33:4 48:17 50:18 101:1	143:10 145:11 159:17	206:1,1,1
201:16	107:9	178:8	transfer
technical	things	times	124:16
84:3,4,20	9:22 68:4 71:1 84:9 91:11	12:1 33:2 69:19 98:3	transferred
technique	93:21 94:12 112:6,14	102:16,18	1:2 2:2 130:22
137:14,20 148:6 151:18,23	147:13 148:15	timing	transportation
153:2,13,16 164:1	think	186:21	118:15
tell	10:10,16 46:14 67:7 77:10	title	transported
9:15 14:11 25:1 36:14	80:16 86:21 93:2 97:20	25:2 33:2 83:2 87:8	151:4 156:11
38:10 41:4 60:3 62:16	98:23 101:3 105:4 109:5	today	trash
69:17 80:4 135:19 152:5	111:8 112:20 113:21 116:9	6:21 14:8 23:16 35:13	52:23 53:9 59:20
179:12 180:1	116:14 118:3 121:23	131:11 170:6	treat
telling	131:15,17 134:3,16 137:18	today's	125:20 129:6 141:20
159:23	138:12 141:4 142:20,23	59:6,15	treated
temporarily	147:21 148:2 157:16,21	told	27:20,21 28:9,17 29:2
182:3	158:9,12,23 159:5 160:12	10:22 17:4 24:4 36:19 38:3	53:17
ten	167:3,6 168:2,21 169:3,18	70:19 80:1 81:18 121:23	treating
12:3 47:19 61:22 93:17	172:6,18 175:5 191:17,23	164:23 165:2,11 179:9,10	28:7
131:15	193:12,17 198:4 202:6	188:18 196:11,18 199:22	treatment
teratogenecity	204:9	tons	10:2,12 17:9,13,17 18:13
203:10	thinking	181:4	18:18 27:15,18,22 29:5,11
terms	55:23	tony	53:17 169:10 201:1
22:19 42:17 58:18 76:6,18	third	39:1	tree
102:1 119:4 130:14 138:15	7:13,17 59:22 73:9 110:5	top	146:12
144:22 158:18 174:16	118:5 164:20	68:22	trend
176:13	thirty	topic	116:8
terrain	5:14 206:1	198:2	trenton
134:22	thought	topsoil	86:1,1,13,19,22 87:3,10,11
test	38:19 50:21	112:19	87:17
21:22 47:22 133:2 154:13			

trial 4:16 20:4,6,8,18 21:1,4 22:10	u	uses 67:23 180:17	want (cont.) 48:21 61:8 62:11 80:3,8 96:3 105:8,9 121:3,11 131:1 132:21 154:12 155:23 161:4 175:8 186:7 205:1
trials 22:8	uh 51:22,22 68:8 131:2 158:20 168:9	usually 176:8 204:16	wanted 173:21,22
tributaries 140:12	ultimately 42:13 163:18	utility 98:22	wanting 118:18
tried 20:2	unclear 9:19	v	warranty 22:17,18 23:1
triggered 46:15	undergone 94:21	vanhock 87:4	waste 10:2,12 18:13,18 19:8 27:14,18,21 28:6,9,20 29:4 30:19 32:9 52:20,23 53:2,6 53:16,17,20 54:2,10,12,15 54:16 55:17,19 56:3,17,20 57:15,16,20 58:10,11,14,21 58:21 59:5,14,16,18 62:15 75:23 86:8 91:13 124:5,15 124:20,22 125:5,10 126:3 128:2,4 130:9 152:17,18,19 157:4 158:19 162:10 171:14,22 172:3,11,14 173:2 181:5,9 183:11 189:17 201:1
triggers 164:7	underneath 65:10	various 60:11 81:22 84:19 103:22 111:16 113:17 142:1 148:20 167:15 176:7 177:12,16	wastes 59:17
trip 101:14 105:11,17 110:5 111:13 119:23	underreporting 203:5	verbatim 33:14	water 10:2,8,12 17:18 18:13,18 19:8 27:14,18,22 28:6,9 29:5 30:19 49:21 53:16,18 53:21 63:14,20 74:14 99:1 104:8 114:19 140:10,12,16 143:19 167:23 169:9 170:22 189:17 190:3 192:2 200:18,22
trips 120:20 197:22	understand 11:19 30:4 69:10,16 70:1 91:8 118:17 121:19 132:14 171:19 175:12	versus 21:20	waterways 148:17
true 42:12 55:9 120:14 134:8 137:12 139:4 141:10 208:1	understanding 13:19 16:17 64:10 72:21 74:20 82:3 88:8,19 89:1,5 89:10 104:1 109:1 114:22 133:17 136:18 141:23 142:6 143:7 151:10,13 154:3 155:6,7 161:20 167:16 170:17 174:11 180:16 185:11 200:23	viable 181:19	weeks 179:23
truth 208:1,1	understood 69:20	vice 37:12	wells 68:15 129:5 133:4 134:14 134:17,20,21 135:2,6 136:17 137:8 138:6 139:18 140:3
try 47:5 116:5,10 175:14	undertaken 95:4	video 1:19 2:14 206:1	went 19:2 20:4 30:4,21 48:5 52:23 55:1 59:18 98:5 100:7 102:23 103:2 110:11 120:15 124:22 177:4 181:5 182:18 196:14
trying 28:5 48:3 111:22 172:18 181:18	underway 88:6	viewed 104:15	west 98:10,14,19 99:9 100:1,12 100:22 101:10 102:11
tuck 39:1	undue 160:15 161:1	village 15:9 17:7,16 18:20 19:5 21:20 22:13,20 27:2,4,13 27:22 28:10,11	
turn 63:11	unfiltered 137:3	violation 203:20	
turned 60:10	unique 204:20	violations 202:14	
twelve 127:20	united 55:7 83:20	visible 143:10	
twenty 31:14 81:6 131:17 185:19 185:23 194:5,6	university 8:1 25:18,23	visit 98:9 105:16 107:17,19 110:11	
twice 137:21	unusual 174:19	volatile 79:14,14	
type 15:20 19:18 22:15 23:1 33:3 45:21 54:16 57:13,16 65:8,14 68:18 73:11 84:13 85:20 95:20 131:18 144:16 147:16 148:6,14,21 149:5 152:2 162:2	upper 164:19	volatilize 77:8,10 145:23	
types 14:11 17:2 71:4,8 97:16 153:21	upstream 194:2	volume 72:8 75:4,10 89:7,12 125:10 126:22	
typically 14:14 61:23 83:8 136:4 147:5 203:23	use 68:3 154:10 200:13	volumes 10:7 91:10 94:12	
	usepa 75:16 142:1	vs 1:6 2:7	
	users 19:9	w	
		waived 4:20 208:1	
		want 9:12 23:13 41:12 42:1	

[west - zones]

west (cont.)	written
103:12 139:21 140:6	9:11
176:21	wrong
western	37:5
170:13,18	y
whatsoever	y'all
6:15 26:16 106:17 113:12	83:4 144:12
whereof	yards
208:1	75:11 86:7 92:10 167:19
white	year
3:7 206:1	11:8 17:10 23:7 24:18
wide	25:19 31:15 35:22 36:1,4
79:12 154:13	42:9 43:17 90:8,10 95:11
widen	102:21 103:8 106:21 107:5
118:19	110:10 111:14 112:7 113:9
wildlife	117:1 119:5 120:1 136:3
7:11	152:15 153:10,10 176:9
william	189:12
3:7 206:1	years
wish	5:15 12:6,7,11 29:23 32:16
206:1	33:10 56:16 61:22 68:7
witness	72:2 81:6 84:17 93:23
80:20 93:15 108:13 184:16	107:6,10 131:22 133:19
205:6 208:1,1,1,1,1	172:8,22 179:3 181:6
word	yesterday
33:15	23:17
work	z
14:18 19:2 26:1,5 37:17,18	zimpro
64:18 67:10 83:18 88:6,7	22:14,21
96:14 97:12 100:1 112:3	zones
117:18 118:22 130:3	33:11
144:23 146:20 147:2,8,16	
149:11,22 154:2 162:22,22	
167:18 175:3,19 188:11	
worked	
15:8 63:12 87:15 106:6	
186:12 189:17	
workers	
14:21	
working	
12:23 19:4 27:15 30:19	
33:8 35:11 60:12 104:4	
109:18 118:14 123:19	
136:5,10 141:23 200:23	
workload	
43:21	
works	
200:18,22	
world	
38:13	
wrap	
205:2	
write	
206:1,1	
writing	
208:1	