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

4

5 CASE NUMBER: CV-98-C-0118-E

6

7 CECIL HINDS and RICHARD HINDS,

8 Plaintiff,

9

10 vs.

11

12 MONSANTO COMPANY,

13 Defendant.

14

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

16 IT IS STIPULATED AND AGREED

17 by and between the parties through their

18 respective counsel that the deposition of

19 BRUCE ELEY may be taken before Tanya D.

20 Cornelius, Certified Shorthand Reporter

21 and Notary Public, at the law offices of

22 BURR & FORMAN, Birmingham, Alabama, on

23 the 7th day of October, 1999.

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1 IT IS FURTHER STIPULATED AND

2 AGREED that the signature to and the

3 reading of the deposition by the witness
4 is waived, the deposition to have the
5 same force and effect as if full
6 compliance had been had with all laws and
7 rules of Court relating to the taking of
8 depositions.

9 IT IS FURTHER STIPULATED AND
10 AGREED that it shall not be necessary for
11 any objections to be made by counsel to
12 any questions, except as to form or
13 leading questions, and that counsel for
14 the parties may make objections and
15 assign grounds at the time of the trial,
16 or at the time said deposition is offered
17 in evidence, or prior thereto.

18 IT IS FURTHER STIPULATED AND
19 AGREED that notice of filing of the
20 deposition by the Commissioner is waived.

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22
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3 Ms. Block 7

4
5

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1 APPEARANCES

2

3 FOR THE PLAINTIFF:

4 BURR & FORMAN

5 BY: Gary L. Howard

6 Rebecca W. Block

7 3100 SouthTrust Tower

8 Birmingham, AL 35203

9

10 FOR THE DEFENDANT:

11 SMITH, HELMS, MULLISS

12 & MOORE

13 BY: Edward M. Newsom

14 1355 Peachtree Street, N.E.

15 Suite 750

16 Atlanta, GA 30309

17

18 SMITH, HELMS, MULLISS

19 & MOORE

20 BY: Michael E. Kelly

21 300 North Greene Street

22 Suite 1400

23 Greensboro, NC 27420

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1 APPEARANCES (continued)

2

3 ALSO PRESENT:

4 Cecil Hinds

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1 I, Tanya D. Cornelius,
2 Certified Shorthand Reporter and Notary
3 Public, acting as Commissioner, certify
4 that on this date, as provided by the
5 Federal Rules of Civil Procedure, and the
6 foregoing stipulation of counsel, there
7 came before me at the law offices of BURR
8 & FORMAN, Birmingham, Alabama, beginning
9 at 2:30 p.m., BRUCE ELEY, witness in the
10 above cause, for oral examination,
11 whereupon the following proceedings were
12 had:

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1 BRUCE ELEY,
2 being first duly sworn, was examined
3 and testified as follows:

4
5 THE REPORTER: Will this be
6 usual stipulations?

7 MR. NEWSOM: That's fine.

8 MS. BLOCK: Uh-huh (positive
9 response).

10

11 EXAMINATION

12 BY MS. BLOCK:

13 Q. Mr. Eley, my name is Rebecca
14 Block, and I believe we got to meet
15 earlier.

16 A. Yes, we did.

17 Q. And I represent Cecil and

18 Ricky Hinds in this case. I'm just going
19 to ask you a few background questions to
20 start off with.

21 Go ahead and just state your
22 full name for the record, please.

23 A. Bruce Wayne Eley, E-l-e-y.

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1 Q. And you're not on any drugs
2 or medication today that would affect
3 your giving this deposition?

4 A. I am not.

5 Q. What did you do to get ready
6 for this deposition today, if anything?

7 A. Participated in a meeting
8 with my -- the counsel yesterday.

9 Q. Did you review any documents?

10 A. No.

11 Q. Also, please give your Social
12 Security number for the record.

13 A. 431-86-0844.

14 Q. And what's your home address
15 and phone number?

16 A. 1729 Carman Valley Drive,
17 C-a-r-m-a-n, St. Louis, Missouri 63021.

18 Telephone number at home is (314)
19 256-9220.

20 Q. And how long have you lived

21 there?

22 A. Since 1985.

23 Q. And with whom are you

0009

1 employed?

2 A. Solutia, Inc.

3 Q. And Solutia is a spinoff of

4 Monsanto?

5 A. That's correct.

6 Q. I'm going to show you what's

7 been marked as Plaintiff's Exhibit 1 and

8 ask you if you've seen that before.

9 A. (Witness reviews document.)

10 I've seen Sheets 1, 2, and 3. I don't

11 know whether I've seen 4 or 5. I don't

12 recall seeing 4 or 5.

13 Q. Well, on Page 2, there should

14 be -- I think there are eight numbered

15 paragraphs.

16 A. Correct.

17 Q. Do you have knowledge about

18 those topics, those eight topics that are

19 listed?

20 A. Most of my knowledge would

21 focus on No. 1, No. 3, No. 5, No. 6, and

22 No. 7 from the standpoint of any

23 communications I've had, and I have some

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1 general knowledge of No. 7 and No. 8 to

2 some extent.

3 Q. Do you understand that you're

4 here today testifying on behalf of

5 Monsanto or Solutia?

6 A. Yes.

7 Q. And I'll use those terms

8 interchangeably, Monsanto and Solutia.

9 Do you remember giving a deposition back

10 in September of 1998 in the Dire v.

11 Monsanto case?

12 A. I remember giving a

13 deposition in the Dire case. I'm just

14 not sure exactly what the timing was.

15 MS. BLOCK: I just want to

16 make sure we have the same agreement with

17 respect to the use of that deposition --

18 MR. NEWSOM: Yes.

19 MS. BLOCK: -- in this case

20 as we did earlier with Mr. Faust.

21 MR. NEWSOM: Yes.

22 Q. (By Ms. Block) And, Mr.

23 Eley, have you ever been charged with or

0011

1 convicted of a crime?

2 A. No.

3 Q. Okay. Now to the fun stuff.

4 How long have you worked for Monsanto or

5 Solutia?

6 A. I've worked for Monsanto/

7 Solutia since 1969.

8 Q. And what's your job title

9 now?

10 A. Manager, environmental

11 affairs as a part of a corporate staff

12 group called Environment, Safety, and

13 Health.

14 Q. And what are your duties and

15 responsibilities in that position?

16 A. Generally my duties are to

17 provide environmental technical support

18 to plants, other staff groups within our

19 company.

20 Q. And when you say

21 environmental technical support, what

22 would that entail?

23 A. Generally that's been in the

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1 area of occupational environmental

2 health, industrial hygiene, industrial

3 hygiene auditing, performing -- or

4 involved in projects on material safety

5 data sheets; and over the last couple of

6 years, I've spent a lot of time involved

7 in the Anniston project.

8 Q. And what do you mean when you

9 say the Anniston project?

10 A. That's the Anniston

11 remediation project that is being managed

12 by Alan Faust.

13 Q. And what's the extent of your

14 involvement in that remediation project?

15 A. My involvement principally

16 has been in the area of coordinating off-

17 site sampling of soils for PCBs, involved

18 in -- to some extent in purchased

19 properties, primarily commercial

20 properties. I've been involved in some

21 of the cleaning of the residences in the

22 east side area. I've been involved in

23 several of the demolition projects and

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1 I've also been involved in several of

2 the -- what I call spot remediations and

3 in some of the off-site areas.

4 Q. Give me an example of spot

5 remediation.

6 A. A spot remediation would be

7 having sampled many areas around the

8 plant for PCB in soil. There is -- as an

9 example, near West 10th Street in Pine
10 Grove right beside a ditch, we found a
11 small area of property there that had a
12 level of, I believe, twenty-five PPM --
13 twenty to twenty-five PPM.

14 And so we had a procedure
15 that we used to go in and remove the
16 surface soils that contained PCBs and
17 take those to an area on the Monsanto
18 property where we did cap and fill and
19 then bring in clean fill material and
20 re-sod that particular area.

21 Q. So it would involve cleaning
22 up just an area of a piece of property,
23 as opposed to the entire tract of

0014

1 property; is that what you're saying?

2 A. Correct.

3 Q. You said you were involved in
4 the property purchase program at the
5 Anniston remediation project?

6 A. I've been involved in
7 purchase of properties, primarily some of
8 the commercial properties.

9 Q. What commercial property
10 purchases have you been involved in in
11 the Anniston area?

12 A. The Suggs warehouse property,
13 the McGough warehouse property, the Woods
14 property, the Pat Pace property, the
15 Andalusia Stop 'N Go Food Mart property,
16 the Miller property, and a right-of-way
17 owned by a person named Carr, C-a-r-r. I
18 think that's primarily it.

19 Q. Now, it's my understanding
20 that the property purchase program was
21 for residential properties only; is that
22 correct?

23 A. The Monsanto property

0015

1 purchase program was focused on
2 residential properties, initially on the
3 east side of the Monsanto plant or now
4 the Solutia plant.

5 Q. But you were involved in the
6 purchase of some commercial property?

7 A. Correct.

8 Q. And those purchases were not
9 a part of the Monsanto property purchase
10 program?

11 A. That's correct.

12 Q. What was the extent of your
13 involvement in the residential property
14 purchase program?

15 A. After the property purchase
16 program evolved into a -- and I'm not
17 sure whether it was a Phase II or a Phase
18 III involving property directly north of
19 Monsanto. Then I had some involvement
20 with the Prudential people that were on
21 site in terms of introducing them to the
22 various property owners on the north side
23 area.

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1 Q. I'm going to show you what's
2 been marked as Plaintiff's Exhibit 5 and
3 ask you if you've ever seen that before?

4 A. (Witness reviews document.)
5 I'm not sure I've specifically seen this
6 particular document. This document was
7 focusing on what was called Phase II --
8 that's what's written on the front -- and
9 dealt with the purchase property program
10 for Montrose Avenue, and I don't know
11 whether I had ever seen this particular
12 document.

13 Q. Can you tell by looking at it
14 what it is?

15 A. Yes.

16 Q. What is it?

17 A. This is the details of the

18 Monsanto purchase property program
19 specific to the 600, 700, 800, 900 blocks
20 of Montrose Avenue.

21 Q. On -- let me see it back for
22 a second. I don't have an extra copy.

23 A. (Witness hands document to

0017

1 counsel.)

2 Q. On Page 7 of this document,
3 there seems to be an outline of the
4 specific offer from Monsanto and how that
5 would be determined for a piece of
6 property. Is that the same format that
7 would have been used to determine the
8 offer for the other phases of the
9 residential property purchase program?

10 A. I believe that's correct.

11 Q. And that method of
12 calculating the offer includes a -- well,
13 why don't you just go over it for me?
14 What are the elements of determining the
15 offer under the --

16 A. The elements as listed in the
17 document are the appraised value, the
18 premium over appraised value; and under
19 that, there were two parts, seventy-five
20 percent of appraised value for owner-

21 occupied, and then fifty percent of the
22 appraised value for rental property
23 owners. And then there is a listing of

0018

1 miscellaneous expense allowances,
2 including four thousand dollars for
3 owner-occupied homeowners and one
4 thousand for rental property owners.

5 There's also listed a legal
6 assistance and tax advisor allowance of
7 fifteen hundred -- excuse me, one hundred
8 and fifty dollars, and a potential bonus
9 for early appraisal sign-up of three
10 thousand five hundred.

11 Q. Why was that document
12 generated?

13 MR. NEWSOM: The only thing
14 I'll say, Rebecca, I mean, I know -- this
15 is fine, I'm not trying to -- but I think
16 Alan has addressed that on behalf of the
17 corporate entity, and I don't know
18 whether you're trying to get something
19 new or different, and obviously I want to
20 give you some leeway, but I do think Alan
21 addressed that on behalf of the corporate
22 entity who is the deponent here.

23 MS. BLOCK: Okay. As long as

0019

1 we've got that background, I'll just ask

2 my next question.

3 MR. NEWSOM: I'm not trying

4 to, you know -- but I do think that's in

5 the record, fairly speaking.

6 Q. (By Ms. Block) Who at

7 Monsanto or Solutia was in charge of that

8 property purchase program?

9 A. I don't know. It was -- this

10 particular program was designed and

11 implemented prior to me coming on site

12 doing the various project work I was

13 doing.

14 Q. Do you know who would know

15 who put that program together?

16 A. It may be a Dr. Bob Kaley,

17 K-a-l-e-y.

18 Q. Do you know who was in charge

19 of administering that program?

20 A. The people that were

21 administering the program day-to-day

22 worked -- and there were several people,

23 worked for the Prudential Relocation

0020

1 Service, Prudential Real Estate office.

2 Q. I believe it's been testified

3 earlier by another corporate
4 representative that the purpose of the
5 Monsanto property purchase program was to
6 help residents in an affected
7 neighborhood afford to relocate to a new
8 area. Would you agree or disagree with
9 that?

10 A. I really don't have the
11 background information on that to do
12 either one.

13 Q. So you don't know why
14 Monsanto was going around buying up
15 property in the neighborhood around the
16 Anniston plant?

17 A. I generally know why we put
18 the -- why we had a purchase property
19 program.

20 Q. And why was that?

21 A. That was to purchase property
22 along an east side ditch where PCBs had
23 been detected and which periodically

0021

1 flooded. There was a need for corrective
2 action, remediation in that particular
3 area, and the only way that you could
4 carry out that remediation was to have
5 control and access of the properties.

6 Q. Were all the properties that
7 you bought adjacent to the contaminated
8 ditch?

9 A. As a part of the purchase
10 property program?

11 Q. Correct.

12 A. Again, I was not a part of
13 the residential purchase property
14 program. I think most of those
15 properties were along the ditch, right
16 outside the ditch, or in as a part of the
17 -- as an integral part of that community.

18 Q. Do you know why they had the
19 sign-up bonus and the premium amount, be
20 it seventy-five or fifty percent, for the
21 residential property owners?

22 A. No, I do not.

23 Q. Do you know why they had the

0022

1 tax advisor amount?

2 A. No.

3 Q. How did you go about deciding
4 to buy commercial properties?

5 A. I think the -- certainly for
6 the commercial properties, it was on a
7 case-by-case basis. There were a number
8 of commercial properties, specifically,

9 for example, the Miller property and the
10 Ronnie Carr property, that was required
11 for us to complete the remediation
12 efforts over on the east side of our
13 plant.

14 Q. Did you go out and test the
15 properties before you bought them, test
16 them for PCBs?

17 A. The Miller property we tested
18 to a great extent. We had a large number
19 of samples on the Miller property. The
20 Carr property, I don't know whether we
21 had any specific soil sampling on that
22 strip. And it was literally a strip,
23 fifty-foot wide south of the Miller

0023

1 property, north of West 10th Street.

2 Q. How about the other
3 properties, did you test them?

4 A. The Miller property we have
5 tested. I think most of those
6 properties, yes, that I listed a while
7 ago, we've tested.

8 Q. Do you remember what the
9 results were?

10 A. Generally.

11 Q. Well, we can go down the

12 list. What were the results on the Pace

13 properties?

14 A. Within the boundary of that

15 property, I think it was from nondetect

16 to seven PPM.

17 Q. How about at the Stop 'N Go?

18 A. The Stop 'N Go, the levels

19 were below the screening level, nondetect

20 to three hundred, three hundred and fifty

21 PPM.

22 Q. And at Anniston Equipment

23 Rental, did it have levels up to a

0024

1 hundred PPMs?

2 A. Up to and over a hundred PPMs.

3 MS. BLOCK: I'm trying not to

4 go over old ground.

5 MR. NEWSOM: No. I

6 understand.

7 Q. (By Ms. Block) How about the

8 Suggs property?

9 A. The Suggs property, I

10 believe, was up to perhaps twenty PPM on

11 the rear of that property.

12 Q. And is it McGough?

13 A. It's either McGough or

14 McGoff.

15 Q. McGough or McGoff, what were
16 the levels on that property?

17 A. I believe the highest levels
18 we saw on that property were
19 approximately thirty PPM, and that was at
20 the very northwest corner of the
21 property, which was very, very close to
22 the ditch that ran behind the Lambert
23 Recycling business.

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1 Q. Why did you buy these
2 particular properties?

3 A. The McGoff property, or
4 McGough property, and the Suggs property,
5 when we had those properties -- we were
6 appraising and looking at purchasing
7 those properties, the reason we bought
8 them is for the construction activity
9 that was being planned in that north side
10 area.

11 Q. Okay. What did the
12 construction activity have to do with you
13 needing the property, I guess, is what
14 I'm missing?

15 A. Well, towards the rear of the
16 Suggs property is where the ditch was.

17 Q. Okay.

18 A. And so the engineering
19 solution that exists today in essence
20 consists of a detention basin that sits
21 on, partially, where that warehouse and
22 land used to be.

23 Q. So you bought property where

0026

1 you needed it for the remediation
2 project?

3 A. Where it was -- where we
4 needed it for the remediation project and
5 where that property was in -- or was
6 impacted by the drainage or flooding from
7 that particular ditch. And that's where
8 we did the remediation construction work.

9 Q. Okay. How did you determine
10 what you were going to pay for those
11 properties? And maybe I should ask it
12 another way.

13 We just went over the list
14 and the format for the residential
15 property purchase program. Did you have
16 any kind of format or anything like that
17 that was used to come up with an offer
18 for these commercial properties?

19 A. Generally the offer was the
20 appraised value of the property.

21 Q. Who had the property

22 appraised?

23 A. In just about all cases, I

0027

1 did.

2 Q. You hired an appraiser?

3 A. Correct.

4 Q. And you paid the appraiser?

5 A. Correct.

6 Q. Do you remember any cases

7 where there was some other method of

8 coming up with the purchase price or the

9 offer?

10 A. In one case, there had been

11 an appraisal done independent by the

12 owner of the property, and he was willing

13 to take the appraised value based on that

14 appraisal.

15 Q. How do you select the

16 appraisers that you use?

17 A. I think the way that we ended

18 up selecting our commercial appraisers is

19 looking at the appraisers that were used

20 in the residential property program.

21 There were some of those that were not

22 only residential, but also commercial

23 appraisers, and at the same time are --

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1 the individuals working for Prudential
2 got to know a lot of the appraisers and
3 had a pretty good idea of who good
4 independent appraisers were in the
5 Anniston area.

6

7 (Whereupon, Plaintiff's

8 Exhibit No. 20 was marked

9 for identification.)

10

11 Q. I'm going to show you what
12 I've marked as Plaintiff's Exhibit No. 20
13 and ask you if you have -- do you know
14 what that is?

15 A. Yes.

16 Q. What is that?

17 A. This is a list of -- an
18 appraiser list that I believe was put
19 together by the Prudential people. And
20 this was used as a handout or information
21 that was given to individuals to select
22 appraisers under the purchase property
23 program.

0029

1 Q. Did you select your
2 appraisers for the commercial properties

3 from that list?

4 A. There was only one of these

5 -- one person that I see here that we

6 used as a commercial appraiser.

7 Q. And which one is that?

8 A. Karen Burke, B-u-r-k-e.

9 Q. Do you know what, if

10 anything, the appraisers of the

11 commercial property were instructed with

12 respect to taking into account the PCB

13 contamination of the properties when

14 coming up with an appraised value?

15 A. I think generally we -- or I

16 told the appraisers to disregard any

17 contamination.

18 Q. And why is that?

19 A. I think that that was

20 typically the way that we had gone about

21 the other appraisals that were done in

22 this program right here. And so we just

23 continued on having the appraiser

0030

1 disregard any contamination, recognizing

2 that there were some properties that were

3 industrial properties that had an

4 industrial history for many, many years.

5 Q. Do you know why the

6 residential property purchase program
7 appraisers did not consider contamination
8 in coming up with their appraised values?

9 A. No, I do not.

10 Q. And you did it that way for
11 the commercial property just because
12 that's how they had done it for the
13 residential program?

14 A. Correct.

15 Q. I'm going to show you what
16 has been marked as Plaintiff's Exhibit
17 No. 19. And that is a map that Mr. Faust
18 has marked with green Xs. And correct me
19 if I'm wrong here.

20 MR. NEWSOM: Green and Xs
21 both are correct.

22 Q. I'm pretty sure about the
23 green Xs, parcels of property that

0031

1 Monsanto has bought that have structures
2 on them; is that right?

3 MR. NEWSOM: Structures that
4 they have bought.

5 Q. Structures that Monsanto has
6 bought. I just want you to look over
7 that for a minute, however long it
8 takes. And if there are any other

9 structures, commercial or otherwise, that
10 you are aware of that Monsanto has bought
11 that are not marked on there, please mark
12 them.

13 A. Okay.

14 MR. NEWSOM: The only thing I
15 would say is I think Gary's question was
16 with the borders of Montrose, 10th, and
17 Clydesdale.

18 MS. BLOCK: That's correct.

19 MR. NEWSOM: Because there
20 are some -- okay.

21 MS. BLOCK: That's correct.
22 You're right.

23 THE WITNESS: The borders

0032
1 of --

2 MR. NEWSOM: Montrose, 10th,
3 and Clydesdale is what --

4 Q. (By Ms. Block) That's right.

5 A. Right in this area
6 (indicating)?

7 Q. That's right. And for the
8 record, he's using a blue pen.

9 MR. NEWSOM: Do you want him
10 to use green?

11 MS. BLOCK: I think blue, so

12 we can remember which were additional.

13 MR. NEWSOM: I'll volunteer

14 my pen.

15 MS. BLOCK: Thank you.

16 THE WITNESS: I don't think

17 your pen is real blue.

18 MR. NEWSOM: You can't bear

19 down real hard. That's the key.

20 THE WITNESS: Oh, okay.

21 MS. BLOCK: Is it sensitive?

22 MR. NEWSOM: It's sensitive.

23

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1 (Whereupon, a discussion off

2 the record was held.)

3

4 A. Do we include on this side of

5 Montrose (indicating)?

6 Q. (By Ms. Block) No.

7 MR. NEWSOM: We were just

8 inside.

9 Q. It was just inside.

10 A. (Witness complies.) Okay.

11 Q. Great. Now, I believe it was

12 said before that all of the green X

13 structures, with the exception of one,

14 had been demolished, and I just wonder

15 what happened to the additional -- I
16 think I see four structures that you've
17 marked. What happened to those
18 structures?

19 A. These have all been
20 demolished.

21 Q. Okay. Do you think that
22 created any dust when they demolished
23 those properties?

0034

1 MR. NEWSOM: Let me just
2 object to the form of the question. It's
3 vague and ambiguous. I don't know
4 whether that suggests dust is created
5 right there as it's going on, whether
6 dust leaves the boundaries of the
7 property. I just object as vague and
8 ambiguous.

9 Q. Let me ask it another way.
10 Did Monsanto use any dust prevention
11 measures to keep dust from traveling when
12 they demolished those structures?

13 A. Yes.

14 Q. Okay. Something I forgot to
15 ask earlier, what was the agreement with
16 Prudential about the residential property
17 purchase program; do you know?

18 A. I don't know what you mean by

19 agreement with the Prudential people.

20 Q. Why did Prudential agree to

21 run the residential property purchase

22 program for y'all? Did you pay them?

23 A. We did pay them, yes.

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1 Q. What did you pay them?

2 A. I don't know.

3 Q. Do you know if they got

4 commissions?

5 A. I have no idea what the cost

6 or what the payment structure was.

7 Q. I just wondered. Do you know

8 if the demolition of those structures

9 that we've marked on Plaintiff's Exhibit

10 19 had any effect on storm water drainage

11 or flow across the Hinds property?

12 A. No, I do not.

13 Q. Do you know of any

14 discussions at Monsanto involving any

15 desire to be consistent in purchasing

16 commercial property and residential

17 property?

18 MR. NEWSOM: Object to the

19 form. Vague and ambiguous.

20 Q. That's not a good question.

21 I think we've established that the
22 residential property program and the way
23 you went about buying up commercial

0036

1 property were different. Would you agree
2 with that?

3 A. Yes, I would say that, yes.

4 Q. Do you know why you treated
5 the commercial property differently from
6 the residential property?

7 A. No. I don't believe I was
8 there at that particular time when those
9 decisions were made.

10 Q. Who told you how to go about
11 buying up commercial property?

12 A. I think it was the
13 remediation management group, remediation
14 management team that put together the
15 engineering plans, the construction plans
16 for remediation and what properties they
17 needed.

18 Q. And they told you that you
19 didn't need to get three appraisals, and
20 you didn't need to pay a premium; you
21 didn't need to pay a signing bonus for
22 the commercial properties?

23 A. I don't believe there was

0037

1 ever any discussion to that extent

2 telling me that no, I didn't have to do

3 this or this.

4 Q. Okay. So it was just your --

5 you were in charge then of how you went

6 about buying the commercial property?

7 A. No, no.

8 Q. Okay. Who did decide that

9 you didn't have to pay a premium and that

10 you didn't have to get three appraisals?

11 A. Again, I'm not sure, because

12 that would depend -- or would have been

13 around the time, I believe, when they

14 initiated the purchase property program

15 in 1995, because I came on board in

16 earnest in that project in March of 1996.

17 Q. Okay. So when you came in in

18 March '96, you knew one of your job

19 responsibilities was to go buy commercial

20 property around the plant?

21 A. Not at that time, no.

22 Q. When did it become your

23 responsibility to buy commercial property

0038

1 for the company?

2 A. I think that's something that

3 evolved over time. I didn't really get
4 involved in commercial property
5 transactions until we had -- or as we
6 were doing our soil sampling in the
7 various off-site areas.

8 Q. When would that have been?

9 A. That started in March of 1996
10 and continued through 1996 into 19 -- I
11 think maybe into 1997.

12 Q. What was the first piece of
13 commercial property that you purchased in
14 this remediation area?

15 A. I think the first one I was
16 involved in was the Miller property.

17 Q. Did you approach the Millers,
18 or did they come talk to you, or Mr. or
19 Mrs. Miller? I don't know.

20 A. The initial purchase of the
21 -- whether it be -- I think it was
22 approximately two-thirds of the Miller
23 estate property. We approached them.

0039

1 And when I say we, myself and Alan Faust.

2 Q. Did you make them an offer?

3 A. I think we had an appraisal
4 done on that property, and then soon
5 after made an offer.

6 Q. Based on a single appraisal?

7 A. I think we did two

8 appraisals.

9 Q. Okay. What did you do,

10 average them to come up with your offer?

11 A. In that case, I think we

12 looked at those appraisals, and I think,

13 in a number of cases, took the high

14 appraisal.

15 Q. Did you offer them a premium?

16 A. No. The offer was based

17 strictly on the appraised value of the

18 property.

19 Q. So they didn't get a premium

20 or an early sign-up bonus like the

21 residential property owners got?

22 A. No.

23 Q. My question is: Why didn't

0040

1 they get the premium and the early

2 sign-up bonus that the residential

3 property owners got?

4 A. I don't know.

5 Q. How did you decide just to

6 use the higher appraisal?

7 A. I think there were some cases

8 -- I think in most cases, we used the

9 highest appraisal of the two, but not in
10 all cases. There's other cases where we
11 used, I think, not an average, but
12 something that was toward the high side.

13 Q. Well, how did you decide
14 whether to use the higher appraisal or
15 something in between?

16 MR. NEWSOM: Generally or in
17 any specific --

18 MS. BLOCK: Generally.

19 A. Well, generally what we would
20 do is we would review the appraisal. And
21 a commercial real estate appraisal is
22 based on an approximate valuation given
23 by the appraiser which is based on three

0041

1 approaches, cost approach, an income
2 approach, and a sales or value approach,
3 where in a third one you would go out and
4 look at that property versus comparable
5 properties in the area. And the
6 appraiser would highlight each one of
7 those three. And then he would -- he or
8 she would then come in with the
9 valuation.

10 I or I and Alan would review
11 those appraisals; and in certain cases,

12 there may be an approach that was
13 somewhat weaker than another approach for
14 an appraisal. And so it was trying to
15 look at those two appraisals, how close
16 they were together, and looking at the
17 various approaches that were being used
18 and the various comps that were used by
19 one appraiser versus another appraiser
20 and then coming out with an offer.

21 Q. So it was in yours or yours
22 and Mr. Faust's discretion as to how to
23 come up with the offer for commercial

0042

1 properties?

2 A. I think how to. It may not
3 have been the specific offer. I think in
4 the specific offer, it was in -- based on
5 the remediation management group, which
6 would have been Alan and perhaps Alan's
7 boss.

8 Q. Alan's boss being?

9 A. Mike Forstman.

10 Q. Was it yours or yours and Mr.
11 Faust's discretion whether to use the
12 highest -- the higher appraisal or
13 something in between?

14 A. I think between Alan Faust

15 and myself, yes, we had some discretion.

16 Q. So would it be fair to say

17 that y'all would get together, decide on

18 what y'all thought the offer should be

19 based on the appraisals, and then go to

20 the remediation management team for the

21 final approval?

22 A. I'm not sure, but I think

23 that Alan then would take that forward,

0043

1 perhaps to his boss.

2 Q. Well, how would you know what

3 the final result was so that you know

4 what offer to make?

5 A. Alan would communicate that

6 back to me.

7 Q. So were you the person that

8 went to the Millers and said, Hey, here's

9 what we're offering to buy your property?

10 A. For the Millers, I believe

11 that Alan and I met with the Millers. I

12 believe that was the situation.

13 Q. Okay. Did you -- of the list

14 that we made earlier of the commercial

15 property purchases that you were involved

16 in, did you approach all of those

17 property owners, or did some of them come

18 to you? When I say you, I mean Monsanto.

19 A. Some of them came to

20 Monsanto.

21 Q. Do you know which ones those

22 were?

23 A. Mr. Michael Woods came to

0044

1 me. Jeff Miller came to Monsanto/

2 Solutia on the purchase of what I would

3 call the Miller estate two property,

4 which consisted of the one-third of the

5 western portion of the Miller property.

6 Q. Right.

7 A. Mr. Ronnie Carr came to

8 Monsanto to purchase a strip of railroad

9 right-of-way that he had acquired.

10 Q. Anybody else?

11 A. Mr. Pat Pace came to me on

12 the possibility of us purchasing a piece

13 of property that he had on Clydesdale. I

14 think we may have mentioned the Andalusia

15 Stop 'N Go Food Mart.

16 Q. Yes.

17 A. I think at that time, it was

18 owned by a fellow named Joe Saxon, and

19 then it was acquired by Andalusia

20 Enterprises, and Joe Saxon came -- in

21 fact, Joe Saxon and Andalusia voiced

22 interest to me personally.

23 Q. When these people came to you

0045

1 or came to Monsanto about buying their

2 properties, had the property been tested

3 already?

4 A. I'm not so sure that the

5 Woods property was ever tested. By

6 tested, I mean sampling of soil in or on

7 that particular property. I think the

8 other ones that we've talked about, yes,

9 I believe that soil sampling had been

10 done on those properties.

11 Q. So you bought the Woods

12 property even though you weren't sure

13 whether there were PCBs on the property?

14 A. I think, to the best of our

15 knowledge, we didn't think there was any

16 PCBs on the property, at least not above

17 the screening levels.

18 Q. Why did you buy that

19 property?

20 A. Mr. Woods came to me,

21 indicating that his father, I think, a

22 year prior to that time, had been

23 murdered in that building. That murder

0046

1 had not been solved. They were still
2 looking for the weapon and the person
3 that was responsible.

4 He had run -- or his father
5 had run a furniture restoration business
6 out of that building, and both he and --
7 I believe it was his -- Mr. Woods'
8 daughter or his sister, had absolutely no
9 interest at all in ever coming inside the
10 building again. It had really bothered
11 them. And that building was adjacent to
12 some of the property that we had
13 purchased as part of the residential
14 purchase property program.

15 And Mr. Woods had recently
16 had an appraisal done, and he shared with
17 me the appraisal. And I told him that I
18 would take his proposal back to the
19 remediation management group, which I
20 did.

21 And the remediation
22 management group at that time had been
23 talking with the maintenance people there

0047

1 at Solutia, or then Monsanto, about any
2 building that we might have that could be

3 used by a contractor there at the plant
4 for a welding shop, off-site welding
5 shop. And the remediation management
6 then said, Well, that might be the
7 building that might be able to serve in
8 that capacity. And so I was told that if
9 we could, in fact, purchase that property
10 for the appraised value, which I had at
11 the time, then they would agree to that.
12 I went back to Mr. Woods and
13 indicated that we would, in fact,
14 purchase that for the appraised value,
15 and he agreed. And so we consummated the
16 purchase of that. So that's how that
17 occurred.

18 Q. Did you, in fact, use it for
19 an off-site welding shop?

20 A. No, we did not. We had the
21 contractor -- the representatives from
22 the Monsanto maintenance group, along
23 with some of the structural engineers

0048

1 went over there, and we toured that
2 facility. We looked at it, and they
3 finally, I think, made a determination
4 that the beams, particularly the ceiling
5 joists, appeared to be fairly unstable,

6 particularly if you had any -- and we
7 don't have a lot of snow and ice in
8 Anniston, but they felt that if we were
9 to have much of a snow load on that
10 building, it would just topple in, and
11 that we did not have enough money in
12 there to really repair it or beef it up
13 structurally. So we decided that it was
14 not acceptable for that particular
15 purpose.

16 Q. You didn't bother to do that
17 before you went ahead and bought the
18 property?

19 A. No, we did not.

20 Q. Do you still need a welding
21 shop today?

22 A. I don't know whether we do or
23 not.

0049

1 Q. Did you ever approach Mr.
2 Bobby Lewis about purchasing his
3 property, which I believe is better known
4 as the ice house?

5 A. No. I think when I was a
6 part of the project initially, like I
7 said, in March 1996, I don't know whether
8 Mr. Lewis at that time had filed suit. I

9 never had any dealings and only met him

10 on one occasion.

11 Q. So did you have any

12 discussions with him at all about

13 purchasing his property when you met him?

14 A. No. As I say, I only met him

15 one time.

16 Q. How about the funeral home?

17 I think it's called the Model City

18 Funeral Home.

19 A. I believe it's called the

20 Model City Mortuary. As I understand it,

21 it's owned by Sylvester Harris. I may be

22 incorrect on that.

23 Q. That's correct.

0050

1 A. But I have never met Mr.

2 Harris nor had any discussions at all

3 with any of the ownership of that

4 structure.

5 Q. How about the two churches,

6 Mars Hill and Bethel, were you involved

7 in the purchase of either of those

8 properties?

9 A. No. I was involved -- I

10 participated in some meetings which Alan

11 Faust had with a church committee there

12 at the Bethel Missionary Baptist Church,
13 and I was involved in the purchase of
14 furnishing -- or furniture. I
15 essentially furnished the church. But I
16 was not involved in the actual
17 construction or the relocation of the
18 church.

19 Q. I'm just curious. Are you a
20 decorator -- or I mean, how did you end
21 up doing the furnishings?

22 A. Believe me, I wish I knew.
23 That was quite an experience. No. I had

0051

1 some help. We had a real good
2 committee.

3 Q. I was just wondering.

4 A. The ladies, as a part of the
5 committee, had some very good ideas on
6 what they wanted, so --

7 Q. I'm a former Baptist myself,
8 and I can't imagine working with a bunch
9 of Baptist women trying to decorate a
10 church. I'm very impressed.

11 So I'm sorry. I should have
12 asked this before. You didn't have any
13 involvement with approaching Bobby Lewis
14 about buying just a particular portion of

15 his property or anything like that?

16 A. No, I did not.

17 Q. You don't know anything about

18 that? Okay. I'm about to get into a lot

19 of questions about your discussions and

20 conversations with the Hindses. This

21 might be a good time to take a break if

22 anybody wants to.

23 MR. NEWSOM: And he had more

0052

1 of those, obviously, than Alan.

2 MS. BLOCK: Right.

3 MR. NEWSOM: Is that kind of

4 the last area, or do you know?

5

6 (Whereupon, a discussion off

7 the record was held.)

8

9 (Whereupon, a brief recess

10 was taken.)

11

12 Q. (By Ms. Block) All right.

13 I'm going to do it this way: I just want

14 you to tell me about all the times that

15 you have talked with either Richard or

16 Cecil Hinds.

17 A. I think the first time I

18 talked with both -- and met Cecil Hinds
19 and, at the same time, Ricky Hinds, was
20 the first part of April 1996. That's
21 when I and Alan Faust went over to the
22 pawn shop to review for Cecil and Ricky
23 Hinds the progress being made and plans

0053

1 over the remediation area on the east
2 side of the plant.

3 Q. What did you tell them about
4 the remediation efforts on that side of
5 the plant?

6 A. We had two sampling maps that
7 we took along with us and showed Mr.
8 Hinds. One was called the Expanded A
9 Area Sampling. Another one was Sediment
10 Soil Sampling in Area A. And the purpose
11 of that was to review with them all the
12 sampling that had been done, showing
13 where the ditches, the drainage ditches
14 ran and where we had detected higher
15 levels of PCBs.

16 Q. Why did y'all go there to
17 talk to them?

18 A. I think generally to make the
19 people around in that area more aware of
20 the status of the project and what was

21 going on.

22 Q. So it wasn't just the Hinds?

23 You went to talk to -- you went to talk

0054

1 to other people in the area?

2 A. Correct.

3 Q. What did the Hinds -- either

4 Ricky or Cecil, what did they say to you

5 about the remediation? I mean, what did

6 they say in response to what you told

7 them?

8 A. I don't recall specifically.

9 Nothing comes to mind --

10 Q. Were they happy about --

11 A. -- specific responses.

12 Q. Were they happy about what

13 you were telling them?

14 A. I think that -- I sensed that

15 they were pleased that we came by and

16 updated them on the progress and what we

17 were doing.

18 Q. Okay. When was the next time

19 you talked to them?

20 A. I think the next time was the

21 next day, because several of the property

22 owners, the local property owners had

23 requested that we do some additional soil

0055

1 sampling, specifically on their

2 property.

3 As best I can recall, I

4 called Cecil Hinds and said, Would you

5 like us to take some additional sampling

6 or sampling on your property, recognizing

7 that some of the sampling had been done

8 in 1995 may or may not -- may or may not

9 have been specifically on your property.

10 And Mr. Hinds agreed to that.

11 And so the sampling people,

12 the sampling team that we used happened

13 to be in town. And so I took them over

14 to the pawn shop -- I think it was the

15 3rd of April of 1996 -- and met with, I

16 believe, both Cecil Hinds and Ricky

17 Hinds. I don't know about Ricky, but

18 certainly Cecil was there, I believe.

19 And we toured the outside of the facility

20 and looked at various areas where we

21 could take samples of turf.

22 Q. And did you take samples that

23 day?

0056

1 A. There were samples taken by

2 the sampling team that day, I believe on

3 the 3rd.

4 Q. What else did you tell Mr.

5 Hinds that day?

6 A. The only other thing I can

7 recall is that -- on how we took the

8 samples, and I don't know whether that

9 was myself or Mike Price, who was the

10 sampling team leader, indicated that.

11 And that when we got the results, I would

12 communicate those results back to him.

13 Q. When was the next time you

14 saw the Hindses?

15 A. I know I saw and met with

16 Cecil Hinds and Ricky Hinds on May 15th,

17 1996, because that was the date that I

18 had communicated sampling results of the

19 prior sampling. Whether for any reason I

20 happened to drop by the pawn shop prior

21 to that, I just don't know. But I think

22 at that time, myself, accompanied, I

23 believe, by Alan Faust, went over there

0057

1 and communicated sampling results to Mr.

2 Hinds.

3 Q. Did you tell him orally, or

4 did you have the results printed out

5 somehow for him?

6 A. No. The results were printed
7 out in a written communication to him.

8 Q. This is Plaintiff's Exhibit
9 No. 8 (indicating). Would that be the
10 written communication that you're
11 referring to?

12 A. That is correct.

13 Q. So you hand-delivered that
14 letter to the Hindses?

15 A. Yes.

16 Q. Okay.

17 A. And I believe that Mr. Alan
18 Faust accompanied me on that visit.

19 Q. And what does that letter say
20 about the results of the PCB sampling?

21 A. It says that there were five
22 samples taken. It talks about where the
23 five samples were taken. It indicates

0058

1 that three of those samples were below
2 the screening level of the test that was
3 used. Two of those samples were above
4 the screening level and more definitively
5 analyzed, and the results were, in this
6 case, six point one PPM and nine point
7 nine PPM, and it indicates the specific
8 location for each one of those sample

9 results.

10 Q. Did you ever tell Cecil Hinds
11 that there was no need to worry about the
12 PCB -- the presence of PCBs on his
13 property?

14 MR. NEWSOM: Let me just --
15 this is not as much an objection. That
16 Mr. Hinds didn't need to worry, or it was
17 not a concern to him? I mean, there
18 could be -- the wording could be
19 significant. I don't know if you're
20 asking him whether he mentioned those
21 exact words. I think you're just saying
22 generally was there a discussion,
23 which -- it could be subject to

0059

1 interpretations. That's why I --

2 Q. Let me ask it in two parts.
3 Did Mr. Hinds ever express any concern to
4 you about the levels of PCBs that were
5 found on his property?

6 A. I don't believe so. I think
7 the concern that Mr. Hinds had regarding
8 any level of PCBs found on the property
9 is the significance of those levels in
10 the context of getting or acquiring a
11 business loan from a local lender.

12 Q. Okay. So he did have some
13 concerns with respect to how it might
14 affect his ability to get a loan?

15 A. That was my understanding.

16 Q. Did you ever tell him that
17 you would take care of any problems with
18 him getting a loan on his property?

19 A. As best I can remember, at
20 that time when we communicated sampling
21 results and -- myself and Mr. Faust to
22 Mr. Hinds, Mr. Hinds certainly surfaced
23 that concern, and I believe that I or Mr.

0060

1 Faust indicated to Mr. Hinds that we were
2 certainly prepared to remediate that
3 portion of the property where the results
4 were greater than the screening level,
5 and that we would certainly work with him
6 to resolve any issues that the bank had
7 concerning continuation of the loan or a
8 new loan.

9 Q. Did you tell Mr. Hinds that
10 you would work with him to resolve
11 specific PCB issues raised by the bank?

12 A. I'm not sure I used that
13 exact wording, but that was the gist, I
14 believe, of the response, correct.

15 Q. Okay. Getting back to Mr.
16 Hinds' concerns about the PCB results or
17 the PCB sample results, did he ever
18 express any concern to you about
19 potential health effects of the PCBs on
20 his property?

21 A. I recall a conversation which
22 -- and I don't know what the timing of
23 the conversation was, but there was a

0061

1 conversation between Mr. Hinds and myself
2 at which time Mr. Hinds asked me about
3 obtaining sampling -- it wasn't sampling
4 results, but having blood tested for
5 PCBs.

6 And I think at that time, I
7 indicated that we didn't do -- Monsanto
8 did not do testing for PCBs, but there
9 were several people I knew that were more
10 knowledgeable of blood testing and had
11 been involved in some of the blood
12 testing that I believed had been
13 conducted around that time in the
14 Anniston area. And I gave Mr. Hinds, I
15 believe, referrals to the two folks that
16 I knew that were knowledgeable of that
17 kind of testing.

18 Q. Did you ever tell him, Mr.

19 Hinds, not to worry about blood levels of

20 PCBs?

21 A. Oh, no.

22 Q. Okay. Why did you offer to

23 Mr. Hinds to have his property sampled,

0062

1 PCBs?

2 A. Primarily because there were

3 several of the other property owners that

4 I had talked with that requested that --

5 or had a question, and the question was:

6 Did we sample PCBs on their property?

7 And in looking at the sampling that had

8 been done in the past, I really couldn't

9 tell whether the samples were

10 specifically collected on their property,

11 adjacent to their property, or what. And

12 so they requested or asked could we do

13 some additional sampling on their

14 property.

15 And as I recall, I think that

16 was the substance of my conversation with

17 Cecil, indicating or asking him would he

18 also like to have some sampling done

19 specifically on his property.

20 Q. So you were just having it

21 done already for some other property
22 owners, and you decided to offer that to
23 Cecil as well?

0063

1 A. I believe I offered that to
2 all the local commercial property owners.

3 Q. Okay. Do you know who paid
4 for the sampling?

5 A. In all cases, we did.

6 Q. I think the last conversation
7 that we were talking about as far as the
8 specific date was May 15th of '96 when
9 you hand-delivered this letter about the
10 PCB test results.

11 A. Correct.

12 Q. What was the next time that
13 you talked to the Hindses?

14 A. I believe the next time that
15 I came to the shop and talked with Cecil
16 was in June of 1996, the next month,
17 about our proposal -- or I guess the
18 proposal that remediation management had
19 made to the city and the county -- I
20 guess to the city -- for vacating certain
21 streets and fencing property that we had
22 acquired on the east side of the plant.
23 I had a diagram or a small map, eight and

0064

1 a half by eleven, that I went around and
2 showed a number of the property owners,
3 including Mr. Hinds, what that
4 encompassed.

5 Q. This is a map that's part of
6 Plaintiff's Exhibit No. 3 -- wait.
7 That's not the real one. Where did that
8 go? Is that the map that you're
9 referring to (indicating)?

10 A. Yes, it is.

11 Q. Is that your handwriting at
12 the top?

13 A. Yes, it is.

14 Q. And I think we said earlier,
15 but I want to make sure. The Hindses
16 property is not anywhere -- it's not
17 shown on this map; is that right?

18 A. That's correct. Mr. Hinds'
19 property is to the north of 8th Street.

20 Q. Why did you decide to go
21 share this information with Mr. Hinds?

22 A. I think, again, it was our
23 intention and certainly my intention to

0065

1 keep the local property owners apprised
2 of what actions we were taking. And I

3 think that this was a proposal that then
4 we had to take forward to the city. I
5 think at that time all of this would have
6 been city property -- no, I'm not so
7 sure. I don't know whether it was city
8 or the county, to tell you the truth.
9 But this was a proposal that had to go
10 forth.

11 And so, again, I took this
12 around just to show people in the area
13 what we were planning on doing, just to
14 make sure that there was no confusion
15 about fencing and assuming streets and
16 this type of thing.

17 Q. Did you talk to Mr. Hinds
18 about anything else with respect to
19 remediation, besides just showing him
20 this proposed detention basin plan?

21 A. At that time, I don't believe
22 so.

23 Q. Well, have you ever talked to

0066

1 him about how it would look after it was
2 finished?

3 A. Yes.

4 Q. Was that in another
5 conversation?

6 A. Yes.

7 Q. Okay. Well, we'll get to

8 that in a minute, I guess. Do you

9 remember any response from Mr. Hinds when

10 you were discussing the detention basin

11 with him?

12 A. Well, I don't think I was

13 discussing at the time the detention

14 basin. I think it was really the fencing

15 and the streets that were being vacated.

16 Q. Okay. Well, do you remember

17 any response from Mr. Hinds about the

18 street vacation and the fencing?

19 A. No, I do not. I don't recall

20 Mr. Hinds being concerned or having a

21 problem with what we were proposing.

22 Q. Do you ever remember Mr.

23 Hinds discussing with you some concerns

0067

1 about security and vandalism because of

2 the properties that were being vacated

3 around his property?

4 A. Yeah, several times.

5 Q. Okay. What did he tell you

6 about his concerns about security issues?

7 A. The first time Cecil Hinds

8 mentioned that was probably around this

9 time frame that we're talking about now,
10 May, June, July, August of 1996. And
11 Cecil mentioned that he had a concern
12 with security in the rear of his
13 building. The first time he mentioned
14 that was before we had demolition of a
15 lot of the structures in that particular
16 area. And so he just noted that he
17 essentially had less security in the back
18 because of reduced presence of people or
19 occupants in other buildings.

20 Q. So at first, it wasn't the
21 destruction of the buildings. It was
22 just their abandonment and there not
23 being any people around?

0068

1 A. Correct. And as I recall, he
2 specifically mentioned -- I don't know
3 whether his name was Mr. Blair, but the
4 individual that lived on the other side
5 of Ferron toward the west, and I believe
6 that Mr. Blair also had a dog that was
7 kind of a, if you will, first alert.

8 Q. Anything else you can
9 remember about that particular
10 conversation where you were discussing
11 the street vacation and the fencing?

12 A. No.

13 Q. When was the next time you
14 talked to Mr. Hinds?

15 A. The next time was, I would
16 say, within a matter of several weeks. I
17 think it was in mid-1996 where Cecil
18 Hinds had contacted -- I think he
19 contacted the plant to indicate his
20 displeasure with an article that came out
21 in the Anniston Star regarding demolition
22 of a structure right next to his
23 property. And so I went over and talked

0069

1 with Mr. Hinds. And at that time,
2 apologized to him for any problems that
3 we may have caused him.

4 Q. Do you remember what his
5 concern was, what his problem was with
6 that article?

7 A. The concern was that, as I
8 understand, Mr. Hinds had received one or
9 more telephone calls registering
10 displeasure among several of the people
11 in the neighborhood over what was
12 reported by the paper in that article.

13 Q. Do you know what was reported
14 by the paper in that article?

15 A. I had read that article; and
16 to the best of my recall, the article
17 mentioned a Monsanto spokesman that had
18 made the statement that we had demolished
19 and paved an area at the request of -- I
20 don't know whether they mentioned Mr.
21 Hinds or said the owner of a local pawn
22 shop or whatever.

23 Q. And he was upset about that

0070

1 because it wasn't true -- well, strike
2 that. Why was he upset about that
3 article?

4 MR. NEWSOM: You mean what
5 did he say? Because he would know what
6 he stated. He wouldn't know how he felt
7 necessarily.

8 Q. What did Mr. Hinds tell you
9 about why he was upset about the article?

10 A. I think he told me that he
11 was upset about the article because he
12 didn't say that, and he did not
13 request -- if that was the word that was
14 used in the article, did not request that
15 we demolish and pave the area.

16 Q. Do you know why a Monsanto
17 spokesperson would have said that?

18 A. No, I do not.

19 Q. Okay. When was the next time
20 you remember talking with the Hindses?

21 A. There was a time -- and this
22 may have been the next time. In fact, I
23 believe we touched on that earlier. I

0071

1 I went over and briefed Mr. Hinds, and I
2 believe also Ricky Hinds, on the status
3 of the east side remediation project,
4 construction of the detention basin, and
5 that type -- that activity.

6 And we had produced around
7 that time or had produced for us an
8 aerial photograph that would hopefully
9 accurately depict what that area would
10 look like once we completed the project.
11 And it was a good size photograph, three
12 foot by four foot or something of that
13 sort. And I used that in some
14 presentations or -- not in a formal way,
15 presentations to Mr. Hinds, along with
16 several of the other property owners in
17 the area to give them a sense of what the
18 area would look like once we completed
19 the east side remediation project.

20 Q. Did you talk to him or them,

21 both the Hindses, about any landscaping
22 or planting shrubs or anything like that
23 that would affect how the property was

0072

1 going to look when you were finished?

2 A. I don't recall that at that

3 particular time, the planting of shrubs.

4 I'm not sure.

5 Q. What were you going to do

6 that would make the area, the remediation

7 area look different than it looked at

8 that time?

9 A. Well, this is before we

10 demolished any structures in the area and

11 before we put in the drainage piping and

12 the berm areas and really were well

13 advanced into the construction area. So

14 it looked a great deal different.

15 Q. Do you remember Mr. Hinds

16 saying that when it was -- the project

17 was complete, it would look much better

18 than it did at that time?

19 A. As I recall, that was a

20 statement or an implication that Cecil

21 Hinds made. I recall Cecil Hinds

22 indicating that it would certainly look

23 different and look a lot better than what

0073

1 it did look like or what it looked like

2 in the past.

3 Q. Do you know what happened to

4 that big photo you were talking about?

5 A. To the best of my knowledge,

6 it's still at the Anniston remediation

7 trailer.

8 MS. BLOCK: That might be

9 something we would like to see.

10 MR. NEWSOM: I'll have to --

11 I mean, I'm not --

12 MS. BLOCK: Just for the

13 record, I don't know if that's something

14 we've specifically asked for. I doubt

15 it, but that -- if it still exists and we

16 can find it, we would like --

17 MR. NEWSOM: Without making

18 any commitment, because I'm not

19 personally familiar with it, we will

20 certainly make further inquiry and then

21 respond appropriately.

22 MS. BLOCK: Great.

23 MR. NEWSOM: Let me make a

0074

1 little note about it.

2 Q. (By Ms. Block) Okay. What

3 else? When else did you talk to the

4 Hindses?

5 A. And again, there were other

6 occasions, I'm sure, that I may have

7 stopped by and had some coffee on the way

8 to work or something of this sort. But

9 nothing substantive, as I recall, until

10 March of 1997 when, in preparation for

11 the structure demolition project, I went

12 by the pawn shop and briefed both, I

13 believe, Cecil and Ricky Hinds on our

14 proposed plans for demolishing structures

15 in and around the pawn shop -- or near

16 and around the pawn shop.

17 Q. Do you remember anything that

18 the Hindses said to you during that

19 conversation?

20 A. Oh, I think there were some

21 general questions on when were you

22 scheduled to begin, which specific

23 structures were we going to demolish, did

0075

1 I think there would be any problems

2 caused to Mr. Hinds' customers, or did we

3 have to close down any streets or

4 barricade any areas or things of this

5 sort.

6 Q. Did you have to do any of
7 those things?

8 A. No, we did not.

9 Q. What was the next time you
10 saw the Hindses?

11 A. The next time would have been
12 on or around April 14th, 1997, because
13 that's when we physically started,
14 physically began the demolition of
15 structures in that area called Area A-1
16 or A-2, whichever area it was. And I'm
17 almost sure that I went over to the pawn
18 shop and talked with Cecil for a short
19 period of time and indicated that yes, we
20 were going to start our demolition
21 project.

22 Q. When was the next time you
23 talked to the Hindses?

0076

1 A. At the end of the demolition
2 project, on or around May 15th, the
3 middle part of May of 1997, I do recall
4 accompanying our construction manager
5 George Enlow to meet Mr. Hinds and Ricky
6 Hinds. And at that particular meeting,
7 we inquired on whether -- if we were to
8 break water line connection to a building

9 to the southeast of the pawn shop,
10 whether that would affect the water
11 supply there at the pawn shop.

12 And Ricky Hinds checked on
13 that. How he did that, I'm not quite
14 sure, but indicated that no, he didn't
15 think there would be a problem. And so
16 we continued on with the completion of
17 the demolition project.

18 Q. What was the next time?

19 A. Either shortly -- or around
20 this time -- and I don't know whether it
21 was, you know, a week later or maybe a
22 week before that. I'm not quite sure.
23 But in and around this time, there was

0077

1 conversation that Cecil Hinds and I had
2 concerning the possibility of Mr. Hinds
3 installing a fence on the -- what used to
4 be called the Wright property right next
5 to the pawn shop.

6 Q. Was that Mr. Hinds' idea?
7 Did he want you to install the fence?

8 A. No. As I recall, Mr. Hinds
9 indicated that he would install the fence
10 if we would allow him to install what I
11 would call a security fence over there on

12 a portion of that paved area right west

13 of the pawn shop.

14 Q. Which was Monsanto's

15 property?

16 A. Correct.

17 Q. What did you tell him?

18 A. I told him I would take that

19 forth to the remediation management group

20 and see what they decided.

21 Q. Did you, in fact, do that?

22 A. I, in fact, did that.

23 Q. And what was the result of

0078

1 that?

2 A. I took that back and talked

3 with Alan Faust. And as I understand,

4 Alan, I believe, talked with, I believe,

5 his boss. And I think the decision was

6 made that while Mr. Hinds could certainly

7 continue to use that paved area for

8 either off-site parking or parking of

9 vehicles, the decision was made that we

10 preferred that he not install any fencing

11 at that time.

12 Q. Do you know why?

13 A. No.

14 Q. They just told you Monsanto

15 doesn't want to do this right now?

16 A. Well, again, I think -- you

17 know, I just don't want to speculate.

18 There could be reasons.

19 Q. I understand.

20 A. But I think it was just

21 something that they preferred not to do.

22 Q. And you didn't ask why not?

23 A. I'm pretty sure they were not

0079

1 really interested at that time in

2 entering into any kind of a lease

3 arrangement or rental of property. That

4 was just -- that's not our business. It

5 certainly was not then.

6 Q. Did Mr. Hinds want to lease

7 or rent the property?

8 A. I'm not sure whether Mr.

9 Hinds specifically wanted to lease the

10 property, but I believe that if one were

11 to physically go in and install fencing

12 and whatever, I think that we felt that

13 you would probably have to have some type

14 of an arrangement, a lease, rental, or

15 something.

16 Q. You couldn't just grant him

17 permission to build a fence on your

18 property without leasing it to him?

19 A. Again, this is only -- I

20 don't know specifically.

21 Q. Okay.

22 A. But it's not just --

23 Q. I just want to know what you

0080

1 know.

2 A. Yes. The type of fence we're

3 talking about is a full-fledged security

4 fence. It's not just a real small fence.

5 Q. What was the next time you

6 remember talking to Mr. Hinds?

7 A. I know I had a conversation,

8 and I think it was in August of 1997,

9 where I think I talked with Mr. Hinds on

10 the telephone. He had contacted the

11 plant, either via letter or telephone

12 call or something of that sort, and there

13 were several things that were concerning

14 him, including, I think, something about

15 dust in the area clogging the air

16 conditioning system. And concern about

17 the underground storage tank at the

18 corner of Ferron and West 10th Street.

19 So I contacted Mr. Hinds, and

20 I think there were several issues that

21 were of concern. I indicated that I
22 would be in town the following week, and
23 I would like to drop by, and perhaps we

0081

1 could kind of go over and talk about each
2 one of them individually.

3 Q. And did you, in fact, drop
4 by --

5 A. Yes, I did --

6 Q. -- the next week?

7 A. -- the next week. And I'm
8 not sure exactly what that date was. But
9 as I recall, it would have been sometime
10 in -- I believe it was the latter part of
11 August of 1997.

12 Q. I'm going to show you the --
13 there it is (indicating). The last page
14 of Plaintiff's Exhibit No. 3 --

15 A. Yes.

16 Q. -- which looks to be some
17 handwritten notes?

18 A. Correct.

19 Q. Is that your handwriting?

20 A. Yes, it is.

21 Q. And there's a date of 8/26 or
22 27, '97 at the top?

23 A. Yes, it is.

0082

1 Q. So would that be about

2 correct --

3 A. I think that's true.

4 Q. -- as far as the time that

5 you stopped by --

6 A. I think that's right.

7 Q. -- in late August?

8 A. I may have stopped by on both

9 days. I'm not sure when I stopped by the

10 first day whether Cecil Hinds was there

11 and whether only Ricky Hinds was there.

12 Q. But you talked to one -- at

13 least one of the Hinds, either Ricky or

14 Cecil?

15 A. I talked with both at some

16 point in time, I believe, over those

17 days.

18 Q. I would just like to go over

19 these notes with you. This first, I

20 guess, issue, does that say, No dust

21 suppression?

22 A. Uh-huh (positive response).

23 Q. What was that -- what were

0083

1 those notes taken of?

2 A. Well, again, that was the

3 issues that either Ricky or Cecil
4 communicated to me. And the first issue
5 that they brought up was dust
6 suppression; that is, a lack of dust
7 suppression and that the air conditioning
8 system, the filters or coils were
9 clogged, and that they felt that it was
10 due to dust generated from some of the
11 truck traffic going back and forth along
12 West 10th Street, I believe hauling fill
13 dirt over to the construction that was
14 ongoing on the other side of Crawford
15 Avenue.

16 Q. What was the construction on
17 the other side of Crawford Avenue?

18 A. That was -- the drainage
19 pipes would drain all of the water on the
20 east side to a junction, a large junction
21 box directly south of West 10th Street.
22 And on top of the piping system, you had
23 a berm, a large berm area. So there was

0084

1 a lot of fill dirt that was being brought
2 in for that cap and cover on the east
3 side.

4 Q. Did you do anything about
5 this dust complaint?

6 A. Well, that was -- I think
7 there was -- we were trying to determine,
8 you know, what dust were we talking
9 about, and I think that that was one of
10 the issues, some of the truck traffic
11 right in front of the shop, and then I
12 think also Mr. Hinds talked about
13 sometime -- and I wasn't sure when it
14 occurred, but evidently I had written
15 down a notation, Concrete slab -- that
16 should be slab and not slag -- concrete
17 slab across the site -- across the
18 street, no dust suppression. This was
19 evidently a time when they were breaking
20 up a concrete slab over there and
21 generating some dust.

22 Q. Do you remember either of the
23 Hindses complaining about dust from any

0085

1 of the destruction of the adjacent
2 properties, structures?

3 A. From the standpoint of the
4 demolition that started on, I think,
5 again, April 14th?

6 Q. Yes.

7 A. No.

8 Q. With respect to this

9 complaint about dust that we're talking
10 about right now, what, if anything, did
11 you do about this complaint?

12 A. Well, I went back to the
13 remediation management group and
14 communicated the concern to Alan Faust.
15 I think he then in turn talked with the
16 construction manager, whoever that was at
17 that particular point in time. And as a
18 result, I think there was a water truck
19 they used or something trying to wet the
20 streets out there, not only at West 10th
21 Street, but West 10th Street and
22 Clydesdale.

23 Q. So did they start using the

0086

1 water truck after these complaints were
2 made, or is that something that -- I'm
3 sorry. I'm just a little confused about
4 why the water truck was being used or
5 when it was being used?

6 A. Well, they may have been
7 using a water truck prior to this time.
8 But I think that Mr. Hinds felt that any
9 suppression that was being done out there
10 was not enough, and still there was dust
11 generated from those trucks or from the

12 general traffic out there on West 10th

13 Street in front of his building.

14 Q. Do you know if any of the

15 dust suppression measures were stepped up

16 or done more frequently after the Hindses

17 complained about this?

18 A. Well, it's my understanding

19 that they had water trucks that would

20 more frequently drive that stretch of the

21 road.

22 Q. Okay. This next issue that

23 are on your notes, I think it says,

0087

1 Service station thirty years ago. Tell

2 me what that's about.

3 A. That was an issue that I

4 think that when I talked with -- I think

5 when I talked with Ricky -- you'll see

6 there's kind of a numbering system, and

7 then there's another numbering system?

8 Q. Yes.

9 A. I think when I talked with

10 Cecil, that happened to kind of come up

11 as a fifth issue. But nonetheless, Mr.

12 Hinds felt that there was an underground

13 storage tank or probably two tanks right

14 at the corner of 10th Street and Ferron.

15 Evidently some -- and I put
16 down here thirty years ago, that there
17 was a service station there. And that
18 there was perhaps two tanks there, and
19 the concern was underground leakage of
20 those storage tanks.

21 Q. Was that service station
22 property that Monsanto owned at that
23 time?

0088

1 A. This was property that was
2 subsequently purchased by Monsanto, but
3 only within the last year. And so when
4 we purchased the property, no, there was
5 no service station or anything there.

6 Q. Okay. But the property -- at
7 the time that the Hindses were expressing
8 this concern about the underground
9 storage tanks to you in August of '97,
10 Monsanto did not own the property at that
11 time?

12 A. We did own the property at
13 that time.

14 Q. Oh, you did own the property?

15 A. Correct.

16 Q. Okay. And I think that Mr.
17 Faust testified earlier that Monsanto had

18 never discovered any underground storage

19 tanks on that property?

20 A. Well, I think that's correct.

21 Q. You don't have any reason to

22 disagree with that?

23 A. No. I took the issue back to

0089

1 the remediation management group, and I

2 do know that while we were out there in

3 that area doing the demolition project,

4 we certainly didn't sense there was an

5 issue of underground storage tanks.

6 Q. How would you sense there

7 being an underground storage tank

8 somewhere?

9 A. I would assume there would

10 have to be some vent and some odors of

11 some sort that smelled like petroleum

12 products.

13 Q. Do you know what, if

14 anything, Monsanto did to try and

15 determine whether there might be

16 underground storage tanks?

17 A. No, I do not.

18 Q. Okay. Let's see. Issue No.

19 3, security in back. It looks like a

20 diagram here?

21 A. Correct.

22 Q. Why don't you just explain

23 that to me a little bit? Part of it I

0090

1 I can't read the writing very well.

2 A. Okay. Well, that's true.

3 This is not a real good copy.

4 Q. No, it's not.

5 A. Mr. Hinds indicated that one

6 of the concerns -- and this was a concern

7 that he had voiced previously -- was

8 security in the back. And I think in our

9 discussion, he had indicated that he had

10 a quote on a security TV for the back

11 area. He talked generally about it, and

12 then I said that I would -- once we

13 completed our discussion, I would kind of

14 tour the back area with Ricky and kind of

15 have a look-see. Based on that look-see,

16 I kind of drew this little diagram.

17 Q. Okay.

18 A. And I'm not a security

19 expert, by the way, but the things that

20 were kind of apparent to me -- and I did

21 tell Ricky that I would kind of give him

22 some feedback on first impressions. And

23 this was kind of several items that I

0091

1 just kind of brought to their attention,
2 that if one were looking at security,
3 this might be some things to consider.

4 Q. Did you express or forward
5 this security concern to the -- to
6 anybody else at Monsanto?

7 A. All of these various issues,
8 yes, I -- in general any time any issues
9 or concerns were voiced to me, I would
10 typically report back to the remediation
11 management group, Mr. Faust.

12 Q. Do you know if the
13 remediation management group did anything
14 about this particular concern, the
15 security concern?

16 A. No, I'm not.

17 Q. I don't see on here -- and
18 maybe it's here and I'm just not seeing
19 it -- any indication that the absence of
20 any residences or any commercial property
21 being occupied around the Hinds property
22 would have been a security concern that
23 you noted.

0092

1 A. At this time, I think the
2 reason I wouldn't have noted that is

3 because if you would have had occupants
4 in this area at that time, it was my
5 opinion they couldn't possibly have seen
6 the rear of that building. No one can
7 see the rear of the building, because I
8 think you'll see where I had it written
9 as best I could describe it, jungle,
10 right around the fence.

11 Q. I do see that.

12 A. And so you really couldn't
13 see back there.

14 Q. Do you think the presence of
15 people around in the area, whether or not
16 they can actually see a potential
17 break-in, would deter anybody from
18 breaking into property?

19 MR. NEWSOM: Object. It
20 calls for speculation. You may answer if
21 you understand.

22 A. In the -- you know, you can
23 have security concerns during the day or

0093

1 during the night. Clearly during the
2 day, if someone were to be in the rear of
3 this property and get in the rear of
4 that, then no one would see them.

5 Now, if you have people --

6 and it's always my impression in many,
7 many visits to Anniston, that there was
8 always traffic along West 10th Street.
9 And I just -- also you had a fairly wide
10 open area. You have a wide open area on
11 one side. On another side, you had a
12 very active car wash that continues to
13 get a fair amount of traffic. And so I'm
14 not so sure what additional folks would
15 have added to the picture.

16 At night, you still would
17 have had the issue of -- that perhaps it
18 could have been a bit easier coming from
19 the rear, but no more so now than in the
20 past, because that property has not
21 changed at all.

22 Q. I thought you said earlier
23 that there was, I believe, a Mr. -- I

0094

1 can't remember. Was it Mr. Blair that
2 had a dog?

3 A. Correct.

4 Q. Where was that property on
5 your map?

6 A. That would have been over
7 towards the west on the other side of
8 Ferron.

9 Also, when Mr. Hinds voiced
10 the security issue and talked about that,
11 there was a property, the Wright property
12 was standing right adjacent to the pawn
13 shop. At this time, in August of 1997,
14 that house was gone. You had a paved
15 area, and you had flood lights all over
16 that parking lot, and you had what I
17 described as a jungle around the fencing.

18 Q. Let's see. Issue No. 4. I
19 believe that's business in decline?

20 A. That's the way I termed it,
21 with a question.

22 Q. Why don't you just tell me
23 what that issue was about? What was Mr.

0095

1 Hinds' concern there?

2 A. I think that Mr. Cecil Hinds
3 and Mr. Ricky Hinds had done some type of
4 business analysis, economic analysis,
5 profit analysis or whatever, maybe an
6 income analysis of their business, as I
7 recall, year-to-date 1997 versus 1996.
8 And according to them, they indicated to
9 me that a primary method that they used
10 was the interest on loans to the various
11 customers. That was how they made their

12 money. And that based on their analysis,
13 they thought that their business had
14 declined some fifteen to twenty percent
15 this year versus, I believe, 1996. And I
16 say, implies it is due to Monsanto's
17 buyout and area activity. Whether they
18 used those specific words, I don't know.
19 But that was the implication.

20 Q. Okay. And then this No. 5,
21 storm water washes over his property in
22 heavy rain, I think it says?

23 A. Correct.

0096

1 Q. What was -- just elaborate on
2 that concern for me.

3 A. The concern here was that
4 during heavy rainfall events, when you
5 really get a lot of rain in a short
6 period of time, that Mr. Hinds got storm
7 water flow right out in front of his
8 building where you kind of come in the
9 entrance to the building, and the storm
10 water would have been coming down and on
11 West 10th Street from Clydesdale and
12 across Ferron Avenue and from -- off the
13 paved area, which was next door.

14 Q. Did he ever express any

15 concern to you about the water actually
16 coming into the building?
17 A. I don't believe so. I think
18 that his concern was primarily, from what
19 I recall, concern for his customers,
20 because they had to slosh through water
21 entering and exiting the building during
22 heavy rainfall events.

23 Q. I believe you said you

0097

1 stopped by the pawn shop on several
2 occasions, maybe had a cup of coffee. Do
3 you ever remember stopping by when there
4 was a heavy rain?

5 A. There was one time that I
6 did. It seemed like it was in a fairly
7 heavy rain, and there was considerable
8 water running right out in front of the
9 pawn shop.

10 Q. I'm going to show you some
11 photographs that's Plaintiff's Exhibit
12 No. 4, if you would just look at them for
13 a minute, and I'll ask you some
14 questions.

15 A. (Witness reviews
16 photographs.) Okay.

17 Q. Do you recognize any of those

18 pictures?

19 A. No. You mean recognize

20 them --

21 Q. Do you recognize anything

22 that's depicted in those photographs?

23 A. Well, I know the approximate

0098

1 location of some of the pictures, what

2 those pictures display.

3 Q. What do those pictures

4 display? If you want to --

5 A. No. 486 displays the front of

6 Cecil Hinds' pawn shop, it appears,

7 looking west from the front door.

8 No. 414 appears to be a shot

9 taken from the entrance of the 10th

10 Street pawn shop, again looking west.

11 The same description for No. 415.

12 The other ones really don't

13 give me enough detail to definitively say

14 where those were located.

15 Q. Did you see any standing

16 water in these photographs?

17 A. I saw what appeared --

18 MR. NEWSOM: If you know.

19 A. I saw what appeared to be

20 some running water. I don't know whether

21 I saw any standing water.

22 Q. Okay. Do you know when these
23 pictures were taken, approximately?

0099

1 A. It appeared to me, based on
2 the pictures that I just mentioned, those
3 were taken prior to the demolition
4 project that started in April 1997 and
5 post-July 1996, because I think that was
6 in and around the time that we had taken
7 down the Wright house that was next to
8 Cecil Hinds and put in the paved parking
9 area. I believe that showed the paved
10 parking area.

11 Q. Do you know whether the
12 demolition of the Wright house and the
13 other structures that you said were in
14 the -- I believe it was the '96
15 demolition project or time frame --

16 A. I think we demolished the
17 Wright structure in 1996. Most of the
18 structures in that area were demolished
19 April and May, 1997. I think that's
20 correct.

21 Q. Okay. Do you know whether
22 the destruction of the -- or demolition
23 of the Wright house would have any effect

0100

1 on the storm water or the running water
2 that came across the pawn shop property
3 during a rain event?

4 A. No. That's not my area of
5 expertise.

6 Q. You did say you had been to
7 the pawn shop during a rain storm?

8 A. I had been.

9 Q. Okay. But only once?

10 A. One time that I recall. And
11 this was after Cecil Hinds brought it to
12 my attention, and I don't know whether it
13 was some days later or whatever, but I
14 made a point of saying, Well, the next
15 time we really get heavy rains, I want to
16 go by and see what he's talking about,
17 which I did.

18 Q. And that was in 1997, right?

19 A. I think so.

20 Q. So that would have been after
21 the Wright house was demolished?

22 A. Correct, correct.

23

0101

1 (Whereupon, Plaintiff's

2 Exhibit No. 22 was marked

3 for identification.)

4

5 Q. Okay. Great. Real quick,

6 I'm going to go back to the dogs for a

7 minute. I'm going to show you --

8 A. Going back to what?

9 Q. The dogs or the dog that

10 belonged to -- I forget, Mr. whoever.

11 I'm going to show you what's been marked

12 as Plaintiff's Exhibit No. 22 and ask you

13 if you can recognize what's depicted in

14 that photograph?

15 A. I think I do.

16 Q. Okay. What do you think it

17 is?

18 A. This looks like the Hindses'

19 pawn shop on the left side of this

20 picture; and on the right side, that

21 appears to be the Wright house, and on

22 West 10th Street.

23 Q. Okay. Great. Thank you.

0102

1

2 (Whereupon, Plaintiff's

3 Exhibit No. 23 was marked

4 for identification.)

5

6 Q. And now I'm going to show you
7 what's been marked Plaintiff's Exhibit 23
8 and ask you if you can recognize what's
9 in that picture?

10 A. This looks like the property
11 where the Wright house used to stand
12 after the Wright house was taken down.

13 Q. And sometime after that, was
14 it paved over? Sometime after that
15 photograph?

16 A. That's correct.

17 Q. Okay.

18 A. May of 1996. Okay.

19 Q. Thank you. The last thing on
20 your notes from August 26th and 27th,
21 '97. I believe there's a No. 6 over in
22 the margin that I just can't read --
23 wait, long-term viability of business?

0103

1 A. If you want, I'll read it for
2 you, and that would help, perhaps.

3 Q. Yes, that would help. Thank
4 you.

5 A. Yes. That says -- and it's a
6 question, long-term viability of business
7 in the area given the Monsanto activity
8 and activity-cleanup.

9 Q. Was that a concern that Mr.
10 Hinds, either Ricky or Cecil, expressed
11 to you?

12 A. Correct.

13 Q. And is that -- well, you said
14 that you forwarded all these concerns to
15 the Monsanto remediation group?

16 A. Correct.

17 Q. And that would include this
18 long-term viability of the business
19 concern?

20 A. Yes. And I believe that Mr.
21 Hinds -- even prior to me discussing
22 these issues with him and drafting this
23 list, I think that, as I recall, he had

0104

1 voiced concerns on several of these
2 directly to the plant; and whether it was
3 to Mr. Faust, I don't know.

4 Q. Okay. The times that you
5 stopped by the pawn shop to talk to the
6 Hindses, did you ever see customers come
7 in while you were there?

8 A. I think there were very few
9 times where I did not go by the pawn shop
10 where I did not see customers.

11 Q. Did you recognize any of

12 them?

13 A. No. Most of the people

14 around the area, I didn't know anyway.

15 Q. Right. Any idea where they

16 might have -- where the Hindses'

17 customers come from?

18 A. No, but I certainly expect

19 it's in the west Anniston area.

20 Q. What, if anything, did

21 Monsanto do to resolve the PCB

22 contamination that was found on the Hinds

23 property?

0105

1 A. Well, it's my understanding

2 that in taking down the Wright house and

3 preparing that area for paving and paving

4 that area, it's my understanding that

5 pretty well resolved the issue of PCBs in

6 that particular area.

7 Q. So did you actually pave on

8 the Hinds property?

9 A. I think we paved, and I think

10 it's shown on several of your pictures

11 where we paved up to the Hinds building,

12 the pawn shop itself.

13 Q. This is Plaintiff's Exhibit

14 No. 6, which is a letter to Melissa

15 Craven at Colonial Bank.

16 A. I recall seeing this at some
17 time in the past.

18 Q. Did you have anything to do
19 with writing that letter?

20 A. No.

21 Q. Okay. But you've seen it
22 before?

23 A. I am almost sure I've seen

0106

1 this before.

2 Q. In the bottom photograph, the
3 letter mentions something about having
4 paved over the west -- I think it's the
5 west. Where is my extra copy?

6 A. The west yard area of the
7 West 10th Street pawn shop.

8 Q. That's right. So did
9 Monsanto then, in fact, put asphalt down
10 on parts of the pawn shop property?

11 A. Yes.

12 Q. Okay.

13 A. Not only on that area, but up
14 to the -- all along the west side, all
15 the way back to the fence, I believe. I
16 think it went all the way back to the
17 fence.

18 Q. Do you know if the asphalt
19 was placed over both of the areas where
20 PCBs were found at levels above five
21 PPMs?

22 A. Oh, yes.

23 Q. Okay.

0107

1 A. Those areas was -- it was a
2 relatively localized area, and this turf
3 area was five foot wide, a fairly small
4 area. In fact, you showed me a picture
5 of it a while ago.

6 Q. Did Monsanto sample the soil
7 on the Wright house next door to the
8 Hinds property?

9 A. I believe we did.

10 Q. Do you remember what the
11 results were?

12 A. I think, using the screening,
13 it was nondetected, based on the
14 screening that had been used at that
15 time, the sampling procedure, and I think
16 the sampling took place in 1995 sometime.

17 Q. So why did you want to buy
18 their house if there weren't detectable
19 PCBs on their property?

20 A. I don't know. That was part

21 of, again, the purchase property program
22 that was, at that time, already
23 implemented for most of that area by the

0108

1 time I even came on site.

2 Q. How about the Miller property
3 that was across the street from the pawn
4 shop property, did you test that property
5 for PCBs?

6 A. Yes.

7 Q. And I believe you said that
8 in some places on that property it was --
9 PCBs were as high as a hundred PPMs?

10 A. I don't know whether I said
11 that or not.

12 Q. If -- would you have any
13 reason to disagree with the fact -- with
14 that, if Mr. Faust said that?

15 A. On which part of the Miller
16 property? I guess we typically think of
17 it in terms of two sections. It was all
18 part of the same tax parcel, but there
19 was the eastern two-thirds and the
20 western one-third.

21 The eastern two-thirds of
22 that property included the ditch that
23 drained the east side of the Monsanto

0109

1 property. And in that ditch and along on
2 each side of that ditch, I think there
3 were some levels at -- in certain cases,
4 above one hundred PPM.

5 Q. But you also bought the
6 eastern one-third of the property as
7 well, right?

8 A. We -- at some time after that
9 initial purchase, yes, in discussions
10 with Jeff Miller; and also one of the
11 other Millers, Mrs. Miller's daughter, we
12 did purchase that other one-third.

13 Q. The PCBs weren't as high on
14 that eastern one-third of the property
15 that was away from the ditch?

16 A. At that time, based on the
17 sampling we had done, I think the highest
18 level that we saw on that property was
19 less than fifteen PPM.

20 Q. Did Cecil or Richard Hinds
21 ever approach you about purchasing their
22 property?

23 A. No.

0110

1 Q. Did you ever talk to them
2 about purchasing their property?

3 A. No. Is this a good time for
4 maybe a five-minute break?

5 Q. Sure.

6

7 (Whereupon, a brief recess
8 was taken.)

9

10 Q. You said before that Mr.
11 Hinds had expressed some concern about
12 not being able to get a loan?

13 A. That's correct.

14 Q. What, if anything, did you do
15 about that particular concern? Did you
16 tell anybody else at Monsanto about it?

17 A. I think when Mr. Hinds voiced
18 that concern, he voiced that to both Alan
19 Faust and myself.

20 Q. Oh, okay.

21 A. I believe that's correct.
22 And I think that Alan Faust then took
23 that issue, if you will.

0111

1 Q. And he, I believe, wrote a
2 letter to Melissa Craven at Colonial
3 Bank. That letter has already been
4 marked as Plaintiff's Exhibit 6, and
5 we've looked at that before.

6 A. That's correct.

7 Q. Do you know why this letter
8 does not include the nine point one -- or
9 excuse me, the nine point nine PPM PCB
10 level that was actually found on the
11 property?

12 MR. NEWSOM: Well, let me
13 just object to the extent that while it's
14 true that's not set forth, the letter
15 does note that there were two detections,
16 and only one of those is specifically
17 listed.

18 Q. Well, do you know why the
19 nine point nine wasn't specifically
20 listed?

21 A. No, I do not. I recall
22 looking at this, and I'm not sure when I
23 noted that. But to me when I read that,

0112

1 the PCBs at levels of six point one PPM,
2 it looked like a typo. It looked like
3 there was some information that just
4 didn't make it in the final copy.

5 Q. Okay. Can you think of
6 anything else, any other conversation
7 that you had with Cecil or Ricky Hinds
8 that we haven't talked about?

9 MR. NEWSOM: And of course, I
10 would say here we've responded to
11 interrogatories, and he's discussed them
12 at length today. I'm not sure he's
13 compared the interrogatory responses to
14 his deposition to know whether there's
15 anything additional there. But it's not
16 a memory quiz. But anything else you can
17 recall.

18 THE WITNESS: No. I realize
19 that.

20 A. In the context of a number of
21 the issues that Mr. Hinds -- well, both
22 Cecil and Ricky had brought to my
23 attention, I think I indicated from the

0113

1 standpoint of the storm water flow or the
2 flooding out in front of his building or
3 the running water, that I would talk with
4 one of our hydrologists and kind of get
5 his impression or feedback on water flow
6 and where the water might be coming from
7 and what kind of actions might be taken
8 to resolve that.

9 And so sometime after that
10 concern was voiced to me, I believe that
11 Tom Francis, a hydrologist that worked

12 for Golder Associates on contract to
13 Solutia or Monsanto at the time, Tom
14 Francis and I had gone over to the pawn
15 shop, and I think I had introduced Mr.
16 Hinds to Tom Francis or Ricky Hinds to
17 Tom Francis. I believe that was the
18 case. But I know that he and I had gone
19 over and looked at that situation.

20 Unfortunately, this was not
21 during a high storm water event. You
22 just can't make it rain. And so I just
23 wanted to take Tom over there and just

0114

1 kind of show him, I think, what, perhaps,
2 I had observed.

3 And I talked subsequently
4 with Tom and then also with another one
5 of the engineers, Richard Williams, who
6 also, at one time, used to work for
7 Golder; he's now an independent
8 consultant, on what we might be able to
9 do. And I don't know whether, based on
10 that, there was anything quick and --
11 there was any easy or quick solutions.
12 There was just a couple of ideas that we
13 were kind of bouncing around.

14 And I think that -- shortly

15 thereafter, I think I talked with Ricky,
16 and it may have been Cecil, on some
17 options that we were kind of considering,
18 but nothing that would be short-term
19 stop-gap type of situations, because we
20 still weren't quite sure where the flow
21 was coming from. For example, was the
22 major part of that flow coming from down
23 West 10th Street? Well, if it is,

0115

1 there's not much you can do about that,
2 other than getting the city involved in
3 constructing new infrastructure to do
4 something with the water.

5 Q. Did they ever determine or do
6 any studies to determine whether the
7 demolition of the properties around the
8 pawn shop had any effect on the storm
9 water?

10 A. No, not to my knowledge. And
11 of course, at that time, I think we had
12 already demolished all the structures, so
13 I don't know how one would go about doing
14 that.

15 Q. Sure. You never asked them
16 if that could have any effect or could
17 have had any effect on the amount of

18 storm water that was coming on to the
19 pawn shop property?
20 A. I think the only thing I
21 recall in any discussions at all is prior
22 to 1996, you had a house next door, and
23 now you had a paved area. So what does

0116

1 that do? And that, you know, certainly
2 sheets water in the direction of flow,
3 and I know we -- when I say we, I think
4 Richard Williams and I said, Well, is
5 there any way you could install a curb or
6 something of that sort? But we decided,
7 well, that would kind of destroy the use
8 of the property. So we weren't quite
9 sure.

10 Q. How would it destroy the use
11 of the -- I'm sorry. Installing a curb
12 would destroy the use of what property?

13 A. Well, maybe not destroy the
14 use, but reduce the utility of the
15 property, because where would you put the
16 curb? And if you had any kind of a curb,
17 would you not, in fact, build up and have
18 a lake.

19 Q. But you didn't discuss
20 specifically whether the loss of the

21 Wright house or the demolition of other
22 structures around the pawn shop had any
23 effect on the storm water flow?

0117

1 A. No, no.

2 Q. Okay. Have you been to any
3 community meetings in the Anniston
4 community?

5 A. No, I don't believe so.
6 Community, other than just one-on-one
7 discussions with people in the
8 neighborhood? I mean, an organized
9 meeting or something of this sort?

10 Q. Right, that's what I'm
11 talking about.

12 A. No.

13 Q. For example, the meetings --
14 I know there were some at the Bethel
15 church and the Mars Hill church?

16 A. No.

17 Q. Okay. You mentioned earlier
18 that one of your responsibilities at
19 Monsanto was involvement in the cleaning
20 of some properties?

21 A. Correct, specifically the
22 cleaning of some of the homes.

23 Q. Okay. So this would be

0118

1 cleaning of the inside of residential

2 properties?

3 A. Correct.

4

5 (Whereupon, Plaintiff's

6 Exhibit No. 21 was marked

7 for identification.)

8

9 Q. This is Plaintiff's Exhibit

10 21. I'll just ask you if you recognize

11 that document.

12 A. Yes, I do.

13 Q. And what is that?

14 A. The first sheet is a

15 permission form signed by Ms. Helen Clegg

16 giving access to Monsanto and Monsanto's

17 contractor at the time, Westinghouse

18 Remediation Services, access to the

19 property for the purposes of cleaning the

20 property.

21 The second sheet is a listing

22 of guidelines on how that cleaning would

23 be performed.

0119

1 The third sheet is a list of

2 personal property of Helen Clegg that was

3 stolen from her house in a break-in. I'm

4 not sure when that break-in occurred.

5 Q. That wasn't a break-in that

6 -- I mean, that wasn't anything to do

7 with the cleaning process, that stolen

8 property?

9 A. No. In fact, at that time,

10 there was two break-ins, one of her

11 property and a house two doors down from

12 where she lived.

13 Q. Why was that attached to the

14 cleaning access or cleaning -- yeah, the

15 cleaning access permission document; do

16 you know?

17 A. It was not originally. It's

18 a separate document. They stand alone.

19 Q. Why would -- can I see that

20 again for a second?

21 A. (Witness hands document to

22 counsel.)

23 Q. Does that say at the bottom

0120

1 that it was prepared by Bruce Eley at the

2 Monsanto Company?

3 A. Yes.

4 Q. Why would you have prepared

5 that document?

6 A. That was prepared so that I
7 could use that in terms of a
8 itemization. I mean, this break-in
9 occurred after Monsanto and Westinghouse
10 had cleaned their house and prior to Ms.

11 Clegg coming back into the residence.

12 Q. Okay. Was this itemized list
13 of stolen personal property something
14 that you used to reimburse Ms. Clegg?

15 A. Correct.

16 Q. Now, the top page, the
17 cleaning access permission, and then the
18 second page, the guidelines, was that
19 something that was used -- a form that
20 was used for all the residential
21 properties that you cleaned?

22 A. This was used for all the
23 residential properties that were cleaned,

0121

1 as highlighted, under consent agreement
2 with the Alabama Department of
3 Environmental Management.

4 Q. You answered my next
5 question, which was: Why did you go and
6 clean these people's properties?

7 A. That's --

8 Q. Is that the answer?

9 A. It was under the consent --
10 and I don't know whether it was a consent
11 order, consent agreement. But as I
12 understand it, it was a consent order
13 with the Alabama Department of
14 Environmental Management.

15 Q. Do you know if the houses
16 that were cleaned had been tested for
17 PCBs?

18 A. It's my understanding that a
19 number of these houses had been tested
20 from the standpoint of collection of dust
21 or dirt on rugs or inside the house, and
22 that soil samples had been taken in the
23 front and rear yards.

0122

1 Q. I believe you just said that
2 some of the properties had been tested?

3 A. Some of the properties had
4 been tested.

5 Q. But not all of them?

6 A. I believe that's correct.

7 Q. Do you know how it was
8 decided which properties they were going
9 to clean?

10 A. I think that was specified in
11 the consent order.

12 Q. Okay. Was a consent order
13 something that Monsanto and -- was it
14 ADEM or ADPH?

15 A. ADEM, A-D-E-M, yeah.

16 Q. Was that something that
17 Monsanto and ADEM came up with together,
18 or was that something that ADEM dictated
19 to Monsanto?

20 A. That, I don't know.

21 Q. Okay. What did you do or
22 what did Monsanto do as far as cleaning
23 these people's property?

0123

1 A. The first thing we did is we
2 discussed this issue with Westinghouse
3 Remediation Services and asked them what
4 would be the appropriate way to go about
5 cleaning house, furniture, those types of
6 items.

7 Q. Cleaning house furniture of
8 PCBs?

9 A. For any kind of dust, dirt,
10 or anything, because the dirt, the dust,
11 if you had -- if PCBs was an issue, we
12 felt that more likely than not that it
13 would be a part of any dust or dirt that
14 would be tracked into the house.

15 Q. Okay. So cleaning furniture

16 of dust that might contain PCBs?

17 A. Correct, or dirt.

18 Q. Sure. Soil particles?

19 A. Yes, or anything that you

20 might track into a house. They had had

21 experience.

22 Q. Westinghouse?

23 A. Westinghouse Remediation

0124

1 Services. I mean, that's what they do,

2 maybe not specifically cleaning houses,

3 but that's part of their experience. And

4 so they put together a set of guidelines

5 that they felt were appropriate on how to

6 proceed, and I think we pretty well

7 accepted those guidelines. I believe

8 that these guidelines were communicated

9 to ADEM, but I'm not positive of that.

10 Q. So is it your testimony that

11 those guidelines on Page 2 of Plaintiff's

12 Exhibit 6, I think it is, were followed

13 when the individual properties were

14 cleaned?

15 A. When the individual

16 properties were cleaned, yes.

17 Q. So all those things that were

18 on that list of guidelines were actually

19 done to the properties?

20 A. Absolutely.

21 Q. Okay. I'm just trying to

22 avoid having to read every one of them

23 out loud. Why did y'all do that for the

0125

1 residential property? Was it just

2 because that was what was in the consent

3 order?

4 A. To the best of my

5 understanding, that's why that was done,

6 because that was what was directed by the

7 consent order.

8 Q. Do you know why there wasn't

9 any cleaning done of the Hinds property?

10 A. No, I do not.

11 Q. Do you know if there was any

12 cleaning done of any commercial property?

13 A. Not to my knowledge.

14 Q. Do you know why not?

15 A. No, I do not.

16 Q. One of the things on here

17 under the cleaning guidelines is that

18 carpets will be vacuumed, and that hard

19 surface floors will be damp mopped.

20 Don't commercial properties have --

21 sometimes have carpets or hard surface

22 floors that could collect dust?

23 A. Yes, I guess there are some

0126

1 commercial establishments that do have

2 carpeting and hard surface flooring, and

3 there are a number of them in the area

4 that were commercial industrial that did

5 not.

6 Q. What other kind of floor

7 would there be besides a hard surface

8 floor or carpet?

9 A. Well, I think that was -- was

10 that hard surface or --

11 Q. It says hard --

12 A. In a number of cases, there

13 was packed gravel, packed dirt, concrete

14 slab, asphalt.

15 Q. Okay. When Monsanto tested

16 the Hinds property for PCBs, did they

17 test inside the building?

18 MR. NEWSOM: Which occasion?

19 Which occasion? Haven't there been two?

20 MS. BLOCK: I thought there

21 was only one occasion when Monsanto

22 tested and took five samples. Well, let

23 me just --

0127

1 MR. NEWSOM: I think you're
2 referencing the '95, '96 testing. I
3 think there was some done very recently
4 when y'all had some done on the Hinds
5 property.

6 MS. BLOCK: But that wasn't
7 Monsanto.

8 MR. NEWSOM: No. I think,
9 though, we did a few samples at or about
10 that time, too. So recently, '99.

11 MS. BLOCK: Okay.

12 MR. NEWSOM: So that's why
13 I'm trying to get us focused on which one
14 we're talking about.

15 MS. BLOCK: Good. That's
16 good.

17 Q. (By Ms. Block) Well, in '95
18 or '96 when you were involved in the
19 testing, when you went to the Hinds
20 property that day with the soil sample
21 testing team --

22 MR. NEWSOM: April '96.

23 Q. -- April '96, did you test

0128

1 inside the Hinds property?

2 A. No. We were soil sampling in

3 turf areas where you would have access to
4 soil.

5 Q. So you didn't do any surface
6 sampling or wipe sampling on the inside
7 of the building itself?

8 A. No. In fact, this particular
9 sampling team, the protocol that we were
10 following and followed after that was
11 focused on soil sampling.

12 Q. Why was that?

13 A. There was a specific protocol
14 for sampling, sampling soil. It is a
15 part of the consent order that required
16 Monsanto to do an extensive off-site
17 sampling in four different areas, and
18 they were quite large areas. And as a
19 part of that, it specified the sampling
20 procedure and pretty much how those
21 samples were to be collected and what the
22 procedure was.

23 Q. But there was some sampling

0129

1 done of dust inside residential
2 dwellings?

3 A. That was done by, I believe
4 ADEM, A-D-E-M, in conjunction with EPA.

5 Q. Was that part of the consent

6 order, also?

7 A. Well, the consent order was

8 Solutia will do -- or Monsanto will do

9 such and such and such.

10 Q. So the testing of the inside

11 of residential dwellings was before the

12 consent order?

13 A. I'm not sure when that

14 occurred, but that was done by ADEM and,

15 I believe, EPA. I'm not sure. But it

16 was done by ADEM.

17 Q. But Monsanto didn't test for

18 PCBs inside any residential dwellings?

19 A. No.

20 Q. Okay. Do you know what the

21 levels of PCBs that ADEM found inside

22 some residential dwellings were?

23 A. I've reviewed those results.

0130

1 It's been, I think, over a year. The

2 only thing I recall, quite frankly, is it

3 was extremely variable, and I'm not even

4 sure what the units were. By units, I

5 mean how that data was reported.

6 Q. Right.

7 A. Whether it was so many

8 micrograms per square meter or what. I

9 really don't know.

10 Q. Would you agree that PCBs can
11 migrate through or be found in dust?

12 A. I would agree with it can be
13 found in dust. I don't know about
14 migrate through dust. I'm not familiar
15 with that term of art.

16 Q. But you agree that they can
17 be found in dust?

18 A. Yeah.

19 Q. Do you think dust can travel
20 from one piece of property to another?

21 A. I'm certainly not an aerosol
22 scientist, but if you had a piece of --
23 if you had a dust film on, let's say, a

0131

1 structure outside, then I think you would
2 have to have a pretty high wind to blow
3 that off to another structure. I don't
4 have a good sense for that.

5 Q. Well, how did the dust get
6 inside these people's houses?

7 A. Well, I think it's dust or
8 dirt.

9 Q. Okay.

10 A. I think it's dirt being
11 tracked in from outside.

12 Q. Okay. So you would agree

13 that PCBs are found in dirt?

14 A. PCBs can be found in dirt --

15 Q. Soil?

16 A. -- soil, sediment. They

17 adhere very, very tightly to the organic

18 portion of soils.

19 Q. You would agree that dirt or

20 soil can be moved from one place to

21 another?

22 A. Correct, in a myriad of ways.

23 Q. Right. When Monsanto was

0132

1 tearing down the Wright house and other

2 structures around the Hinds property, did

3 you do anything to keep the dust from

4 getting on the Hinds property, dust or

5 soil?

6 A. Well, the primary dust

7 suppression technique we used was water

8 spray.

9 Q. And what exactly does that

10 entail?

11 A. Essentially water spray. And

12 I know that water spray was used on the

13 Wright house. I was not there during the

14 actual demolition of the Wright house. I

15 was there, I think, right after that and
16 saw the standing water, if you will. So
17 I know that water spray had been used on
18 that structure.

19 Q. Was it just somebody standing
20 there with a water hose, or is there a
21 special truck that they use? I just --

22 A. There is a special truck
23 along with special -- not special hoses,

0133

1 but special nozzles.

2 Q. Did Monsanto always use this
3 dust suppression measure when they were
4 demolishing properties?

5 A. On all the demolitions that
6 I'm aware of that I participated in, we
7 always had a water truck on site.

8 Q. The ones that you personally
9 observed?

10 A. Correct.

11 Q. Does the use of these dust
12 suppression measures keep all dust from
13 getting on any other property? Is it a
14 hundred percent effective, I guess, is
15 what I'm asking?

16 A. Oh, I don't know whether it's
17 a hundred percent effective; but based on

18 my observations, it does an extremely
19 good job of suppressing dust and
20 restricting dust to a very localized area
21 of where, for example, the bucket or the
22 claw of the piece of equipment is tearing
23 into or ripping the structure.

0134

1 Q. Okay. But even with the use
2 of dust suppression measures, there could
3 still be some dust or dirt that might
4 move from a place where you're
5 demolishing property?

6 A. That's a possibility.

7 Q. Did you know that the
8 Hinds -- the pawn shop property has an
9 apartment upstairs?

10 A. Yes, I think I knew that.

11 Q. Do you know if -- did you
12 ever know anybody to be renting it or
13 living there?

14 A. I think Mr. Hinds has
15 mentioned to me of a person that is a
16 renter. How long they've been there, I
17 don't know.

18 Q. But during the conversations
19 that you've had with Mr. Hinds, that's
20 come up, or he's mentioned to you?

21 A. I think Mr. Hinds has
22 mentioned that, and it may have been in
23 the context of security issues in the

0135

1 rear of the building. I'm not sure what
2 the context was.

3 Q. Do you know why the property
4 wouldn't qualify for the residential
5 property purchase program since it had an
6 apartment upstairs?

7 A. No, I do not.

8 Q. Do you know who was in charge
9 of determining whether a piece of
10 property was eligible for the property
11 purchase program?

12 A. If you would, repeat that
13 again. Do I know who was responsible for
14 making that decision?

15 Q. Yes.

16 A. No.

17 Q. Okay. Who was in charge of
18 the residential property purchase
19 program?

20 A. Well, prior to me -- prior to
21 my coming on site, they had already
22 designed and were implementing the
23 purchase property program. There are

0136

1 several people, perhaps Dr. Kaley, Bob

2 Kaley, may have been involved in the

3 design of that program in some way.

4 Q. You said they were already

5 implementing the program when you came on

6 board?

7 A. Most of the program had been

8 implemented by the time I came there in

9 March of 1996.

10 Q. So you don't know how the

11 term residential was defined for purposes

12 of the property purchase program?

13 A. No. It's my understanding

14 residential was residential from the

15 standpoint of if you had a residence.

16 And to the best of my understanding, if

17 it's primarily residential, it was

18 residential.

19 Q. Primarily residential, what

20 do you mean by primarily?

21 A. Well, if you get a structure

22 and if it's primarily, I mean most of

23 that structure is devoted to residential,

0137

1 then it's probably residential.

2 Q. So it's just a majority rule

3 kind of thing is what you're thinking?

4 A. Well, again, and I think

5 you're right, what I'm thinking, but I

6 really don't specifically know because I

7 wasn't around when they designed that

8 and defined that scope.

9 Q. But it did include renters,

10 not just people that owned residential

11 property; is that correct?

12 A. Well, it included people that

13 owned -- it included people that owned

14 residential property, whether they were

15 an owner-occupant or whether they were an

16 owner-renter, used it for rental

17 property.

18 Q. Right. You were involved --

19 were you involved in the process of

20 buying the Shedder property?

21 A. No.

22 Q. Okay. So you don't know

23 anything about that property?

0138

1 A. No, I do not.

2 Q. How about the SouthTrust Bank

3 property? Do you know if Monsanto has

4 purchased any SouthTrust Bank property?

5 A. SouthTrust Bank. I'm trying

6 to recall exactly where that's located.

7 Was that located north of the railroad

8 tracks on Clydesdale?

9 MR. HINDS: Next door to the

10 bakery and the Choo Choo, across from the

11 Stop 'N Shop.

12 A. I know that structure.

13 Q. Okay. Do you know if

14 Monsanto purchased that structure?

15 A. No, we have not.

16 Q. Do you know if they have

17 engaged in any negotiations about

18 purchasing that structure?

19 A. To the best of my knowledge,

20 no.

21 Q. Anybody that would know more

22 than you?

23 A. Probably not.

0139

1 Q. How about Ray's Restaurant,

2 are you familiar with that property?

3 A. No. I don't even know who

4 the owner of that property is.

5 Q. The right-of-way that you

6 purchased from somebody named Carr --

7 A. Correct.

8 Q. -- did that involve an

9 ongoing business, or did you just
10 purchase -- well, why don't you explain
11 to me about that purchase? We didn't
12 really talk about that much.

13 A. That was a piece of property
14 which was a one-hundred-foot-wide strip
15 of right-of-way that had been, at one
16 time, owned by CSX and which had been
17 sold to a gentleman named Ronnie Carr as
18 a package of properties that he acquired
19 from the railroad. His primary interest
20 was in a large section of railroad
21 right-of-way property up near Alexandria;
22 but as a part of that package purchase,
23 this strip of property was included.

0140

1 Q. Where is that strip of
2 property located?

3 A. That strip of property is
4 directly south of the Miller estate
5 property and directly north of and abuts
6 the West 10th Street and its
7 right-of-way. It runs from approximately
8 Clydesdale Avenue or where Ferron --
9 close to where Ferron and West 10th
10 Street, and it runs from that point east
11 past Pine Grove Road. Not the section we

12 purchased. We only purchased the section
13 down to McDaniel Road.

14 Q. How did you come about
15 purchasing that property?

16 A. Mr. Carr called us. He was
17 out reviewing the various properties he
18 had purchased to see where they were
19 located, and that was a section of
20 property that he owned.

21 And I think he had found out
22 that we had purchased the Miller
23 property. And so he was interested in

0141
1 contacting the owner of that property to
2 find out whether we might have an
3 interest in also purchasing that strip of
4 property that abutted the Miller
5 property.

6 Q. And you were interested?

7 A. And we were interested,
8 because, as I recall, we were trying to
9 determine who owned that strip of
10 property anyway.

11 Q. Why were you trying to figure
12 that out?

13 A. Because we needed to acquire
14 a strip of property in order to move the

15 -- or as a part of that construction
16 project to convey the water from the
17 south side of West 10th Street to the
18 north side of the Miller property and the
19 north side of the railroad track. And in
20 order to do any construction along there,
21 you had to do construction in that
22 right-of-way.

23 Q. So you needed the

0142

1 right-of-way for your remediation

2 project?

3 A. Correct.

4 Q. Do you remember how much you

5 paid them for it?

6 A. Right offhand, I don't. I

7 know we had two appraisals. And as I

8 recall, I think I went with the highest

9 appraisal, but I don't remember what that

10 number was.

11 Q. Did you ever have that

12 property tested for PCBs?

13 A. I don't think we did have

14 that specific piece tested, although

15 where that ditch was, we were fairly sure

16 of kind of what kind of levels we would

17 see, because we tested the ditch and on

18 each side of the ditch right directly
19 north of that particular piece of
20 property.

21 Q. So you thought because of the
22 tests on property adjacent to the
23 right-of-way property, tests on the

0143

1 property would reveal similar or the same
2 results?

3 A. I think that right there
4 where the ditch flowed underneath West
5 10th Street, where it came up, surfaced,
6 that was part of the Carr property. You
7 go maybe ten foot more to the north, and
8 that's the Miller property. We
9 extensively tested the Miller property,
10 because we knew who owned the Miller
11 property, and we needed to do the
12 sampling.

13 Q. So you thought ten feet away,
14 the PCB levels would be approximately the
15 same or similar?

16 A. I think that they would
17 probably range in the same -- they would
18 probably be in the same numeric range, in
19 the ditch and on both sides of the ditch.

20 Q. Do you know if the appraisers

21 who appraised that property took the fact
22 that the property might be contaminated
23 with PCBs into consideration in coming up

0144

1 with their appraised value?

2 A. All commercial properties
3 that I was associated with where we had
4 appraisals, they never considered any
5 contamination of any of the properties,
6 all appraisals.

7 Q. And is that because you told
8 them not to?

9 A. That was the instruction that
10 I gave them. I think we have touched on
11 that earlier.

12 Q. I'm just making sure.

13 A. But you're correct.

14 MS. BLOCK: I'm sorry. Just
15 give me one second.

16 Q. (By Ms. Block) Let me show
17 you what's been marked as Plaintiff's
18 Exhibit 9 and ask you if you recognize
19 that document?

20 MR. NEWSOM: Did you want him
21 to look at the -- well, you can look at
22 the whole thing if you need to.

23 A. Yes.

0145

1 Q. What is that document?

2 A. This is an appraisal report

3 that summarizes an appraisal of the Pat

4 Pace properties located north of the

5 railroad track along Clydesdale Avenue

6 done by Roger Casson, or he may pronounce

7 his name Casson.

8 Q. And that was prepared for

9 you?

10 A. Prepared for Solutia or

11 Monsanto.

12 Q. And it has your name on the

13 front?

14 A. Correct, as a representative

15 of Solutia.

16 Q. If you would look at page --

17 I'm going to give you the last three

18 numbers of what we call the Bates stamp

19 number, 711.

20 A. Okay.

21 Q. And I believe that says that

22 the owner of the subject property has

23 supplied a copy of a soil sampling report

0146

1 from Monsanto, Inc. to the owner which

2 indicates that high levels of PCBs are

3 located on the subject property. While
4 the values in the subject report are as
5 if there is no soil contamination, a copy
6 of this report is included in the
7 addendum to this report. Any third-party
8 reader should be aware of this
9 contamination. Is that correct?

10 A. That's correct. That's what
11 it states.

12 Q. Why do you think the
13 appraiser put that in there?

14 MR. NEWSOM: Let me just
15 object to the extent it calls for
16 speculation. You may know exactly why he
17 put it in there, but since it's his and
18 not yours -- if you know, you can tell
19 her. If you don't know, you don't know.

20 A. I believe Mr. Casson put that
21 in at the request of the owner of the
22 property, Mr. Pat Pace.

23 Q. Do you know why Mr. Pat Pace

0147
1 would have requested that?

2 A. No, I do not.

3 Q. Did he mention it to you that
4 he wanted that in there?

5 A. No, he did not.

6 Q. Okay. I'm going to show you
7 another document. This is Plaintiff's
8 Exhibit 11, and it looks like some
9 handwritten notes. I just wonder if
10 you've ever seen that before?

11 A. No, I have never seen this.

12 Q. You don't recognize that
13 handwriting?

14 A. No, I do not.

15 Q. I believe it says at the top
16 that Mr. Blair doesn't want to sell his
17 two houses unless he also sells his
18 commercial property. Is that what that
19 says?

20 MR. NEWSOM: Well, obviously
21 the document speaks for itself. I don't
22 know if you're asking him just to --
23 because he said he's not seen the

0148

1 document. I don't think he --

2 Q. I'll just read it. This
3 document says, referring to Mr. Blair,
4 Said he would not sell his two houses
5 without selling his commercial property.
6 Do you know if Monsanto bought any
7 property from James Blair?

8 A. It's my understanding we did.

9 Q. But you weren't involved in
10 the purchase of that property personally?

11 A. No.

12 Q. Do you know what property was
13 bought?

14 A. It's my understanding that we
15 bought two properties from Mr. Blair, and
16 I may be incorrect on one, but Mr. Blair
17 lived at a piece of property right on
18 Ferron. That was the house we bought. I
19 believe the house that's directly south
20 of that one was a rental property that
21 was owned by Mr. Blair. I may be
22 incorrect on that. But I think those are
23 two pieces of property that, as I

0149

1 understand, were owned by Mr. Blair that
2 we purchased.

3 Q. And those are both
4 residential properties?

5 A. Both of those are homes, yes.

6 Q. Do you know if Monsanto
7 bought any commercial property from Mr.
8 Blair?

9 A. No, nor do I know of any
10 commercial property owned by Mr. Blair.
11 I mean, that Blair. There's a number of

12 Blairs in there.

13 Q. By Mr. James C. Blair?

14 A. Yes.

15 MS. BLOCK: Okay. If you'll
16 give me one second to talk to Mr. Hinds,
17 I may be able to finish up.

18

19 (Whereupon, a brief recess
20 was taken.)

21

22 Q. (By Ms. Block) Just a couple
23 more questions.

0150

1 A. Okay.

2 Q. Did you ever talk to one of
3 the Hinds, Ricky or Cecil, about concerns
4 they might have about potential liability
5 they might have as owners of the pawn
6 shop property?

7 A. No, I don't recall that type
8 of conversation.

9 Q. You don't remember them
10 expressing concern about ten, twenty
11 years down the road whether they might
12 have some responsibility for PCB
13 contamination on their property?

14 A. No, specifically I just don't

15 remember that. I'm not saying that that
16 did not come up, but I just do not recall
17 it.

18 Q. I understand. Do you ever
19 remember saying to them after they had
20 expressed any concern to you, that
21 Monsanto is a big company or anything
22 like that?

23 A. Monsanto is a big company?

0151

1 No.

2 Q. Has Monsanto ever had an
3 appraisal done on the Hinds property?

4 A. Not to my knowledge.

5 MR. NEWSOM: There has been
6 one done. I just don't know that he
7 knows that.

8

9 (Whereupon, a discussion off
10 the record was held.)

11

12 MS. BLOCK: Okay. We're
13 through, unless you have anything.

14 MR. NEWSOM: Nothing.

15

16 FURTHER DEPONENT SAITH NOT

17

18

19

20

21

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1 C E R T I F I C A T E

2

3 S T A T E O F A L A B A M A)

4 J E F F E R S O N C O U N T Y)

5

6 I hereby certify that the

7 above and foregoing deposition was taken

8 down by me in stenotype, and the

9 questions and answers thereto were

10 transcribed by means of computer-aided

11 transcription, and that the foregoing

12 represents a true and correct transcript

13 of the testimony given by said witness

14 upon said deposition.

15 I further certify that I am

16 neither of counsel nor of kin to the

17 parties to the action, nor am I in

18 anywise interested in the result of said

19 cause.

20

21

22

22

TANYA D. CORNELIUS

23