

1 Cerro Copper Products, Co.

2 vs.

3 Monsanto Company

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13 VOLUME 1

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15 Deposition of Michael A. Pierle

16 Taken June 28, 1994

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1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF ILLINOIS

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4 CERRO COPPER PRODUCTS, CO.,

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6 Plaintiff,

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8 vs. NO. 92-CV-204-WDS

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10 MONSANTO COMPANY,

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12 Defendant.

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15 VOLUME 1

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17 Deposition of MICHAEL A. PIERLE, taken on

18 behalf of the Plaintiff, at the offices of

19 Coburn & Croft, One Mercantile Center,

20 Suite 2900, in the City of St. Louis, State of

21 Missouri, on the 28th day of June, 1994,

22 before Tracey Balsitis, Registered

23 Professional Reporter and Notary Public.

24

25

1 APPEARANCES OF COUNSEL:

2

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1 MICHAEL A. PIERLE
2 of lawful age, having been first duly sworn to
3 testify the truth, the whole truth, and
4 nothing but the truth in the case aforesaid,
5 deposes and says in reply to oral
6 interrogatories propounded as follows, to-wit:

7 EXAMINATION

8 QUESTIONS BY MR. RICCI:

9 Q Good morning, Mr. Pierle. Is that the
10 correct pronunciation?

11 A Correct.

12 Q My name is Rich Ricci, and I represent
13 Cerro Copper Products Company in a lawsuit by
14 the name of Cerro Copper Products versus
15 Monsanto, which is currently pending in the
16 United States District Court for the Southern
17 District of Illinois, and we are here for your
18 deposition today.

19 Before we get started, I would like to
20 give you some instructions as to how the day
21 will proceed. Basically, I'm going to be
22 asking you a series of questions, and you will
23 be providing me with answers to the best of
24 your ability. You are under oath, and
25 although this is an informal setting, my

1 questions and your answers will be taken down
2 by the court reporter and transcribed into a
3 booklet. And that booklet can be used at the
4 trial of this matter, so that your testimony
5 here today is as if given in open court in
6 that it can be used in open court.

7 If I ask you a question that you don't
8 understand, I would ask that you tell me that
9 you don't understand it, and I will do my best
10 to try and rephrase the question or explain it
11 to you in a way that you can understand it.
12 If I ask you a question and you answer it,
13 then I will assume that you understood the
14 question and answered accordingly.

15 For ease of our court reporter, it
16 will be helpful if you let me finish my
17 questions before you give me your answers, and
18 then I will in turn let you finish your answer
19 before I ask the next question. She can only
20 take down one of us at a time, so if we avoid
21 stepping on each other's lines, that will be
22 helpful.

23 If you need a break at any time, just
24 let me know. I'm happy to accommodate you.
25 This isn't an endurance test, and we can break

1 as often as you like.

2 I am not an engineer, and so to the
3 extent that we are going to be delving into
4 technical issues, I may use terms improperly
5 or I may incorrectly state scientific or
6 technical concepts. And if I do so, I would
7 appreciate it if you let me know and we can
8 try to work through whatever discrepancies we
9 have. Do you have any questions before we
10 proceed?

11 A No.

12 Q Have you ever had your deposition
13 taken before?

14 A Yes.

15 Q How many times?

16 A I believe it is three.

17 Q When was the most recent occasion to
18 have your deposition taken?

19 A Within the last year, I believe, year
20 to year and a half in a case that we have in
21 Delaware with our insurance companies.

22 Q How long did that deposition go?

23 A It was a discontinuous deposition. I
24 believe it was three or four days.

25 Q Mr. Pierle, are you familiar with the

1 issues that are presented in the case that we
2 are currently here taking your deposition on?

3 A Vaguely.

4 Q Can you give me your understanding of
5 what the issues of this case are?

6 A I understand that Cerro has filed
7 against Monsanto seeking cost recovery for
8 some actions that they have taken at their
9 facility with respect to improvements that
10 they made at their site.

11 Q What types of improvements?

12 A It has to do with Dead Creek and the
13 positioning of Dead Creek as part of their
14 site and facility plans.

15 Q What do you mean by "as part of their
16 facility plans"?

17 A In the time I was involved in the
18 discussions, it was my understanding that they
19 were in the process of upgrading the facility
20 at the site, had committed to some additional
21 investment and were -- as part of that
22 activity, they were contemplating some use or
23 expanded use of the areas on both sides of
24 Dead Creek.

25 Q And in your last answer you referred

1 to some discussions that you were involved
2 with?

3 A Yes.

4 Q Can you describe those discussions for
5 me?

6 A They were a series of discussions of
7 which I was a party to between people from the
8 Marmon Group and Cerro concerning cleanup
9 activities in Sauget Village.

10 Q Do you recall when those discussions
11 were?

12 A Not specifically. They were sometime
13 -- it would have been after early '86, but I
14 cannot -- I can't pinpoint with precision when
15 they took place.

16 Q Sometime after early '86?

17 A Yes.

18 Q Was there anyone from Monsanto other
19 than yourself involved in those discussions?

20 A Yes.

21 Q Who?

22 A The people at the plant site were also
23 engaged in those conversations, and I believe
24 it was the plant manager at that time and also
25 the environmental superintendent.

1 Q Who was the plant manager?

2 A The plant manager in early '86 was

3 Jack Molloy, and I don't know how long -- I

4 don't recall how long Jack stayed in that

5 position.

6 Q Is it Mr. Molloy who was involved in

7 these discussions?

8 A Yes.

9 Q Who was the environmental person from

10 the plant?

11 A I believe that was Warren Smull.

12 Q What was Mr. Smull's title at that

13 time, do you recall?

14 A Not specifically.

15 Q Apart from his specific title, he was

16 in charge of environmental at the Krummrich

17 facility?

18 A Yes.

19 Q Anyone else from the plant involved in

20 those discussions?

21 A There was an initial meeting that I

22 believe our environmental counsel also

23 attended.

24 Q Outside counsel or inside counsel?

25 A Inside.

1 Q Who was that?

2 A Brent Gillhausen.

3 Q This was a meeting with personnel from

4 Cerro?

5 A My memory is that it was more

6 specifically a meeting of people representing

7 the Marmon Group from Chicago.

8 Q Who from either Marmon or Cerro do you

9 recall being involved in those discussions?

10 A From Marmon a fellow by the name of

11 Webb, and there were conversations with one of

12 their consultants by the name of Patterson,

13 and I'm unclear as to whether they had outside

14 counsel there.

15 In subsequent discussions, it did

16 involve the Cerro people including

17 Mr. Schweich and Mr. Tandler.

18 Q Now, you testified earlier that it is

19 your understanding that this lawsuit relates

20 to improvements that Cerro made to its

21 facility. Is that a fair statement of your

22 testimony?

23 A Uh-huh.

24 Q Is that an understanding that you

25 gained from these discussions with Cerro or

1 Marmon personnel?

2 A Yes.

3 Q Can you tell me what was said in those
4 discussions that leads you to that
5 understanding?

6 A The initial discussions were general
7 discussions about is there a need for a master
8 plan in the Sauget area for both economic
9 improvement and cleanup of the area and
10 thought processes that there needed to be an
11 involvement on the political and economic side
12 of pressures within the state that could have
13 a positive effect on cleaning up what areas
14 needed to be cleaned up in a more economic
15 fashion. That was the sense of the sort of
16 initial, general discussions.

17 Q Can I just stop you there for a
18 second. In these initial, general
19 discussions, was there any participation by
20 anyone from the village?

21 A No.

22 Q Was there any participation by any
23 other industries in the village?

24 A No.

25 Q This is strictly Cerro or Marmon and

1 Monsanto discussions?

2 A Yes. Separate from this, there were
3 other discussions in the village and with the
4 village people that I was not a party to but I
5 knew were going on as related to other
6 activities, waste treatment plant and site
7 listing discussions on potential state or
8 Super Fund lists, but this set of
9 conversations was really initially, in my
10 view, separate from that.

11 Those discussions continued, and I
12 recall one or two other meetings that I was
13 personally involved with. I do not recall the
14 timing, but subsequently they evolved
15 themselves down to more, not what Cerro
16 proposed to do for generic plans in the
17 village, but very specific plans about their
18 economic redevelopment of their business and
19 their facility and their internal decisions to
20 reinvest at that site and their subsequent
21 plans to improve the facility as a part of
22 that reinvestment program.

23 Q Was the cleanup of the area of Dead
24 Creek located on Cerro's property ever
25 mentioned as part of this plan to reinvest in

1 or improve its facility?

2 A That became the focus of the
3 conversation with Monsanto.

4 Q Were you aware at this time of any
5 pressure being asserted by the Illinois EPA
6 regarding the cleanup of Dead Creek?

7 A In the early discussions, that was not
8 part of the conversation. As the discussions
9 continued, it became a part of the discussion,
10 and my recollection was that the time in which
11 that was sort of disclosed to Monsanto, it was
12 substantially a fait accompli, that Cerro had
13 been in conversations with the state for some
14 length of time and eventually presented to
15 Monsanto what was pretty much a plan they had
16 agreed to with the state. And I know
17 principally from reading in the paper then
18 their commitment to complete that plan and
19 understand that they did complete the cleanup.

20 Q So you were aware of discussions or
21 you participated in discussions prior to the
22 time that IEPA expressed an interest in Dead
23 Creek in which discussions Cerro raised the
24 possibility of cleaning up Dead Creek; is that
25 correct?

1 A No. I don't believe that's what I'm
2 saying. What I indicated was that at the time
3 Cerro began a conversation with Monsanto first
4 about some master plan in the village, which,
5 by the way, we were interested in them showing
6 some interest in because we had already had a
7 lot of work going on that we had tried to
8 interest other members of the village in and
9 couldn't get much interest, so their initial
10 call to us was greeted with some enthusiasm
11 because there was some interest. Those were
12 generic discussions.

13 I don't know when they started a
14 conversation with the state, at what time
15 frame. What I indicated was that the generic
16 conversations that they started with us
17 reduced themselves to a conversation only
18 about their piece of property in the context
19 of what they were getting ready to do at the
20 site. And my recollection is towards the end
21 of those conversations, they introduced with
22 specificity the work, the agreements that they
23 had had through conversations with the state
24 relative to the sector of Dead Creek on their
25 property.

1 Q Now, these generic discussions
2 regarding the master plan, these discussions
3 it is your recollection occurred sometime
4 after early '86?

5 A That's correct.

6 Q And they continued over a period of
7 time until a point where they, I think you
8 said, reduced themselves to a discussion of
9 Cerro cleaning up the portion of Dead Creek on
10 its own property?

11 A Yes.

12 Q Do you know the course of time over
13 which those discussions occurred?

14 A I do not recall specifically. I know
15 the conversations were relatively infrequent.
16 And following some of the initial discussions
17 which involved the Marmon Group and myself at
18 headquarters at St. Louis, the conversations
19 then moved towards both personnel at plants
20 between Cerro and Monsanto in more detailed
21 conversations, but I do not recall the time
22 line over which all of those discussions
23 transpired.

24 Q Were you aware that the Illinois EPA
25 had expressed an interest in a number of

1 hazardous waste sites located in the Village

2 of Sauget?

3 A Yes.

4 Q And were you aware of a study by a

5 company by the name of Ecology & Environment

6 that in some way assessed those sites?

7 A Yes.

8 Q Do you know whether the Ecology &

9 Environment report came out before or after

10 these discussions that you have been

11 testifying to with folks from Marmon or Cerro?

12 A I don't recall.

13 Q Are you familiar with a report by Ron

14 St. John regarding hazardous waste sites in

15 the Village of Sauget?

16 A That name is not familiar.

17 Q You are not familiar with a Ron

18 St. John report?

19 A No. It doesn't -- I don't recall

20 that.

21 Q When Cerro first raised with you, or

22 Cerro or Marmon for the time being, when they

23 first raised with you the prospect of cleaning

24 up Dead Creek, was it raised as an economic

25 undertaking or an environmental undertaking?

1 A My recollection was that given this
2 backdrop of work that was going on in the
3 village, both work that Monsanto had underway
4 and work that state contractors had underway,
5 we viewed -- at least I viewed the initial
6 call from Cerro as an initiative on the Marmon
7 Group to say let's become actively involved in
8 influencing the outcome of any anticipated
9 subsequent actions.

10 The interest that they expressed was
11 bringing political and economic issues to bear
12 on what could be viewed as solely an
13 environmental cleanup by IEPA.

14 Q In your previous answer, you indicated
15 that you viewed the initial call from Cerro
16 against the backdrop of work that was underway
17 by, I believe, the IEPA. Is that a fair
18 statement?

19 A Yes.

20 Q What work are you referring to?

21 A I think it is the work that I believe
22 you asked in a previous question around the
23 work that IEPA had in assessing sites within
24 the village as to whether they were or were
25 not hazardous with the anticipation I think in

1 people's minds that this was part of some of
2 the preliminary sort of site assessment work
3 that gets done under Super Fund to evaluate
4 sites for determinations as to whether action
5 should be taken and further listings. So I
6 think we knew that the state contractors --
7 the state had a contractor that was in that
8 assessment phase.

9 Q And that was Ecology & Environment?

10 A I believe it was.

11 Q So you are aware that the IEPA is
12 assessing various sites in the Sauget area.
13 And then you get a call from Cerro to discuss
14 those activities by IEPA. Is that a correct
15 statement?

16 A I'm not sure the inference there --
17 generally we knew that there was work going on
18 by Illinois EPA, and I believe the timing was
19 we knew that work was going on before we had a
20 call from the Marmon Group, that's correct.

21 Q I'm not trying to make any inference.
22 I'm really just trying to understand the
23 sequence of events.

24 A Right.

25 Q That was the gist of my question. So

1 that the call that -- the initial contact from
2 Marmon was to attempt to bring economic or
3 political issues to bear on the activities
4 that IEPA had already begun. Is that a fair
5 statement?

6 A Yes, I believe so.

7 Q Did the initial discussions between
8 Monsanto and Cerro or Marmon relate to sites
9 other than that segment of Dead Creek that was
10 located on Cerro's property?

11 A They were, as I recall, general
12 discussions about the concept of cleanup and
13 what could be done within the village and how
14 we might work. Is there a way in which
15 industry might work on a cooperative basis.

16 And, again, we were pleased to have
17 that conversation begin, because we had tried
18 at the plant level to basically have that same
19 kind of conversation without much interest.

20 The outcome, as I recall, of the first
21 session or first set of calls and then a
22 meeting was that we basically asked Cerro to
23 tell us more specifically what they had in
24 mind. We, as I recall, already had fairly
25 detailed work going on at our facility and

1 work we were supporting around the Sauget
2 Village, the waste treatment plant, and were
3 spending, I believe, on the order of a million
4 dollars a year. And we simply asked them. I
5 also recall we had been sharing this
6 information with our industrial neighbors, and
7 our position was conceptually we understand
8 what you are saying. Why don't you come back
9 and tell us with some specificity how do you
10 want to participate.

11 Q And did they do that?

12 A My recollection of that was as we
13 continued to have verbal conversations and it
14 was not -- we did receive a concept paper
15 somewhere in this process around how to get
16 political and economic agencies involved.

17 Q That was a concept paper from Cerro?

18 A Yes.

19 Q Or Marmon?

20 A Yes.

21 Q Do you recall which one?

22 A I'm not certain. My recollection, we
23 did not get from them a firm proposal about
24 any global -- and by global I mean sort of a
25 village-wide study. What eventually came back

1 to us, and I'm not certain of the time, was a
2 very specific proposal with information
3 relative only to Sector A of Dead Creek, that
4 piece that was Cerro-owned property.

5 Q And the specific proposal that you got
6 regarding Dead Creek Sector A, which was the
7 sector located on Cerro's property, is this
8 the proposal that you had previously testified
9 was a fait accompli with respect to the IEPA
10 by the time it was presented to you?

11 A Yes.

12 Q So it is your understanding that Cerro
13 committed to address contamination --
14 committed to the IEPA to address contamination
15 on Dead Creek Sector A and then came to
16 Monsanto and basically made a proposal?

17 A Yes. That was the conclusion that I
18 know I drew from the sequence of
19 conversations.

20 Q Was Monsanto having discussions with
21 the IEPA at this time?

22 A Relative to what?

23 Q Hazardous waste sites in the Village
24 of Sauget?

25 A We were. I mean those were to some

1 extent ongoing conversations. They were
2 principally, as I recall, related to our
3 landfill property near the river and relative
4 to sharing of information with respect to
5 studies conducted on Monsanto's property.

6 There were conversations somewhere
7 during this time period about a Lot G that was
8 adjacent to actually the Cerro plant property.
9 So there were different conversations that
10 took place relative to specific sites in the
11 village as opposed to, as I recall, targeted
12 discussions about all sites within the
13 village.

14 Q Including Dead Creek Sector A?

15 A I don't recall any specific
16 conversations specifically focused on Sector
17 A.

18 Q What about Dead Creek Sector B?

19 A My recollection of the conversations
20 then were more specific, that there was
21 knowledge of the contractor, the government
22 contractor, and there were conversations in
23 general about the work that the contractor was
24 doing but not specifically about individual
25 sites or work plans. I was not a party to any

1 conversations of that type.

2 Q Do you know who the principal contact
3 -- let me rephrase that. Do you know who
4 Monsanto's principal contact with the IEPA was
5 during this time period that we are talking
6 about?

7 A That would have been principally Warren
8 Smull.

9 Q Now, you indicated that prior to the
10 time that Monsanto got the call from Marmon
11 that initiated these early discussions,
12 Monsanto had tried to generate some interest
13 within the industries in the village about
14 developing a master plan. Is that a fair
15 statement?

16 A I think it was around trying to
17 generate interest in what were perceived to be
18 areas that would come under study that had
19 common waste, such as the treatment plant
20 sludges, some of the landfill along the river
21 where it was I think pretty well known that
22 waste from various industry sources had ended
23 up comingled or mixed, so it wasn't about a
24 master plan I guess is the point I'm making,
25 but it was more about some of the specific

1 sites where there was common waste disposed.

2 Q Did you view Dead Creek, either Sector

3 A or Sector B, as being one of those common

4 areas?

5 A I don't think they were a particular

6 focus of those discussions.

7 Q When we first started discussing the

8 issues of this lawsuit, I believe you

9 testified that it was your understanding that

10 the lawsuit related to economic improvements

11 by Cerro to its property. Is that a fair

12 statement?

13 A I believe so.

14 Q Is it fair to say that based upon your

15 discussions with people from Cerro or Marmon,

16 these economic improvements were triggered by

17 efforts on the part of the IEPA to get some

18 action with respect to contaminated sites in

19 the Sauget area, including Dead Creek Sector

20 A?

21 A My -- no. My impression was that

22 Cerro had made a conscious business decision

23 to reinvest in the Sauget site and to upgrade

24 the facilities and the businesses and that

25 that is what was driving their interest

1 relative to the properties and then Sector A
2 of Dead Creek. And I believe that impression
3 was formed both from conversations we had and
4 newspaper publications I recall during the
5 time when Hank Schweich was quoted in talking
6 about Cerro and the copper business and their
7 desire to get more environmentally green
8 around their operations.

9 Q Is it your understanding that these
10 efforts to get, as you stated, more
11 environmentally green were unrelated to the
12 interests that the IEPA had shown in sites
13 within the Sauget area, including Dead Creek
14 Sector A?

15 A Well, I don't have an opinion on that
16 because I wasn't -- I didn't know what if any
17 conversations they were having with the
18 agency, as I recall, during that time frame.
19 So my impression was from the information that
20 I had that this was really driven by part of a
21 business reinvestment plan to do more at that
22 particular site.

23 Q Okay. And you said that impression
24 was based in part on comments by Mr. Schweich
25 to the press?

1 A Based on, I believe, articles that I
2 read in the local newspaper in which he was
3 quoted.

4 Q Have you retained any of those
5 articles?

6 A I don't believe so.

7 Q You indicated that this impression was
8 also based upon conversations that you were
9 involved with with personnel from Marmon or
10 Cerro; is that correct?

11 A Yes.

12 Q Do you recall any specific statements
13 by any specific individuals that led you to
14 this impression that Cerro's effort to clean
15 up Dead Creek was economically driven?

16 A I think I formed that conclusion based
17 upon the initial conversations about the need
18 to involve the economic arms and the political
19 arms of state government, the piece of paper
20 that -- this concept paper that I mentioned
21 that was sent to us about how to better manage
22 what Illinois EPA was intending to do. And I
23 do not recall then in the meetings the
24 specific words or who they were from about
25 Cerro's plans at that facility. It was

1 really, I think, a conclusion drawn out of
2 several pieces of information.

3 Q You testified earlier that Monsanto
4 was involved during this same time period with
5 efforts to upgrade the village waste water
6 treatment plant; is that correct?

7 A I think what I said was there was a --
8 at the village waste water treatment plant,
9 there was a prior sludge disposal that
10 Monsanto was involved in trying to resolve how
11 that should be managed, is cleanup required.

12 Q Now, I was trying to get you back. We
13 were talking about the fact that Monsanto had
14 been trying to generate some interest within
15 the other village industries to develop some
16 sort of a master plan. And I believe you had
17 testified that and you mentioned the figure of
18 a million dollars that Monsanto was committing
19 to these efforts?

20 A Uh-huh.

21 Q And I believe that one of the efforts
22 that you mentioned had to do with improvements
23 to the waste water treatment plant. Did I
24 misunderstand that?

25 A Yes.

1 Q Okay. Were you aware of involvement
2 on behalf of individuals from the Krummrich
3 facility with the operation of the village
4 waste water treatment plant?

5 A Yes.

6 Q Do you know if Cerro was also involved
7 in the operations of the waste water treatment
8 plant?

9 A I know that Cerro and the other
10 industries, there is a board that exists that
11 basically operates as a nonprofit manager of
12 the waste treatment plant and were involved
13 for years in studies and improvements to the
14 waste water treatment facilities.

15 Q You testified that your most recent
16 deposition experience prior to today involved
17 testimony in a lawsuit by Monsanto against its
18 insurance carriers; is that correct?

19 A Yes.

20 Q In the course of that deposition, did
21 you testify at all regarding PCB discharges by
22 the Krummrich facility to the village sewer
23 system?

24 A No.

25 Q Did any -- did you testify at all

1 regarding any issues related to Dead Creek?

2 A I don't believe so.

3 Q Did your testimony relate in any way
4 to the PCB reduction program that Monsanto
5 instituted at the Krummrich facility in the
6 early 1970s?

7 A No.

8 Q You indicated that you had been
9 deposed I think you said three -- on three
10 separate occasions prior to today. One was in
11 the insurance case. What were the others?

12 A One was our dioxin litigation in the
13 mid '70s. And a third case was a case in New
14 Jersey regarding a New Jersey Public Interest
15 Research Group suit against the facility.

16 Q That was a citizen suit under the
17 Clean Water Act?

18 A Yes.

19 Q I assume that case did not involve PCB
20 from the Krummrich facility?

21 A It did not.

22 Q Did you do anything to prepare for
23 your deposition today?

24 A I met with Mr. Heineman and briefly
25 went over the deposition process, and we

1 reviewed some documents that had been
2 produced. I did not read the documents. It
3 was more just a cataloguing and looking
4 through of what documents had been produced or
5 some of the documents that had been produced.

6 Q Did you have discussions with any
7 other present or former Monsanto employees?

8 A No.

9 Q Did you review transcripts from any
10 other depositions in this case?

11 A No.

12 Q The documents that you reviewed in
13 preparation for the deposition, can you tell
14 me what time period they related to?

15 A They were basically in the late '60s.

16 Q Did you review any documents from the
17 time period that we were just discussing,
18 after '86 when you were having discussions
19 with Marmon and Cerro regarding Dead Creek?

20 A There was, I think, only one or two
21 documents relative to that time period towards
22 the end of all of the documents. I believe
23 they were documents actually that Ken
24 indicated were pulled from or that actually
25 had been received from Cerro and related to

1 some of I think they were Schweich

2 communication.

3 Q Let me just jump in here, Mr. Pierle,

4 and advise you as I question you on these

5 issues, I'm not intending to elicit from you

6 answers relating to conversations that you had

7 with counsel. And so I just want you to

8 understand that so that there is no

9 misunderstanding in the future.

10 In the course of the discussions that

11 you were having with people from Marmon or

12 Cerro in this time period after early 1986,

13 did it ever come to your attention that there

14 was PCB contamination in Segment A of Dead

15 Creek?

16 A That information, as I recall, was

17 presented in the report that Cerro ultimately

18 produced to Monsanto specific to Sector A.

19 Q Is that this concept paper that you

20 had referred to earlier?

21 A No. That was the document that, and

22 again I don't know the name of it, but it was

23 more an engineering kind of report that

24 described, you know, what was in Sector A and

25 got to the point of what they were going to do

1 about the cleanup of Sector A. This was more
2 what I termed the fait accompli document that
3 was produced to us which contained the details
4 of what at least appeared to us to be a
5 document that had been discussed with the
6 Illinois EPA.

7 Q Was that the site investigation
8 feasibility study?

9 A I don't recall the specific title to
10 it.

11 Q Do you recall who prepared the
12 document?

13 A I don't.

14 Q Do you recall if it was the Avendt
15 Group?

16 A I don't recall.

17 Q Was that document in effect the first
18 time that you became aware of PCB
19 contamination in Dead Creek Sector A?

20 A I don't recall. That was the first
21 time that I recall in the context of the
22 discussions with Cerro that PCB and other --
23 that there was really hard data and
24 information about what was there and in what
25 concentrations.

1 Q This fait accompli document, whatever
2 it was officially titled, was provided to you
3 after the Ecology & Environment study
4 commissioned by IEPA; is that correct?

5 A I don't recall the time frame and the
6 sequence on those two documents.

7 Q During the course of discussions prior
8 to the time that you received this fait
9 accompli document, do you recall discussions
10 with people from Cerro or Marmon regarding PCB
11 contamination in Dead Creek?

12 A No.

13 Q Do you recall anyone from Cerro or
14 Marmon taking the position in these
15 discussions that Monsanto was in any way
16 responsible for any of the contamination in
17 Dead Creek?

18 A The only time I remember that
19 proposition coming forward was upon the
20 delivery of the document in the discussions.

21 Q The fait accompli document?

22 A Yes.

23 Q What was Monsanto's reaction to the
24 fait accompli document?

25 A As I recall, there were two as I

1 recall. One is this thing is already a done

2 deal. And there is -- it is presented to us

3 as this is what we are going to do.

4 There was also a reaction that some of

5 our people upon looking at it were concerned

6 that the action that was contemplated could be

7 done in compliance with requirements on

8 certain regulations on PCB management, but we

9 concluded that Cerro was in conversations with

10 the regulatory agency, and if they had an

11 agreement on a plan to, you know, to do a

12 cleanup there, that the state must have viewed

13 that it was, you know, legal, appropriate and

14 proper. And therefore, you know, our judgment

15 was not, I guess, of any importance to those

16 discussions.

17 MR. RICCI: Could you read back that

18 last answer.

19 (The requested portion of the

20 record read by the reporter)

21 Q (By Mr. Ricci) Mr. Pierle, can you

22 expand upon your previous answer where you

23 indicated that there were discussions with

24 some of your people regarding whether the

25 action could -- the actions contemplated by

1 Cerro could be done in compliance with
2 regulations dealing with PCB management?

3 MR. HEINEMAN: I would only -- let me
4 state an objection to the form of the question
5 only to the extent that if you are going to
6 have to reveal communications with in-house
7 attorneys in order to answer that question,
8 I'm going to instruct you not to do that
9 because those are privileged communications.
10 I mean, if you can answer that question
11 without discussing what an in-house lawyer
12 told you, then that's fine.

13 Q (By Mr. Ricci) Let me withdraw that
14 question for the time being and ask another
15 question.

16 Who was -- your answer referred to
17 discussions with various people. Can you tell
18 me who those people were?

19 A The individuals that I recall who were
20 involved in this process were again Warren
21 Smull. The second person was the
22 environmental attorney who I believe at that
23 time was Steve Krchma, K-R-C-H-M-A.

24 Q Anyone else?

25 A Not that I recall.

1 Q The discussions relating to whether
2 the actions contemplated by Cerro could be
3 done in come compliance with PCB management
4 regulations, was Mr. Krehma involved in those
5 discussions?

6 A Yes.

7 Q Were there any such discussions that
8 Mr. Krehma was not involved with?

9 A I don't believe so.

10 Q You have indicated that this fait
11 accompli document was the first indication
12 that you were aware of from Cerro that
13 Monsanto might be responsible for some of the
14 contamination in Dead Creek. Is that a fair
15 statement?

16 A I don't want to quibble with your
17 characterization.

18 Q Feel free if you don't think it is
19 correct.

20 A I think what I recalled there is that
21 it was the first time that they came to us
22 with specific information and basically said
23 here is what's there, and we think that you
24 are going to be part of having to pay for
25 this. So the allegation then was that you

1 have got culpability or responsibility here.

2 Q And you have indicated that that was
3 the first specific reference with hard data to
4 that contention by Cerro. Were there general
5 discussions prior to this that Monsanto might
6 have some culpability for contamination in
7 Dead Creek Sector A?

8 A Again, I'm not clear on that because
9 the conversations were, as I indicated,
10 general, about sites at the village where we
11 may have combined waste and therefore some
12 combined responsibilities that moved over time
13 very specifically only to Sector A.

14 Q Were you involved in any investigation
15 by Monsanto of whether it might have some
16 culpability with respect to contamination in
17 Dead Creek Section A?

18 A No.

19 Q Were you aware of whether or not any
20 such investigation ever occurred?

21 A I don't recall.

22 Q Did Monsanto take a position in
23 response to the fait accompli document
24 presented by Cerro?

25 A As I recall, the conclusion that we

1 reached was that Cerro had an agreement, had
2 reached an agreement with the state. They
3 were going to proceed with the project, and
4 there was nothing that Monsanto should do then
5 relative to that project because it was an
6 agreement between Cerro and the state.

7 Q Did Monsanto reach any conclusions in
8 response to the fait accompli document
9 presented by Cerro with respect to its own
10 culpability or responsibility for any
11 contamination in Dead Creek?

12 A No. I don't believe that I recall any
13 conversations or any conclusions to that
14 effect.

15 Q So you don't recall any discussions,
16 conversations, conclusions or investigations
17 by Monsanto in response to this fait accompli
18 document relating to if Monsanto was in any
19 way responsible for contamination in Dead
20 Creek Segment A?

21 A I don't recall reaching any conclusion
22 with respect to that. I do know that there
23 were subsequent conversations between Monsanto
24 and Cerro that then began about Cerro's desire
25 to seek cost recovery from Monsanto, so there

1 was a continuation of conversations and
2 discussions that I knew was going on but were
3 not party to.

4 I was trying to specifically respond
5 to the question about did we reach a
6 conclusion about our responsibilities.

7 Q So I guess what you are saying then is
8 that to the extent that any conclusion was
9 reached subsequently to the time that the fait
10 accompli document was presented, you were not
11 involved in that process; is that correct?

12 A Well, I don't know whether there was
13 one reached.

14 Q Ultimately?

15 A Yes.

16 Q When the fait accompli document was
17 presented, was it presented with the request
18 that Monsanto participate financially in what
19 Cerro was planning to do with Dead Creek
20 Segment A?

21 A I was not at the meeting where that
22 was presented; therefore, I don't know the
23 precise way in which that was presented to us
24 or what was said or by whom.

25 MR. RICCI: Could you read back my

1 last question.

2 (The requested portion of the

3 record read by the reporter)

4 Q (By Mr. Ricci) You are aware though

5 that Monsanto ultimately did not participate

6 financially in the efforts by Cerro with

7 respect to Dead Creek Segment A?

8 A I assume that's why we are here.

9 Q Correct. Mr. Pierle, can you give me

10 your educational background after high school?

11 A I have a Bachelor's degree in civil

12 engineering from Purdue University and a

13 Master's in engineering that was granted at

14 Washington University in St. Louis.

15 Q Any specific discipline?

16 A I believe that degree is just a

17 Master's in engineering. The course work

18 there was environmental.

19 Q What year did you get your degree from

20 Purdue?

21 A It was granted in January of '66.

22 Q Did you go straight from high school

23 to college?

24 A Yes.

25 Q And what year did you get your

1 Master's from Washington University in
2 St. Louis?

3 A I'm never sure on this one.

4 Q Can you ballpark it?

5 A It was '71 or '72.

6 Q Have you taken any other college-level
7 courses apart from achieving your Bachelor's
8 or your Master's degree?

9 A Not specific course work. I attended
10 the Stanford executive program in 1990.

11 Q How long was that program?

12 A That's a summer duration. It was
13 eight weeks.

14 Q That was not towards any specific
15 degree though?

16 A No.

17 Q Was the focus of that program
18 management as opposed to engineering?

19 A Yes.

20 Q Or environmental issues?

21 A Yes. I took a similar course at the
22 University of Texas in '84. It was a
23 four-week course.

24 Q Mr. Pierle, have you served in the
25 military?

1 A No.

2 Q What was your first job after
3 graduating from Purdue?

4 A I started at the Monsanto Krummrich
5 plant, and I started in their pollution
6 control department.

7 Q You graduated from Purdue in January
8 of '66?

9 A Yes.

10 Q And when did you begin with Monsanto?

11 A February 7.

12 Q You hired into Monsanto February 7,
13 1966?

14 A Yes.

15 Q And were assigned to the Krummrich
16 facility in the area of pollution control?

17 A Yes.

18 Q Had you taken any course work at
19 Purdue in the area of pollution control?

20 A I had taken some course work my junior
21 and senior year within the civil engineering
22 curriculum that focused on water supply and
23 water pollution work.

24 Q Was it your intention to get into the
25 area of pollution control, or was it just your

1 intention to get a job?

2 A I actually hired into the plant

3 engineering department was my initial

4 acceptance with an interest if something

5 opened up, and it did.

6 Q So you had an interest going in --

7 A Yes.

8 Q -- to get into the area of pollution

9 control?

10 A Yes.

11 Q What was your title when you hired

12 into Monsanto?

13 A They used a nomenclature that I think

14 was engineer one.

15 Q Was that a salaried position?

16 A Yes.

17 Q Were you affiliated with any

18 particular department at the Krummrich

19 facility?

20 A I believe I was within the technical

21 services department.

22 Q Who hired you?

23 A I began working for Paul Hodges. The

24 hiring practice was somewhat different, and I

25 don't recall who actually sent the letter.

1 Q Did you interview with people from
2 Krummrich, or did you interview with just
3 personnel?

4 A As I recall, there was sort of a panel
5 of people at the Krummrich facility that I
6 interviewed with.

7 Q In any event, once you hired in,
8 Mr. Hodges was your immediate supervisor?

9 A Yes.

10 Q Do you recall what his title was?

11 A I believe he was a senior engineering
12 specialist.

13 Q Were there other individuals at the
14 Krummrich facility working in the area of
15 pollution control at this time besides
16 yourself and Mr. Hodges?

17 A We had, as I recall, two technicians.

18 Q Who were they?

19 A One was Julio Munoz, and Joe
20 Burroughs.

21 Q Do you know if that's the Joe
22 Burroughs that now works for Cerro?

23 A I don't know where Joe works.

24 Q What were your initial duties when you
25 hired into the Krummrich facility?

1 A I principally conducted monitoring
2 programs. And they were focused mainly on
3 atmospheric sampling of ambient sulfur dioxide
4 and particulate matters from our power plant
5 and water pollution that was mainly focused on
6 waste water discharges of phenols and CODs.

7 MR. RICCI: Let's take a quick break.

8 (Recess)

9 Q (By Mr. Ricci) Mr. Pierle, before the
10 break, you had indicated that one of your
11 initial assignments or tasks when you hired
12 into Monsanto was related to the water
13 pollution control and specifically the
14 discharge of phenols and CODs. Do you recall
15 that?

16 A Yes.

17 Q Was the -- was there a single program
18 related to phenol and CODs, or was that two
19 separate efforts?

20 A Both of those materials were included
21 in some sort of site agreement or setting
22 limits on discharges. I don't recall the
23 particulars of that. And we monitored for
24 those sort of in one program, but they
25 involved different samples, different

1 locations and different analytical techniques.

2 Hopefully that's responsive.

3 Q Can you tell me what COD is?

4 A It stands for chemical oxygen demand.

5 Q Is there a particular class or

6 category of chemicals that contributes to COD

7 in waste water discharge?

8 A No.

9 Q This program that you were involved

10 with when you first hired in I assume was

11 directed towards reducing COD in your

12 effluent; is that correct?

13 A As I recall, it was towards meeting

14 certain limits on a stable basis. So we were

15 not really focusing on further reductions but

16 staying within an agreed upon limit.

17 Q In order to stay within that limit,

18 were there particular materials the discharge

19 of which you had to limit or that you had to

20 control?

21 A I guess I didn't look at it at that

22 time from that perspective.

23 Q Was this effort to control phenol and

24 COD discharges already under way when you

25 hired into the plant?

1 A Yes.

2 Q What was the status of it when you
3 hired in?

4 A As I recall, we were just in a
5 monitoring surveillance phase, to collect data
6 to show that we were meeting limits.

7 Q So whatever control apparatus might
8 have been put in place were already in place
9 by the time you hired in?

10 A Yes.

11 Q Did this program relate to your
12 discharge to the Sauget sewer system?

13 A It did. I don't recall the specifics
14 of the regulatory structure.

15 Q Now, I wasn't focusing as much on the
16 regulatory structure as the physical recipient
17 of the discharge that you were monitoring.

18 A Yes. It was on discharges to the
19 sewer system.

20 Q Do you know how long this program had
21 been under way prior to the time you hired in?

22 A I don't recall.

23 Q Were there particular operations at
24 this Krummrich facility that contributed to
25 the discharge of phenol to the sewer system?

1 A Yes.

2 Q What were those?

3 A I won't remember all of them. We had
4 a phenol manufacturing department. We had a
5 chlorophenol manufacturing department that was
6 included within that, and I believe we also
7 included some nitrophenol manufacturing.
8 There may have been others, but that's all I
9 can recall.

10 Q Do you recall methylphenol?

11 A No.

12 Q Do you recall the location of the
13 phenol manufacturing operation?

14 A Yes.

15 Q If I showed you a map, do you think
16 you could point it out on the map?

17 A Generally the area.

18 MR. RICCI: Can we mark this as Pierle
19 Exhibit 1.

20 (Plaintiff Deposition Exhibit Number 1
21 marked for identification.)

22 Q (By Mr. Ricci) Mr. Pierle, let me
23 show you a map that's been marked as Exhibit 1
24 to your deposition. This is a map with Bates
25 No. CER 111154. And I would just ask you to

1 take a look at this.

2 Have you ever seen this map before?

3 A I don't know whether I have seen this
4 map before or not. I have seen maps of this
5 that are an overlay of the W. G. Krummrich
6 plant.

7 Q What do you understand this particular
8 map to be?

9 A It just looks like a plan map of the
10 facility including American Zinc. Basically
11 it looks like the plant property that existed
12 within the Monsanto plant fence.

13 Q Can you point out on this map where
14 the phenol manufacturing operation was?

15 A In general, it was in this area of the
16 plant. I'm not specific as to which of these
17 blocks, but it was -- I just recall it as down
18 towards this end of the facility.

19 Q And when you say "this end of the
20 facility," you are talking about the southwest
21 corner of the plant roughly?

22 A Yes. More in that quadrant.

23 Q In the vicinity of the area where we
24 have got a Building 223 or department, number
25 of buildings with the identification 223 on

1 it. Do you know if Department 223 was phenol
2 manufacturing?

3 A I don't know that.

4 Q Do you know where the chlorophenol
5 operation was located?

6 A The one I'm thinking about was right
7 in this area.

8 Q And again you are referring to an area
9 west of Falling Springs Road, north of Third
10 Street?

11 A Yes.

12 Q What about nitrophenol?

13 A I'm less clear on that. I don't
14 recall that specifically.

15 Q Do you recall if it was east or west
16 of Falling Springs Road?

17 A I would only be guessing right now.

18 Q Okay. Well, we don't want you to
19 guess. Let me get this out of your way for
20 the time being.

21 Now, you indicated that your
22 involvement with respect to the phenol/COD
23 program, for lack of a better word, related to
24 sampling and monitoring; is that correct?

25 A Yes.

1 Q Do you recall where you were sampling?

2 A They were at different points within
3 the sewer system.

4 Q Were you sampling Monsanto's sewers or
5 village sewers or both?

6 A Some of those were indistinguishable
7 because of the makeup of the sewer system.

8 Q Why do you say that?

9 A Well, parts of the sewer that ran
10 through Monsanto's property could carry
11 Monsanto waste, could carry waste from other
12 operations that were non-Monsanto operations.

13 Q Were you sampling those sewers or were
14 you sampling sewers that carried strictly
15 Monsanto discharge or both?

16 A It could have been either or both.

17 Q Now, the map that we marked as Exhibit
18 1 to your deposition states in its legend that
19 it is a map of the 1964 sewers. Can you look
20 at this map and identify for me any of the
21 locations where you were sampling for phenols
22 and COD?

23 A I can look at it. It seems to me we
24 were monitoring within the production unit,
25 battery operations in the chlorophenol area.

1 And I recall some monitoring stations on the
2 main trunk sewer lines of which there were two
3 exiting the southwest portion of the facility.

4 I don't recall locations of other samplers.

5 Q The samplers within the chlorophenol
6 production unit sampled only Monsanto
7 discharge; is that correct?

8 A I believe that's correct, in that
9 area, because we were attempting to, as I
10 recall, sample the sewer lines directly from
11 these departments.

12 Q Were you sampling for -- let me
13 withdraw that. Were your sampling efforts
14 directed to phenol only, or did they also
15 include chlorophenols? Do you understand the
16 question?

17 A The analytical procedure that we used
18 was, as I recall, a four-aminoantipyrine
19 analytical procedure that was for -- it
20 measured phenols.

21 Q Which is to say more than just pure
22 phenol. Is that true or not?

23 A I would have to go back and look at
24 the test.

25 Q What I'm trying to find out is whether

1 the sampling technique or I guess more
2 appropriately the analysis technique that you
3 employed during this time period would pick up
4 chlorophenols or simply a phenol?

5 A Yes. I believe the answer to that is
6 that it was intended to pick up phenols. To
7 the extent that a chlorophenol would register
8 itself as a phenol, it would pick that up.
9 But as I recall that procedure, it was not
10 precise for chlorophenols.

11 Q Did you sample for COD in this area
12 within the chlorophenol production department?

13 A I believe we did.

14 Q Irrespective of their specific
15 locations, were there other areas within plant
16 production operations that you sampled for
17 phenols and COD?

18 A The program for phenols was more
19 specific in trying to identify phenol levels
20 and associate them with departments. The COD
21 program was a plant-wide effort trying to get
22 at total CODs, not assign those back
23 necessarily to a specific unit.

24 Q So the COD sampling was more
25 widespread than the phenol sampling?

1 A The COD sampling tended to be more
2 concentrated after the collection points in
3 the main sewers that would have picked up
4 larger areas leaving the plants.

5 Q Now, you indicated that when you hired
6 in, I believe it was your testimony that you
7 were really focused on monitoring and
8 surveillance to see whether you were staying
9 within certain limitations for phenols and
10 COD. Is that a fair statement?

11 A Yes. That was the main focus of my
12 initial assignments.

13 Q Do you know what the limitations -- do
14 you recall as you sit here today what the
15 limitations were that you were trying to stay
16 within?

17 A The phenol number, it seems to me, was
18 a thousand pounds a day. I don't recall the
19 COD.

20 Q Do you know how the phenol limitation
21 was developed, the thousand pounds per day
22 figure?

23 A I do not.

24 Q Do you know if it was developed in
25 conjunction with any particular government

1 agency?

2 A It seems to me that that was part of
3 whatever the Illinois agency was at that time,
4 state agency.

5 Q Were you generally staying within that
6 100,000 -- were you generally staying within
7 that 1,000 pound per day limitation at the
8 time you hired in?

9 A That was generally my recollection.

10 Q You indicated that in addition to
11 sampling for phenols at the chlorophenol
12 plant, you also sampled in the sewer lines
13 exiting the southwest portion of the plant; is
14 that correct?

15 A Yes.

16 Q Now, those plants are -- those lines
17 are indicated on this map, are they not?

18 A Yes.

19 Q And it appears that there were two
20 lines running roughly parallel from or roughly
21 parallel along the southwest border of the
22 plant or in that vicinity?

23 A If you are referring to these two
24 lines here marked 24 and I believe 36, the
25 answer is yes.

1 Q Yes. Those are exactly the lines I'm
2 referring to. Can you tell me where -- let me
3 withdraw that. Did you sample both the 24-
4 and 36-inch line?

5 A Yes.

6 Q Both of those lines received process
7 discharges from Monsanto?

8 A Yes.

9 Q Do you know what portion of the plant
10 drained through those two lines?

11 A Well, I believe those two lines took
12 in the area of the plant -- most of the area
13 of the plant that was I guess it is, what,
14 south of Monsanto Avenue, but not all of it.
15 And it also picked up the Cerro discharge, as
16 I believe part of the village discharge came
17 through there.

18 The balance of the plant flowed into a
19 sewer line that was out here that picked up
20 what we called our north area. I don't recall
21 specifically if any of this part of the plant
22 got into there, but it picked up American Zinc
23 and Mobile Oil and that part of the village.

24 Q Just to clarify your testimony for the
25 record, you are not sure whether any of the

1 discharge from the plant south of Monsanto
2 Avenue got into the sewer line that ran along
3 Monsanto Avenue. Is that a fair
4 characterization of your testimony?

5 A That's correct.

6 Q But the sewer line that ran along
7 Monsanto Avenue did pick up the discharge from
8 the portion of the plant north of Monsanto
9 Avenue as well as from other industries that
10 were north of Monsanto Avenue?

11 A Yes.

12 Q Getting back to the 24- and 36-inch
13 lines on the southwest side of the plant, you
14 testified that those lines picked up
15 discharges from other than Monsanto as well as
16 Monsanto?

17 A Yes.

18 Q Was it your understanding that those
19 were village sewer lines?

20 A Which lines?

21 Q The 24- and the 36-inch line.

22 A Yes, but the large trunk sewer lines
23 throughout the village were village sewer
24 lines.

25 Q Well, these 24- and 36-inch lines were

1 located on or under Monsanto property. Is

2 that a fair statement?

3 A This portion of it.

4 Q Right. They were within the fence

5 line of the plant?

6 A That's correct.

7 Q Do you know who was responsible for

8 operation and maintenance of those sewers?

9 A I do not.

10 Q Your sampling efforts were designed to

11 identify Monsanto's discharge of phenol and

12 COD into the sewer system; is that correct?

13 A Yes.

14 Q Do you know if Monsanto had taken any

15 steps to determine whether any other village

16 dischargers who discharged into the 24- or the

17 36-inch sewer line were contributing phenols

18 or COD?

19 A I don't recall.

20 Q Do you recall where along the 24- and

21 36-inch lines your sampling occurred?

22 A It seems to me that we were more

23 towards the east end of the line, and it had

24 to be in manways that were accessible because

25 these sewers were several feet below grade,

1 and they -- my sense of remembering is we had
2 stations that were down in this particular
3 area. I don't recall where else. This line
4 was accessible at several manholes and manways
5 along the line, and I don't recall where all
6 we had lines or sampler points.

7 Q When you say "this line," you are
8 talking about the 24 or the 36?

9 A Well, both of them. They tended to be
10 in roadways with manholes and manways on them
11 and therefore were accessible.

12 Q Do you recall any instances where your
13 sampling revealed that you were exceeding the
14 thousand pound a day limitation on phenols?

15 A I don't recall, you know, specific
16 samples and days.

17 Q Did your efforts with respect to this
18 program relate at all to controlling
19 discharges of phenols as opposed to measuring
20 the discharges of phenols?

21 A Well, I think, as I stated earlier,
22 what was in place within the departments to
23 control levels was pretty much there before I
24 arrived. I remember periodic walk-throughs on
25 my part that would look for perhaps abnormal

1 things like a spill or something that might
2 contribute to a high number that we may have
3 found.

4 As I recall, a lot of what was in
5 place was sort of keeping more concentrated
6 types of stream out of the sewer to where they
7 may go off and be put in a container of some
8 sort. And the surveillance that was done
9 there was more visual just to see that, you
10 know, the pipings were still connected and
11 things were sort of running the way they were
12 supposed to run.

13 And then if we would show a high
14 number, then it would be why did it go high,
15 and could we go back and find the spill or had
16 something within dumped or some causation, so
17 that if it was high, you then would look at,
18 you know, what do you do to keep that from
19 happening again.

20 Q Do you know how this program came to
21 be focused on phenols as opposed to any other
22 chemical that Monsanto might have been
23 discharging into the sewers?

24 A My recollection is back in the mid to
25 late '60s those were two more common types of

1 contaminants that were generally looked at for
2 water pollution control. And there was
3 nothing, you know, unusual about there being
4 limits on those.

5 Phenol, as I recall, was a question of
6 taste and odor in waters, and COD just
7 represented an organic loading. These were
8 both -- in the case of the phenol, a compound,
9 and of the COD a general indicator of
10 materials that dissolved into the liquid. And
11 the sampling was focused on measuring the
12 liquid and then measuring the dissolved
13 concentration of those two parameters.

14 Q You indicated that COD was in some way
15 related to your organic loading?

16 A Yes.

17 Q What do you mean by that?

18 A Well, again, it is a chemical oxygen
19 demand, and the test would basically measure
20 the amount of oxygen that would be consumed by
21 fully oxidizing the chemicals that were in the
22 liquid, and that basically meant what carbon
23 was there that would go to CO₂ or nitrogen
24 compounds to nitrates, so it was a measure of
25 the oxygen demand that was imposed in that

1 process.

2 And generally speaking, that was
3 viewed as an organic -- an indicator of
4 organic contamination or carbon materials.

5 Q Do you know whether PCB discharges
6 would contribute to COD?

7 A Theoretically they could, but my
8 recollection is they would be at very low
9 levels because of the low solubility.

10 Q How about biphenyl?

11 A Well, again theoretically a biphenyl
12 would contribute. I don't recall its
13 solubility.

14 Q The extent to which it contributed to
15 COD would depend upon its solubility?

16 A It would depend upon its solubility
17 and basically how much was there that was
18 dissolved in water.

19 Q How long did you remain an engineer
20 one in the technical services department of
21 the Krummrich facility?

22 A It seems to me it was two or three
23 years. It could have been shorter. I don't
24 remember that progress. It was engineer one
25 to engineer two or vice versa, but it was sort

1 of like junior engineer to engineer.

2 Q Do you recall how long -- so you went
3 from engineer one to engineer two?

4 A There was a step change somewhere in
5 the first five years I was there, and I don't
6 recall the exact sequencing or the time.

7 Q Do you recall what position you held
8 after engineer two?

9 A I believe that was the level I had
10 until I left the plant in August of 1970.

11 Q August of '70 you left the plant?

12 A Yes.

13 Q Without distinguishing between time as
14 engineer -- let me ask you this. Did your
15 duties or responsibilities change from the
16 time you were an engineer one until the time
17 you were an engineer two?

18 A As my duties changed, to me, was not
19 necessarily a reflection of what the job title
20 was.

21 Q Different projects arose?

22 A Yes.

23 Q Can you take me chronologically
24 through the projects that you were involved
25 with during this stint at the Krummrich

1 facility from '66 to '70?

2 A Probably not. My, I think,
3 responsibilities expanded from being
4 predominantly the initial jobs of monitoring
5 air and water to one of understanding the
6 operation of our landfill as well as the
7 operation and oversight of the village waste
8 water treatment facility and also included
9 more specific sampling projects within
10 departments as the need arose.

11 Q I'm sorry. What was the last thing?
12 Oversight of?

13 A I think I said oversight of the
14 village waste water treatment facility.

15 Q And then you said something after
16 that.

17 A And then I said as well as involvement
18 in specific departments, sampling as we had
19 needs.

20 Q Your initial responsibilities with
21 respect to air monitoring I believe you said
22 related to sulfur dioxide emission and
23 particulate emissions from the boiler?

24 A Yes. The sulfur dioxide also included
25 emissions from the sulfuric acid operation

1 plants.

2 Q Were you involved in any other air
3 monitoring programs besides those?

4 A The SO₂ was both an ambient program as
5 well as a stack program. The other air
6 program that we had was sort of a particulate
7 program that primarily Joe Burroughs conducted
8 around the facility that looked for emissions
9 of acid and alkalis particles. This was an
10 ambient program.

11 Q What do you mean by ambient program?

12 A We weren't measuring stacks in the
13 units. We were measuring, for example, the
14 air that was just -- the open air that you
15 would breathe.

16 Q Were you involved in any programs to
17 monitor organic air emissions?

18 A I don't recall organic air sampling.

19 Q Can you tell me about your involvement
20 with the landfill operations at the Krummrich
21 facility?

22 A Again, they involved sort of a
23 quantification of the types and amounts of
24 materials going to the landfill, sort of an
25 inventory. It also involved some ground water

1 monitoring on wells that were around the
2 facility. And most of the rest of it was just
3 observations of the practices at the facility.

4 Q How many landfills was Monsanto
5 operating at the time you hired in?

6 A My recollection is we contracted the
7 operation to basically the Paul Sauget
8 Company. We had one landfill that was
9 Monsanto property.

10 Q Where was that located?

11 A It would be west of Route 3, west of
12 the levee and east of the river and south of
13 the Monsanto Avenue.

14 Q West of Route 3 between the levee and
15 the river?

16 A Yes.

17 Q And south of the Monsanto Avenue?

18 A Yes.

19 Q And that landfill was located on
20 Monsanto property?

21 A Yes.

22 Q Was that landfill in operation when
23 you hired in?

24 A Yes.

25 Q Was it being used exclusively by

1 Monsanto?

2 A I don't know that. It was
3 predominantly for Monsanto, but I recall
4 periodically requests that would come from
5 others to place their materials there, but I
6 have no idea as to the frequency or what Paul
7 Sauget conducted, you know, what actually got
8 on the site.

9 Q This landfill was on Monsanto
10 property, but it was run by Paul Sauget?

11 A Yes. He was the operator that managed
12 the placement and the cover and the day-to-day
13 operation of the facility.

14 Q Do you know whether there were any
15 engineering controls in place for this
16 landfill, lining or leachate collection or
17 anything like that?

18 A I have to ask my attorney a question
19 here. This is an area that I was deposed on
20 in the litigation case, and I don't know
21 whether there is any problems with that being
22 confidential or privileged communication or
23 whether there are any concerns.

24 MR. HEINEMAN: There may be protective
25 orders in that case.

1 THE WITNESS: I don't know.

2 MR. RICCI: Why don't we go off the
3 record for a second.

4 (Discussion off the record)

5 MR. RICCI: Off the record we had
6 discussed the fact that counsel for Monsanto
7 had forwarded to me a form that we were to
8 sign indicating that to the extent that
9 information was produced in discovery in this
10 lawsuit that was subject to a protective order
11 entered in the lawsuit by Monsanto against the
12 insurance carriers, that we would agree to
13 abide by the terms of that protective order in
14 order to get access to those materials in this
15 lawsuit.

16 I have not signed that form, not
17 because of any dispute with it, but just
18 because I haven't gotten around to it. But
19 for the record, I will stipulate that we will
20 abide by the terms of the protective order in
21 the insurance litigation. We would also be
22 happy to designate or to agree, if you are
23 inclined, to designate this testimony as
24 protected by the protective order we have
25 entered into in this lawsuit.

1 MR. HEINEMAN: Off the record.

2 (Discussion off the record)

3 MR. HEINEMAN: Why don't we designate
4 it as such under the present protective order,
5 and that way we will protect it doubly. We
6 can go ahead.

7 MR. RICCI: Can you read back the last
8 question and answer.

9 (The requested portion of the
10 record read by the reporter)

11 A It is my understanding when the
12 landfill was initiated that the information
13 with regard to the subsurface of it indicated
14 that it was relatively impermeable. There
15 were clay layers that would contain the
16 materials.

17 During my time at the plant, I recall
18 sort of an expansion of an area that was
19 constructed with a laid-in clay bottom and
20 tamped in over a fairly large area. And then
21 the site was fenced and had the other sort of
22 proper precautions on safety of access and
23 digress. That's what I recall.

24 Q (By Mr. Ricci) Do you know whether
25 Cerro ever requested permission to dump in

1 that landfill?

2 A I don't know.

3 Q Do you know of any other specific
4 industries that requested permission to dump
5 in that landfill?

6 A The only thing I remember was a
7 government inquiry about disposing of some
8 cyanide waste in the landfill, and I do not
9 recall whether that was ever granted or not
10 granted.

11 Q Were there other landfills in the
12 village that Monsanto was using during the
13 period '66 to '70?

14 A There was a property that abutted the
15 Monsanto landfill to the east and to the south
16 that was, as I recall, operated again by Paul
17 Sauget as a general landfill into which he
18 took materials from lots of areas.

19 Q It was owned and operated by Sauget?

20 A I don't know whether the property was
21 owned by Sauget, but it was operated and it
22 was contiguous with the Monsanto landfill.

23 Q It was not owned by Monsanto though?

24 A It was not. And we did dispose of
25 materials that at least from our plant we

1 would have considered to be nonchemical, paper
2 packaging materials, tanks, piping, plant
3 rubble.

4 Q Do you know if either of these two
5 landfills that you just discussed were
6 assigned a letter in the Ecology & Environment
7 report of sites in the Sauget area?

8 A Again, I don't know the origin of the
9 lettering. I do know that the sites -- or
10 there are some sites that are lettered, and
11 the Monsanto landfill and these adjacent
12 landfills do have letters. I just don't know
13 whether it was from the original reports.

14 Q Do you know what the letters are? Do
15 you know if one site is R, Q and R or P, Q,
16 and R or something like that? That's okay. I
17 don't want you to speculate. If you don't
18 know, that's fine.

19 You indicated that the landfill to the
20 east and south of the landfill on the Monsanto
21 property was used, at least from Monsanto's
22 purposes, for nonchemical waste. Can I assume
23 from that that the landfill that was located
24 on the Monsanto property was used for chemical
25 waste?

1 A Yes.

2 Q During the period '66 to '70, do you
3 know if any waste from the PCB manufacturing
4 operations were disposed of in the Monsanto
5 landfill?

6 A Yes.

7 Q What types of waste?

8 A As I recall, the solids that were
9 called montars, the tarry wastes, were
10 disposed at the landfill.

11 Q Anything else from the PCB operation?

12 A I don't recall.

13 Q Do you know if the -- if during the
14 period '66 to '70 the Monsanto landfill was
15 used for the disposal of any heat transfer
16 fluids used at the plant?

17 A I don't recall specifically whether
18 they were or weren't.

19 Q Do you know if this landfill was used
20 for the disposal of any transformer fluids?

21 A I don't recall the specific listing.
22 I recall making lists. I just don't recall
23 what specifically was on the lists.

24 Q You recall making lists of materials
25 that were disposed of in the landfill?

1 A Yes.

2 Q Do you know if those lists are still
3 available?

4 A I do not.

5 Q Were there other landfills in the
6 Village of Sauget area that Monsanto used
7 during this period '66 to '70, besides the two
8 that you have already mentioned?

9 A I don't believe so.

10 Q Do you recall if there were any
11 landfills south of the plant that Monsanto
12 used during this time period?

13 A What do you mean by south of the
14 plant?

15 Q South of the plant, south of the Alton
16 & Southern Railroad?

17 A I don't recall using for landfill
18 waste disposal anything other than the two I
19 mentioned.

20 Q Do you have any knowledge of landfills
21 that the company used prior to the time that
22 you signed on?

23 A I do know that there was a response to
24 an Eckhardt survey about 1980 that delineated
25 sites. I do not recall the content of that

1 report.

2 Q Did you prepare that response?

3 A No.

4 Q Do you know who did?

5 A It was prepared, as I recall, at the
6 plant.

7 Q You don't know by whom though?

8 A No, I don't. I don't recall. I
9 remember seeing it, reviewing it, but I don't
10 recall the author.

11 Q Are you familiar with sites that have
12 been designated as sites G, H, and I by the
13 Illinois EPA?

14 A My only recollection of those is they
15 were up more in the village proper, I recall,
16 but I don't remember the specific location.

17 Q Do you have any knowledge as to
18 whether Monsanto ever used any of the
19 landfills that have been designated as sites
20 G, H, or I?

21 A No.

22 Q In this period 1966 to 1970, you
23 indicated that another project that you were
24 involved with related to oversight of the
25 village waste water treatment facility?

1 A Yes.

2 Q What were your responsibilities in
3 that regard?

4 A I was virtually a staff assistant to
5 the not-for-profit organization that was
6 composed of the various industries in the
7 village, and as a result of that I was
8 involved in the operation but not in a
9 day-to-day supervisory capacity.

10 Q What did the village waste water
11 treatment plant consist of during this time
12 period?

13 A When I arrived at the plant, they were
14 in the final stages of construction of what
15 was termed a primary treatment plant, and that
16 was put into operation sometime early in my
17 tenure. And it consisted of a -- of two
18 basins that were used to settle out heavy
19 solids and light solids, and those solids were
20 separated from the water. The water was then
21 sent on to the river, and the solids were put
22 in designed sort of drying beds and retained
23 on waste treatment property.

24 Q You say this system was put into
25 effect shortly after you hired in?

1 A Yes. That's my recollection.

2 Q What was the village doing with the
3 sewerage that it was receiving from the
4 various users prior to the time this facility
5 was put in operation?

6 A I believe those waste waters flowed
7 through the sewer system and on to the
8 Mississippi River.

9 Q Untreated in any way?

10 A That's -- that was the allowable
11 system.

12 Q You indicated that you were not
13 involved with the village waste water
14 treatment plant in a day-to-day supervisory
15 capacity. What was the nature of your
16 involvement?

17 A Well, maybe I can describe that in
18 part by what it wasn't. There was a full-time
19 supervisor. There were employees of the
20 village. There were employees of the waste
21 water treatment plant association who were
22 responsible for the day-to-day operations of
23 the facility.

24 Q Can I stop you right there and just
25 ask you who was the full-time supervisor?

1 A His first name was Fred, and I don't
2 recall his last name. I don't recall.

3 Q Do you recall any of the staff
4 members?

5 A There were two others. One was
6 Dallas, and I believe his name was Richter.
7 And the other young man's name was, I believe,
8 Rich, and I do not recall his last name.

9 Q And those three were basically charged
10 with running this waste water treatment plant?

11 A Yes.

12 Q Is it fair to say that your
13 involvement with the waste water treatment
14 plant was in an advisory capacity?

15 A It was more acting for the
16 association. I was involved in paying bills,
17 salary administration, provided some technical
18 engineering oversight to the operation. It
19 was really, I guess, sort of a connection
20 between the operation and what else they might
21 need from sort of this not-for-profit
22 operator. And it was my job to understand and
23 then coordinate what those interfaces or needs
24 were.

25 Q You were kind of the liaison between

1 the operation of the plant and of the
2 dischargers to the system. Is that a fair
3 statement?

4 A Yes.

5 Q Were there any employees from any of
6 the other village industries that served in a
7 similar capacity while you were performing
8 those duties?

9 A I don't believe so. The other
10 industries principally had their
11 representatives on this not-for-profit board,
12 so they were directly involved through the
13 board and at the board level.

14 Q And then you reported to the board?

15 A And I kind of assisted the board in
16 this coordination role.

17 Q Did Cerro have anybody on the board?

18 A Yes.

19 Q Do you recall who?

20 A It was the facility manager who was
21 typically the representative there. And I
22 know that Paul Tandler was for a while, but it
23 seems to me there was someone before Paul who
24 was the facility manager.

25 Q Sandy Silverstein?

1 A I remember Sandy's name again, and
2 again I'm fuzzy as to the exact roles and
3 responsibilities.

4 Q You indicated that again during this
5 '66 to '70 stint at Krummrich, you were also
6 involved in sampling for specific departments
7 as the need arose. Do you recall any specific
8 projects that you were involved with that
9 would fall into that category?

10 A The two issues that arose towards the
11 late '60s were both PCB and mercury. And my
12 recollection is we undertook more intensive
13 sampling and measuring and control programs
14 for those two materials towards the end of my
15 tenure at the facility.

16 Q Can you tell me about the efforts in
17 this regard related to mercury? What
18 triggered those efforts?

19 A As I recall, there were governmental
20 interests. And I don't know what originated
21 it, but it was around mercury as an
22 environmental contaminant, and the interest as
23 it focused at Monsanto was on the fact that we
24 used mercury in one of our production
25 operations in the chlorine department. And

1 our efforts were concentrated on both trying
2 to measure mercury coming from the operation
3 as well as to be sure that we were controlling
4 the levels of mercury at the facility.

5 Q Which operation involved use of
6 mercury?

7 A It was the chlorine manufacturing and
8 production operation.

9 Q Where was that operation located? Can
10 you show me on the map?

11 A It is basically in the -- I guess the
12 eastern end of the plant facility.

13 Q East of Falling Springs Road?

14 A Yes.

15 Q Can you be any more specific as to
16 where that operation was located? I should
17 tell you, too, that this is a 1964 map. I
18 also have a 1971 map, and I know that you
19 weren't here in 1964, so if it would be easier
20 for you to look at the '71 map, I could show
21 that to you.

22 A I don't know if it would make any
23 difference. It was somewhere in this area,
24 which is sort of the -- as I recall sort of
25 the eastern, towards the eastern end.

1 Q If we can reference it by streets, it
2 looks like you are talking about east of
3 Falling Springs Road, east of C Street. Is
4 that familiar to you?

5 A Yes.

6 Q And south of Second Street?

7 A Yes.

8 Q There is also a B Street that runs
9 north and south. Can you locate it in
10 relation to B Street?

11 A No.

12 Q Or is that too specific? How about in
13 relation to Third Street, which runs east and
14 west?

15 A No. I think that's getting more
16 specific than what I can depict off this
17 drawing.

18 Q But in any event, you are fairly
19 certain that it was east of C Street and south
20 of Second Street, in that sort of --

21 A Yes.

22 Q -- quadrangle? The answer was yes?

23 A Yes.

24 Q Did your involvement with -- let me
25 withdraw that. Were there numerical standards

1 that were imposed upon you with respect to
2 mercury discharges?

3 A I don't recall that there were.

4 Q Do you know if there were any internal
5 goals that were set by the company with
6 respect to mercury discharge?

7 A I don't recall.

8 Q Were your efforts in this regard
9 related to sampling or also to control of
10 mercury discharges?

11 A They were predominantly sampling and
12 surveillance. And the surveillance is similar
13 to what I described. Those were visual
14 observations about operations that where one
15 could see if mercury could be lost, and was it
16 being controlled so that it was not being
17 lost.

18 Q That was the surveillance aspect of
19 it?

20 A Yes.

21 Q What about the sampling aspect of it?
22 What were your efforts in that regard?

23 A I'm less clear on this. It seems to
24 me it was again some sampling of the sewers
25 and the streams around the department area to

1 see if there were mercury losses.

2 This was a tough problem, because
3 mercury again is very insoluble and it is very
4 heavy, and it would be -- it would make it
5 difficult then to detect or to determine
6 whether there were losses of mercury coming
7 out of the department.

8 Q Did you do any sampling -- let me
9 withdraw that. Was it your -- you were
10 concerned about discharges of mercury into the
11 sewer system; is that correct?

12 A That's correct.

13 Q Was it your understanding that the
14 discharges from the chlorine plant ultimately
15 exited the plant and traveled through the 24-
16 and 36-inch lines that we identified on the
17 southwest side of the plant?

18 A I believe so, yes.

19 Q I'm sorry?

20 A It was -- mercury was difficult to get
21 a handle on in terms of sources, because it
22 could come from a variety of places that were
23 either on or off the plant site, so it was
24 more difficult to try to get a clear picture
25 of mercury losses.

1 Q Did you do any sampling in the 24- or
2 the 36-inch trunk lines on the southwest side
3 of the plant?

4 A I don't recall the specific sampling
5 regime for mercury.

6 Q Do you recall if you were sampling for
7 elemental mercury or mercury compounds?

8 A My recollection on this is the focus
9 was all on mercury, not mercury -- forms of
10 mercury.

11 Q Was it your understanding that the
12 chlorine department was discharging elemental
13 mercury to the sewers?

14 A I think we concluded that there was --
15 that was our primary focus, that there was
16 mercury being lost out of that operation.

17 Q Do you recall if the governmental
18 concerns in this area were triggered by
19 mercury discharges into the Mississippi River
20 by the Village of Sauget?

21 A As I recall, the triggering concern
22 was the methylmercury issues that had arisen
23 on poisoning in Japan, and that the focus as
24 it came into the village was a village-wide
25 question of where is mercury coming from

1 Sauget Village. And our efforts tended to
2 focus on what is coming from Monsanto, but the
3 feds were involved on a fairly broad interest
4 was my recollection.

5 Q Were any controls on mercury
6 discharges implemented as a result of your
7 sampling efforts?

8 A I do not recall the precise sequence,
9 but I know relative to that operation there
10 was a series of improvements that were made
11 over time and over several years in that
12 operation.

13 Q Do you recall the degree of reduction
14 that was achieved?

15 A No, I don't.

16 Q Do you know what the level of
17 discharges of mercury into the sewers were at
18 the time that you were involved in the
19 sampling?

20 A I don't recall.

21 Q Were there others who were involved in
22 this program besides yourself?

23 A At Monsanto most of this work was done
24 by Julio Munoz and myself is my recollection.

25 Q Was there anybody from the production

1 department who was involved?

2 A Well, there would have been, but I
3 don't recall names.

4 Q Was this project still under way when
5 you left the Krummrich facility in 1970?

6 A I believe it was.

7 Q Did you have any other involvement
8 with this program subsequent to leaving the
9 Krummrich facility?

10 A When I returned to St. Louis in 1975
11 as an environmental manager, I picked up
12 working in St. Louis. Then I had several
13 plants that I was sort of informally
14 responsible for, and Krummrich was one of
15 those facilities. And we had continuing
16 improvement programs under way at the
17 facility, and regulatory discussions.

18 Q You testified that another area of
19 sampling and control that you were involved
20 with during this '66 to '70 time period was
21 PCBs; is that correct?

22 A Yes.

23 Q We are going to get to that in a
24 little more detail this afternoon. Are there
25 any other projects or tasks that you recall

1 being involved with during this time period

2 1966 to 1970?

3 A The project that I left was really the

4 beginning of the next phase of waste water

5 treatment improvement for the village, but we

6 had just got to a contractor selection phase

7 on that.

8 Q Who was the contractor that was

9 selected?

10 A For that project, they eventually

11 chose Monsanto Biodized subsidiary.

12 Q Had Monsanto Biodized begun work at

13 the time you left the Krummrich facility?

14 A No.

15 Q Can you trace for me the chain of

16 command that you operated under during your

17 initial stint at Krummrich, from yourself up

18 to plant manager, if possible?

19 A Well, I indicated that for a period of

20 time I worked for Paul Hodges, and he reported

21 to -- I believe he reported to Ben Williams.

22 Q Who was Mr. Williams?

23 A He was a superintendent of services.

24 Something to that effect.

25 Q He was the superintendent?

1 A Yes. And he reported to a general
2 superintendent that I don't recall for the
3 whole technical services department who
4 reported to the plant manager.

5 Q So you have a superintendent of
6 services. That may not have been the exact
7 title, or something like that, and then you
8 had the general superintendent and then the
9 plant manager?

10 A Right. That's about as low as you can
11 get in that hierarchy.

12 Q You don't recall who the general
13 superintendent was?

14 A I don't.

15 Q Do you recall who the plant manager
16 was when you hired in?

17 A When I hired in, it was John McLain.

18 Q Was there another one during that time
19 period?

20 A He was around for a while, and then I
21 think the plant manager was Jerry Bratsch.

22 Q Any others?

23 A No.

24 Q Was Mr. Hodges there the entire time
25 that you were at Krummrich?

1 A No.

2 Q When did he leave?

3 A I believe it was in the -- sometime in
4 1968 roughly.

5 Q Where did Mr. Hodges go?

6 A He took a job in the St. Louis office.

7 Q Corporate headquarters?

8 A It was in the whole corporate
9 headquarters.

10 Q Who replaced Mr. Hodges?

11 A Clarence Buckley.

12 Q Did Mr. Buckley then become your
13 supervisor?

14 A Yes.

15 Q Had he worked for Mr. Hodges previous
16 to taking his role, taking his position?

17 A I don't believe so. Not -- I mean I
18 don't know what the two of their track history
19 was for years, but he was not in the
20 department at the time -- I don't recall him
21 being in the department at the time I worked
22 for Mr. Hodges.

23 Q You mean in the technical service
24 department?

25 A No. The pollution control department.

1 Q Do you recall what Mr. Buckley's
2 position was immediately prior to his assuming
3 Mr. Hodges' position?

4 A No.

5 Q Do you know if he had any background
6 or experience in pollution control?

7 A I don't know.

8 Q And I take it there was nobody under
9 you in this chain of command?

10 A The two technicians were sort of
11 working for me then.

12 Q Were they salaried employees, too?

13 A Yes. Yes. They were in a different
14 classification, but they were still salaried
15 employees.

16 Q Did Mr. Buckley remain your supervisor
17 until the time that you left the Krummrich
18 facility?

19 A Yes.

20 Q I believe you testified that you left
21 Krummrich in August of 1970?

22 A Yes.

23 Q Where did you go?

24 A Delaware River plant in Bridgeport,
25 New Jersey.

1 Q What was your title there?

2 A I believe I reported as a senior
3 engineer.

4 Q You say you reported as a senior
5 engineer?

6 A Yes. I think they promoted me on
7 transfer to senior engineer.

8 Q What did they make at the Delaware
9 River plant?

10 A It was primarily a plasticizer
11 production facility.

12 Q Did they make anything at Bridgeport
13 that they also made at Krummrich?

14 A I don't believe so.

15 Q What were your duties and
16 responsibilities at the Bridgeport facility?

17 A I was the only environmental person at
18 the site, so I had responsibilities for
19 long-range planning, monitoring and
20 surveillance again of environmental
21 discharges, relationships with the state on
22 permitting, and was supervising a project to
23 evaluate waste water treatment system
24 improvements at the facility.

25 Q That facility had its own waste water

1 treatment plant?

2 A It had some sort of in-department
3 facilities, but it was at a stage where it had
4 to make a decision -- we had to make a
5 decision about what next steps we would make
6 on water pollution control, and that was the
7 project that I basically took over was the
8 evaluation and recommendation as to future
9 waste water treatment plans.

10 Q Was that plant in the organic
11 chemicals division of the company?

12 A I quite frankly can't recall the
13 divisional structures and where organic sat
14 versus, you know, other divisions. It seems
15 to me that in general it was on the organic,
16 and then but it may have been in the
17 plasticizer division. I just don't recall
18 the, you know, operational structure of the
19 company then.

20 Q Did you report in this position as
21 senior engineer to someone at the plant?

22 A Yes.

23 Q Did you have any reporting obligations
24 to corporate?

25 A No. The relationship that I had on

1 more of an informal basis would have been to
2 Mr. Hodges at that time.

3 Q Mr. Hodges had some company-wide
4 responsibilities for environmental?

5 A No. He had some responsibilities that
6 were broader than a plant, but they were not
7 company wide.

8 Q How long were you at the Delaware
9 River plant?

10 A July of 1974.

11 Q Were you a senior engineer during that
12 entire time period?

13 A Somewhere in that period I was
14 promoted to engineering specialist.

15 Q Your deposition testimony in the New
16 Jersey Public Interest Research Group, Clean
17 Water Act suit, related to your involvement at
18 the Delaware River plant?

19 A Yes.

20 Q What was the next position that you
21 held with the company after Delaware River?

22 A Well, I left the company's employment
23 for a year and worked for the federal
24 government and rejoined Monsanto in August of
25 '75 and then actually replaced Mr. Hodges as a

1 manager of environmental protection in
2 St. Louis.

3 Q What did you do for the federal
4 government?

5 A I worked at the Department of Commerce
6 in the office of environmental affairs,
7 basically reviewing EPA regulations and
8 environmental impact statements that were
9 prepared by various government agencies.

10 Q That was during the Ford
11 administration?

12 A Predominantly. Mr. Nixon left at
13 about the time I arrived.

14 Q Why did you leave Monsanto?

15 A It was a position at the government
16 that they were routinely cycling an industry
17 person through on a year-to-year basis, and
18 they had asked Monsanto if they had an
19 employee who could serve a year. And I was
20 given that opportunity and accepted it.

21 Q Did the company ask you to take this
22 position?

23 A Yes.

24 Q It was with an understanding that it
25 was short term?

1 A Yes.

2 Q Did the position with the Department
3 of Commerce involve reviewing proposed EPA
4 regulations?

5 A Yes.

6 Q Did you have occasion to review any
7 regulations relating to PCBs?

8 A No.

9 Q What was your role in reviewing those
10 -- in reviewing any regulations that were
11 brought to your attention?

12 A It was principally twofold. One was
13 the technical review of EPA's work from a
14 competency standpoint, and it was also to
15 represent business inputs into the process,
16 which could include both technical input as
17 well as economic input.

18 Q During your year with the Department
19 of Commerce, did you review any regulations
20 from the EPA that in any way impacted the
21 operation at the Krummrich facility?

22 A No. There was a specific condition
23 that I would not work on any regulations that
24 impacted the chemical industry, to avoid any
25 concerns or allegations about conflict.

1 Q Did you maintain contacts with the
2 company while you were with the Department of
3 Commerce?

4 A Virtually none. I was invited back
5 for an annual meeting as a guest, and that was
6 pretty much the extent of the interaction. I
7 was on -- I retained my Monsanto benefits, so
8 there was interaction on benefits and some
9 supplemental moneys on living that were
10 provided, but, no. Those were all sort of
11 personal contacts as opposed to business
12 contacts.

13 Q You were with the Department of
14 Commerce for approximately a year?

15 A Yes.

16 Q When did you go back to Monsanto?

17 A I believe I restarted work officially
18 on August 1, 1975.

19 Q At that time you replaced Mr. Hodges?

20 A Yes.

21 Q What was the title of that position?

22 A Manager of environmental protection.

23 Q Was this a promotion from the position
24 that you held when you left the Delaware River
25 plant?

1 A Yes.

2 Q What were your duties and
3 responsibilities as manager of environmental
4 protection?

5 A It was primarily a job of coordinating
6 the environmental issues at the plants that I
7 had the responsibilities for. A large part of
8 it was helping them to understand the
9 regulatory framework in which they were
10 operating, especially federal as it was
11 growing, and to interface with the federal
12 agents, primarily EPA, on regulations that
13 were being proposed that would impact upon our
14 operations.

15 Q Which plants were you responsible for?

16 A Upon my return, I believe it was the
17 Krummrich plant and the Queeny plant, the
18 Delaware River plant, the nitro plant, the
19 Everett plant, and a plant in Avon,
20 California.

21 Q What about Anniston?

22 A No. No. I don't believe so. I think
23 Anniston was in the ag operation then.

24 Q And what operation were you in?

25 A Well, again it was industrial

1 chemicals or organics or something that I just
2 don't recall again the structure. That
3 changed so often it is hard to remember.

4 Q How long did you hold this position as
5 manager of environmental protection?

6 A I held basically that same position
7 until sometime in 1979.

8 Q What position did you take at that
9 point?

10 A I moved to corporate staff and a new
11 position that was created as a regulatory
12 manager for water.

13 Q Can you describe your duties and
14 responsibilities during the time that you were
15 manager of environmental protection?

16 A I thought I just did.

17 Q Okay. You are right. Educating the
18 plant as to the regulatory framework,
19 interfacing with federal government regarding
20 regulations impacting Monsanto's operations?

21 A Uh-huh.

22 Q You did. Excuse me. Were there
23 particular -- were there environmental issues
24 particular to the Krummrich facility that you
25 were involved with during your stint as

1 manager of environmental protection?

2 A Yes.

3 Q What were they?

4 A Well, they included ongoing issues

5 with respect to permit -- waste water permit

6 limits on both the village and more

7 specifically those on Monsanto which included

8 mercury and PCB. And there were also a number

9 of items relative to air permitting that had

10 arisen under changes in the Illinois state law

11 that we were working on. And we were also

12 initiating closeout of the landfill at the

13 Monsanto-owned landfill.

14 MR. RICCI: I'm sorry. Could you read

15 back that answer.

16 (The requested portion of the

17 record read by the reporter)

18 Q (By Mr. Ricci) You indicated

19 involvement in permit issues for both the

20 village and the plant; is that correct?

21 A Yes.

22 Q What was your involvement with respect

23 to permitting for the village?

24 A The permit was basically to the

25 village. But to the extent that it included

1 direct limits that would impact Monsanto
2 facilities, we were involved in both sets of
3 issues.

4 Q So the village had a permit that
5 allowed it to discharge into the Mississippi
6 River?

7 A That's correct. Well, the village was
8 responsible for having a permit. There is a
9 long history of when they did and when they
10 didn't and who they had one from.

11 Q Understood. The village needed a
12 permit to discharge into the Mississippi
13 River?

14 A Yes.

15 Q And the parameters that would
16 ultimately be included in that permit could
17 impact Krummrich's operations?

18 A Yes.

19 Q What was your involvement in the
20 village's permitting needs?

21 A The involvement was primarily at the
22 plant level. That was characteristic of how
23 we managed issues. And my role was to help
24 them as I could and to coordinate resources
25 within Monsanto that they may need.

1 Q Who was the -- who was your principal
2 contact at the plant on these permitting
3 issues?

4 A It seemed to me that it changed, and I
5 don't remember specifically during this time
6 frame who was the point person at the plant
7 facility.

8 Q Did you have a staff?

9 A No.

10 Q Where was your office during the time
11 that you worked as manager of environmental
12 protection?

13 A At the company headquarters at Olive
14 and Lindbergh.

15 Q In addition to the village's
16 permitting needs, did Monsanto also require
17 any kind of permit to discharge to the village
18 sewer system during this time period? And,
19 again, this time period I'm talking about is
20 '75 to '79.

21 A No. I don't believe we needed a
22 separate permit.

23 Q So your permitting needs or your
24 discharge requirements were tied to what the
25 village could discharge into the river?

1 A Yes.

2 Q And the contaminants of concern at
3 that time were mercury and PCBs?

4 A Well, they were broader than that in
5 terms of specific parameters identified in the
6 permit. For example, I think phenols and CODs
7 were still included, but PCBs and mercury were
8 also issues.

9 Q You said COD was still an issue?

10 A I believe so.

11 Q What was the status of the efforts to
12 control mercury discharges at the time that
13 you became manager of environmental
14 protection?

15 A They had put in by that time, I
16 believe, what was called a sulfide
17 precipitation system.

18 Q Sulfite?

19 A Sulfide. And during this time frame
20 we began to look for even more technology and
21 eventually acquired some from Japan to put in
22 a resin technology.

23 Q Let me stop you there. The sulfide
24 precipitation system was in place by the time
25 you came back in '75?

1 A I believe it was.

2 Q And that was a system that was

3 installed by Monsanto?

4 A What do you mean by that?

5 Q It was a Monsanto system, not a

6 village system?

7 A Yes, that's correct.

8 Q Was that system installed in the

9 chlorine department?

10 A Yes.

11 Q And it was designed to remove mercury

12 from the discharge to the sewers?

13 A Yes.

14 (Lunch Recess)

15 Q (By Mr. Ricci) Mr. Pierle, who at the

16 Krummrich facility was responsible for

17 implementing the sulfide precipitation system?

18 A I don't recall.

19 Q Do you know if it was done through the

20 technical services department?

21 A I don't.

22 Q What was the volume of mercury that

23 the system was able to remove from the

24 effluent from the chlorine department?

25 A I don't remember.

1 Q Were there specific numerical
2 standards for discharge of mercury by 1975?

3 A There was an Illinois standard that
4 had a number. I don't remember what it was.
5 And that standard was the subject of both
6 variance proceedings and rule change
7 proceedings under Illinois law.

8 Q Did the number relate to Monsanto's
9 discharge as to the sewer or the village's
10 discharge as to the river?

11 A Well, I believe we were concerning
12 ourselves with Monsanto discharges.

13 Q Did Monsanto avail itself of any of
14 the procedures under Illinois law to get a
15 variance from the numerical standard?

16 A I believe I just indicated that we
17 were in those processes, yes.

18 Q Do you know how those efforts were
19 ultimately resolved?

20 A My recollection, it ended up with a
21 variance that set a specific limit on
22 Monsanto.

23 Q Did you have a law firm handling that
24 for you?

25 A Yes.

1 Q What law firm was that?

2 A I don't recall. I believe Dick Kissel
3 was the lawyer, though, that was doing that
4 work.

5 Q And that was on behalf of Monsanto?

6 A Yes.

7 Q Did Monsanto have to monitor its
8 discharge to the sewer system in order to
9 determine whether it was in compliance with
10 the standard that the state was imposing for
11 mercury?

12 A I don't recall what the procedures
13 were.

14 Q Do you have any knowledge of the
15 extent to which Monsanto was monitoring its
16 sewer effluent for mercury in 1975?

17 A I don't remember.

18 Q Mr. Pierle, I believe we had entered
19 this line of questioning from a question that
20 I asked relating to environmental issues at
21 the Krummrich facility that you gave attention
22 to while you were manager of environmental
23 protection. And you mentioned waste water
24 permit issues relating to mercury and PCBs.
25 And you mentioned closeout of the Monsanto

1 landfill, and you mentioned air permitting?

2 A Yes.

3 Q Do you recall specifically any air
4 permitting issues that you were involved with
5 for the Krummrich facility when you were
6 manager of environmental protection?

7 A My recollection is that there were
8 proceedings before the pollution control board
9 that dealt principally with regulations on
10 organic -- emissions of organic -- volatile
11 organic materials, VOC regulations.

12 Q Were these proceedings specific to
13 Monsanto's emissions?

14 A Yes.

15 Q Do you recall any of the contaminants
16 that were at issue in those proceedings?

17 A The general regulations were written
18 on volatile organic chemicals, not specific
19 compounds.

20 Q What compounds was the Krummrich
21 facility emitting that fell within the
22 categories of VOCs?

23 A I don't recall. VOCs were described
24 as something that fit certain various vapor
25 pressures. There was a definition, and it was

1 whatever fit within that, but I don't recall

2 specifically what they were.

3 Q Do you recall if PCBs fell into that

4 category?

5 A I don't believe so. I don't believe

6 that the facility was there at that time.

7 Q What time period are we talking about?

8 A Well, it would have been, as I said,

9 sometime after 1975. I don't recall the

10 precise time.

11 Q The PCB facility was still in place in

12 1975, wasn't it?

13 A I'm not -- I don't recall those dates.

14 Q Do you recall whether PCBs were still

15 operating when you came in as manager of

16 environmental protection?

17 A I don't.

18 Q You testified earlier that you

19 believed that PCB in effluent was an issue

20 that you gave attention to while you were

21 manager of environmental protection. Is that

22 a fair statement?

23 A Yes.

24 Q Does that lead you to believe that

25 PCBs were still being manufactured at

1 Krummrich when you came back in 1975?

2 A It wouldn't necessarily -- I wouldn't
3 conclude that from that. The issue, as I
4 recall it, was involved with the village
5 permit, and it was around very low levels of
6 PCB. And the more I think of a lot of that,
7 conversation was around, you know, where can
8 they be coming from, because it wasn't obvious
9 that there were sources that could still be
10 generating this material.

11 Q Do you recall an issue arising while
12 you were manager of environmental protection
13 relating to the level of PCBs that the village
14 was discharging to the river?

15 A I believe the issue arose in the
16 context of the permit that the village was
17 seeking from the federal EPA for the sewer,
18 the combined village outfall.

19 Q Do you know whether the village had a
20 problem in securing that permit because of
21 PCBs?

22 A As I recall, there were a long list of
23 contested conditions and issues in the
24 issuance of that permit, and PCBs was one of
25 them.

1 Q Do you recall any others?

2 A There were issues, as I recall, around
3 construction dates and schedules for facility
4 upgrades that were still contemplated. I
5 don't recall the others.

6 Q Is this an -- let me withdraw that.
7 Is this an NPDES permit that we are talking
8 about?

9 A It would have been from the federal
10 government.

11 Q Do you know what year this was that
12 the village was trying to get its permit?

13 A It seems to me it was sort of
14 continuous.

15 Q From when to when?

16 A Well, throughout that time period of
17 '75 through '79, and I believe the issues went
18 on even after that.

19 Q Was any kind of enforcement action
20 ever instituted against the village, to the
21 best of your knowledge?

22 A It seems to me there was, but I don't
23 recall the timing on it.

24 Q Was the village having problems with
25 PCBs in its effluent even after Monsanto

1 stopped manufacturing PCBs at Krummrich?

2 A It seems to me that there was a

3 continuing dispute about the PCB limit.

4 Q Continuing after production of PCB

5 ended?

6 A I believe so.

7 Q Was anyone from Monsanto assisting the

8 village in its negotiations with the federal

9 government regarding its NPDES permit?

10 A There was what I would say was sort of

11 continual communication between the village

12 and all of the members within the village

13 about the, you know, the permit and the

14 implications and the negotiations. So my

15 recollection is that everybody was sort of

16 involved in assisting and helping out on that

17 set of negotiations.

18 Q Do you know who was involved on behalf

19 of Monsanto?

20 A What time period?

21 Q I assume we are talking about the '75

22 to '79 time period.

23 A Again, I'm not sure who the person was

24 that was directly involved during that time

25 period. It seems to me that, as I said,

1 Warren Smull was I think involved at the
2 plant, but I'm real hazy on time periods.

3 Q Do you know when Mr. Smull first hired
4 into the Krummrich facility?

5 A No, I don't.

6 Q Was he there when you were there?

7 A I don't believe so.

8 Q Was he there when you were manager of
9 environmental protection?

10 A I believe he was.

11 Q Was Mr. Buckley still in the same
12 position at Krummrich in '75 that he held when
13 you left the Krummrich facility in '70?

14 A I don't recall.

15 Q Do you recall any other issues or
16 projects that you became involved with at the
17 Krummrich facility while you were manager of
18 environmental protection?

19 A Not -- no.

20 Q In 1979 you took a new position?

21 A Yes.

22 Q Do you know when in 1979?

23 A I believe it was in the August time
24 period.

25 Q And that position was again what?

1 A Director of regulatory management for
2 water.

3 Q Was that a promotion?

4 A Yes.

5 Q I think you indicated earlier that
6 that was a corporate position?

7 A Yes.

8 Q What does that mean?

9 A I was on corporate staff as opposed to
10 any of the operating units.

11 Q Your responsibilities were company
12 wide?

13 A Yes.

14 Q Can you tell me what your duties and
15 responsibilities were as director of
16 regulatory management for water?

17 A They were basically to monitor federal
18 government activities for regulations that
19 could impact the corporation in the area of
20 water pollution, to direct internal
21 activities, to respond in an attempt to
22 influence the regulations, and act as a
23 consultant to internal company compliance on
24 water regulations, and to assist in the
25 development of internal policies related to

1 water pollution controls.

2 Q How long did you hold that position?

3 A Until -- well, I held that and a

4 similar position in solid waste, oh, it was I

5 think March of '84.

6 Q Was solid waste added to your

7 responsibilities, or was that in place of?

8 A In place of.

9 Q So you were division of -- you were

10 director of regulatory management for water,

11 and then you became director of regulatory

12 management for solid waste?

13 A Right.

14 Q And when did you become director of

15 regulatory management for solid waste?

16 A It was sometime in mid '83.

17 Q When you took the position in August

18 of 1979, did you replace somebody?

19 A No. It was a new position.

20 Q Did you have a staff?

21 A No.

22 Q Who was your supervisor?

23 A Monty Throdahl.

24 Q How do you spell that?

25 A T-H-R-O-D-A-H-L.

1 Q What was his position?

2 A He was a member of Monsanto's board
3 and a senior vice president.

4 Q Did he have a title other than senior
5 vice president? Was he senior vice president
6 of something?

7 A I don't recall precisely.

8 Q Mr. Throdahl reported to who?

9 A I think at that time he reported to
10 either the chairman or the vice chairman of
11 the board.

12 Q Were there other directors who
13 reported to Mr. Throdahl during --

14 A Yes.

15 Q -- the '79 to '84 time period?

16 A Yes.

17 Q How many? A lot?

18 A Yes.

19 Q More than ten?

20 A No.

21 Q More than five?

22 A Yes.

23 Q Were any of those other directors in
24 environmental areas?

25 A Yes.

1 Q Who were they? Not necessarily the
2 individuals, but the titles?

3 A Well, there was one for water, air,
4 waste, TSCA.

5 Q Is that it?

6 A And one for OSHA.

7 Q Any others?

8 A I think that would constitute the
9 group in the regulatory area.

10 Q So when you moved from director for
11 water to director for solid waste, that was
12 more of a lateral move?

13 A Yes.

14 Q Was Mr. Throdahl still your supervisor
15 when you were director for solid waste?

16 A No.

17 Q Who was your supervisor at that point?

18 A Will Carpenter.

19 Q Did he become your supervisor when you
20 made the move to solid waste, or did he become
21 your supervisor prior to that?

22 A Prior to that.

23 Q When was that?

24 A Sometime between '79 and '83.

25 Q What was Mr. Carpenter's title?

1 A Director of regulatory management. We
2 can be here for four or five days if we are
3 going to go through the Monsanto hierarchy and
4 organization heart and how many times they
5 have changed. I don't know how productive
6 that is.

7 Q Thank you. I appreciate that. Were
8 your duties as director of regulatory
9 management for water -- I'm sorry. Were your
10 duties as director of regulatory management
11 for solid waste similar to your duties when
12 you were director for water?

13 A Yes.

14 Q Except you were dealing with solid
15 waste matters?

16 A Yes.

17 Q At any time between August of '79 and
18 -- let me withdraw that. At any time when you
19 were either director for water or director for
20 solid waste, were you involved with issues
21 regarding the Krummrich facility?

22 A I tended not to get involved in
23 facility specific issues, just general
24 regulatory issues.

25 Q You tended not to get involved. Were

1 there any instances when you did get involved?

2 A I don't recall.

3 Q Did Mr. Throdahl retire?

4 A Yes.

5 Q And that's when Mr. Carpenter became

6 your supervisor?

7 A No.

8 Q How did Mr. Carpenter come to be your

9 supervisor?

10 A He was given the job.

11 Q And then he reported to Throdahl?

12 A Yes.

13 Q What was the position that you held

14 immediately after you were director of

15 regulatory management for solid waste?

16 A I took Mr. Carpenter's job when he

17 left.

18 Q When was that?

19 A I think I indicated March of '84.

20 Q So in March of '84 you became director

21 of regulatory management?

22 A Yes.

23 Q Mr. Throdahl was your supervisor at

24 that point?

25 A No. I believe he had retired right

1 then.

2 Q Who did you report to?

3 A Mr. Singer.

4 Q First name?

5 A James.

6 Q And what was his position?

7 A Vice president.

8 Q Again, any specific area?

9 A I don't know. I forget what his title
10 was.

11 Q Who did Mr. Singer report to?

12 A I believe he reported to a

13 Mr. Corbitt.

14 Q Who was?

15 A Again, he was a senior vice president.

16 Q And Corbitt reported to the chairman

17 or the vice chairman?

18 A Yes.

19 Q What were your duties and
20 responsibilities as director of regulatory
21 management?

22 A I basically managed each of the
23 regulatory directors in the regulatory
24 function and spent a lot of my time on
25 reauthorization of the Super Fund Statute and

1 internal policy formulation.

2 Q How long did you hold the position of
3 director of regulatory management?

4 A Until January of '86.

5 Q During the time that you were director
6 of regulatory management, did you get involved
7 in any issues relative to the Krummrich
8 facility?

9 A I don't believe so.

10 Q When you say you were involved in
11 development of internal procedures, or I'm
12 sorry. You said internal policy formulation?

13 A Uh-huh.

14 Q Were those policies relative to Super
15 Fund or more general than that?

16 A More general.

17 Q Can you describe in general terms the
18 kinds of policies that you were involved in
19 formulating during that time period?

20 A We had a set of what we called
21 worldwide guidelines and Monsanto
22 environmental policies, and we were sort of in
23 a continual stage of assessing process towards
24 those guidelines and policies and renewing
25 policies. And they dealt with employee health

1 protection and safety of operations, waste
2 management practices and disposals, ground
3 water policies, risk management policies,
4 disclosure policies to the federal government.

5 Q These guidelines were more or less
6 evolving principles?

7 A Yes.

8 Q What position did you take in January
9 of '86?

10 A Director of environmental operations
11 for the chemical company.

12 Q Director of environmental operations?

13 A Uh-huh.

14 Q Was that a promotion?

15 A It was a lateral.

16 Q Was the Krummrich facility part of the
17 chemical company?

18 A Yes.

19 Q What were your duties and
20 responsibilities in that position?

21 A I had a staff of roughly 30 people
22 that had responsibilities for product
23 stewardship for the chemical company's product
24 line. I had a group of managers that were
25 managers of environmental protection providing

1 assistance to all of the plants in the
2 chemical company, and I had a group that was
3 focused on the remediation and cleanup of
4 Super Fund sites that we had responsibilities
5 for.

6 Q What do you mean when you say "product
7 stewardship"?

8 A Basically the safe production and
9 distribution of our products.

10 Q The managers for environmental
11 protection that were under you, were those
12 plant specific individuals or were those
13 headquarter individuals? Do you understand my
14 question?

15 A No.

16 Q You indicated that you had a group of
17 managers for environmental protection that
18 were under you while you were director of
19 environmental operations?

20 A Right.

21 Q Did each plant have a manager of
22 environmental protection?

23 A No.

24 Q Was there -- was it a situation where
25 a manager for environmental protection would

1 be responsible for more than one plant?

2 A Yes.

3 Q Who was the manager for environmental

4 protection responsible for the Krummrich

5 facility?

6 A I believe that was Mike Foresman.

7 Q Where was he located?

8 A St. Louis.

9 Q At company headquarters?

10 A Yes.

11 Q And he reported directly to you?

12 A Yes.

13 Q Did he -- how long did you hold this

14 position as director of environmental

15 operations for the chemical company?

16 A Until April of '91.

17 Q Was Mr. Foresman the manager of

18 environmental protection responsible for the

19 Krummrich facility during that entire time

20 period?

21 A Not all of it.

22 Q But he was the manager when you came

23 into the position in January of '86?

24 A Yes.

25 Q And then at some point he no longer

1 held that position?

2 A Yes.

3 Q Who replaced him?

4 A Max McCombs.

5 Q Did you continue to report to

6 Mr. Singer when you held the position of

7 director of environmental operations --

8 A No.

9 Q -- for chemical? Who did you report

10 to?

11 A Tom Lafferre.

12 Q Tom Lafferre?

13 A Yes.

14 Q What was his position?

15 A He was vice president of operations

16 for the chemical company.

17 Q Can you trace the chain of command up

18 from Mr. Lafferre?

19 A It would have gone basically to

20 Mr. Potter.

21 Q First name?

22 A Robert, who became the president of

23 the chemical company.

24 Q And Mr. Potter reported to?

25 A The chief operating officer.

1 Q Who was that?

2 A Earl Harbison.

3 Q And then Mr. Harbison reported to the
4 chairman?

5 A Uh-huh.

6 Q Who was?

7 A Mr. Mahoney.

8 Q Was it during the time that you were
9 director of environmental operations for the
10 chemical company that you became involved in
11 the negotiations or the discussions that we
12 talked about this morning between Cerro or
13 Marmon regarding sites in the Sauget area?

14 A Yes.

15 Q Was it common for you to get involved
16 in negotiations of that type during the time
17 that you were director of environmental
18 operations?

19 A It would depend upon the level and the
20 importance of the issue.

21 Q The reason I ask is it seems like you
22 were fairly high up in the chain of command to
23 be involved in a plant specific negotiation.
24 Was there any particular reason why you became
25 involved in those discussions?

1 A Well, my recollection was the Marmon
2 Group contacted us at headquarters, and they
3 moved this issue outside of the plant.

4 Q Sort of came from the top down instead
5 of the bottom up?

6 A Right.

7 Q Do you know who initially approached
8 you about becoming involved in those
9 negotiations?

10 A I don't recall. I recall getting a
11 note from somebody to call a Mr. Webb at
12 Marmon. And from there on we just sort of
13 took the conversation, and I had a couple of
14 verbal conversations that I recall with the
15 professor I mentioned earlier.

16 Q Patterson?

17 A Patterson. That was their consultant.
18 And then we ultimately had what I recollect as
19 a meeting in St. Louis.

20 Q Did you assign anyone on your staff to
21 bone up on these issues and brief you?

22 A I believe at the outset we were more
23 interested in understanding what was on
24 Marmon's mind. I was generally familiar with
25 what our plant programs were. I don't recall

1 any special preparation for the meeting.

2 Q Do you know how long approximately you

3 had held the position of director of

4 environmental operations when these overtures

5 from Marmon came?

6 A No, I don't.

7 Q Were you aware prior to these

8 overtures from Marmon that the IEPA was

9 looking at the environmental conditions in

10 Sauget?

11 A Again, I'm not -- I don't recall the

12 exact timing, but it seems to me that there

13 was some understanding that EPA was involved

14 in the area. Certainly we were in discussion

15 with them about our landfill prior to this

16 time.

17 Q And efforts by the IEPA with regard to

18 hazardous waste sites in the Sauget area would

19 be a part of your responsibilities as director

20 of environmental operations; is that true?

21 A Yes. And again the level of detail

22 would have been primarily handled by others.

23 Q Right. I don't mean necessarily that

24 you had frontline responsibility.

25 A Right.

1 Q But that was under your jurisdiction
2 so to speak?

3 A Yes.

4 Q Were there others from your staff who
5 were involved in any of these discussions with
6 Marmon? I'm not talking about -- you know,
7 you mentioned Mr. Smull at the plant level.
8 I'm talking about the corporate level.

9 A I don't recall precisely who was in
10 the meeting that we had. I know I handled
11 some of the early calls. I don't recall
12 clearly other than, as I indicated,
13 Mr. Gillhausen was involved I think in the
14 meeting that we had with Mr. Webb.

15 Q Do you know how high up in the chain
16 of command at Monsanto the initial contact
17 from Marmon was?

18 A I never clearly understood the
19 originator or how that happened.

20 Q And you don't recall who sent you the
21 note that said call Mr. Webb?

22 A No, I don't.

23 Q Do you know if you still have that
24 note?

25 A I don't think so.

1 Q Do you know if it was produced in the
2 course of this litigation?

3 A I don't recollect seeing it in the
4 papers that I thumbed through.

5 Q Did you at any point in time conduct a
6 review of your files to determine whether
7 there was anything that needed to be produced
8 in response to document requests from Cerro in
9 the course of this lawsuit?

10 A Yes.

11 Q And you don't recall seeing that note
12 in the course of that review?

13 A No.

14 Q But you specifically recall that there
15 was a piece of paper?

16 A There was a piece of paper that was
17 sort of like call Webb, and it may have been
18 no more than a secretary's note, something to
19 that effect.

20 Q As you became involved with the
21 discussions with Marmon or Cerro during this
22 time period, did you have to report back to
23 the company as to -- report back to anyone at
24 the company as to what was happening?

25 A I recall writing some status notes,

1 like memos or notes of meeting minutes, but I
2 don't recall who I wrote those to, and I have
3 not seen those produced again in the context
4 of this discussion.

5 Again, my sense was we had an initial
6 sort of flurry of conversation and a meeting
7 that was really sort of without plant people,
8 but then it went back in to the plant people,
9 and that's where most of the conversations
10 took place. And I think the subsequent
11 meetings that I recall being involved in were
12 both in Sauget village.

13 Q These notes or memos that you referred
14 to, are these documents that you yourself
15 prepared or you prepared?

16 A Yes.

17 Q Do you know if they are still
18 available?

19 A I have not found any.

20 Q Did you look for them?

21 A Yes.

22 Q Do you know if any other individuals
23 at your level or higher were asked to look for
24 documents in the course of the production of
25 documents in this lawsuit?

1 A I don't know who all was asked to
2 produce records.

3 Q Was there an individual within the
4 company who was responsible for collecting
5 whatever documents might be floating around
6 the halls of Monsanto?

7 A I recall getting a letter for a
8 document request to send in.

9 Q Was that from counsel?

10 A That's my recollection.

11 Q Did you keep Mr. Lafferre apprised of
12 the negotiations that were going on or
13 discussions that were going on between Marmon
14 and Monsanto?

15 A I don't recall specifically. Again,
16 this happened sort of initially with some
17 flurry but then very sporadic. I don't recall
18 whether I did or not.

19 Q When you were looking for documents
20 that might be responsive to document requests
21 in this litigation, did you have these
22 particular notes or memos that we have been
23 talking about in mind? I mean, were these one
24 of the things you were specifically thinking,
25 oh, gee, this is something I should probably

1 look for?

2 A I recall having a file marked Marmon,
3 and that's what I was specifically looking
4 for.

5 Q And you were not able to find it?

6 A No.

7 MR. RICCI: Ken, I would like to put
8 on the record right now a request that
9 Monsanto go back to the drawing board with
10 respect to these particular notes or memos
11 that Mr. Pierle has testified to relating to
12 discussions that he had with or that Monsanto
13 had with Marmon and/or Cerro during the time
14 that Mr. Pierle was director of environmental
15 operations.

16 I understand if you look for them and
17 you can't find them, then you can't find them.
18 But generally I'm aware that companies are
19 loath to throw things out. So if they were
20 available, I would just reiterate or
21 reemphasize that we would like to see them.

22 MR. HEINEMAN: I'm sure you would. So
23 would I. We can't find them.

24 Q (By Mr. Ricci) Did you ever become
25 aware that Mr. Potter was at all interested in

1 the negotiations that were going on between
2 Monsanto and Cerro?

3 A No.

4 Q How about Mr. Harbison?

5 A No.

6 Q How about Mr. Mahoney?

7 A No.

8 Q Was it common for you to have direct
9 contact with those individuals, or were your
10 contacts mostly with Mr. Lafferre?

11 A They would have been mostly with
12 Mr. Lafferre.

13 Q Was Mr. Lafferre your direct
14 supervisor during the entire time that you
15 were director of environmental operations?

16 A Yes.

17 Q And was the chain of command as you
18 described it to me during that entire time
19 period?

20 A The answer is no. There was a period
21 of time when Mr. Fitzgerald was president of
22 the company instead of Mr. Potter for a few
23 months, but he passed away.

24 Q Were you personally involved in any
25 negotiations with the IEPA relating to any of

1 the Sauget sites during the time that you were
2 director of environmental operations?

3 A No.

4 Q Was anyone on your staff involved in
5 those kinds of negotiations?

6 A I don't believe so.

7 Q Did you consider Mr. Smull as part of
8 your staff just in terms of management, or was
9 he more a plant person?

10 A He was a plant person. There was a
11 point in time where he transferred into my
12 department, but I don't recall the timing when
13 that happened.

14 Q You indicated that while you were
15 director of environmental operations you had a
16 group that was focused on the remediation and
17 cleanup of Super Fund sites?

18 A Right.

19 Q Did that group have responsibility
20 with respect to any of the sites that had been
21 identified by the IEPA in the Village of
22 Sauget?

23 A It really did not until the time when
24 Mr. Smull transferred over into the
25 department.

1 Q When was that?

2 A I don't recall.

3 Q Did he transfer into the department

4 specifically to deal with those sites?

5 A Not just those. He had developed a

6 level of expertise and capability around those

7 sites, and we needed that additional

8 capability. And he transferred into the

9 group, and I believe we made the decision at

10 that time to also bring with him virtually all

11 the activity in Sauget Village.

12 Q But he also then got responsibility

13 for sites outside of the village?

14 A Yes.

15 Q Was that the beginning of this group

16 that focused on remediation and Super Fund

17 sites?

18 A No. That group had existed since the

19 beginning of '86 in my organization, and part

20 of it had existed before that in other parts

21 of the company.

22 Q Can you place Mr. Smull's moving into

23 the job on your staff in relation to the

24 discussions that you were involved with with

25 Marmon?

1 A It seems to me it was well after those
2 conversations began.

3 Q Do you know if it was before or after
4 you were presented with what we have called
5 the fait accompli document?

6 A I don't recall that.

7 Q As director of environmental
8 operations for the chemical company, did you
9 have responsibility for decisions as to which
10 sites Monsanto might voluntarily participate
11 in the cleanup of?

12 A I had certain levels of authority
13 relative to decisions on cleanup. I think
14 there is very little that one does of a pure
15 voluntary nature or voluntary nature in any of
16 these cleanups.

17 Q Well, when I say voluntary, I'm
18 talking about short of a judicial decision
19 that you do something or that you pay
20 something.

21 A Well, that could have been. I mean, I
22 was in a position to make judgments about
23 decisions on when we would participate in a
24 cleanup up to certain levels of expenditure or
25 authorizations.

1 Q What was the level of your authority?

2 A I think it was a half million dollars.

3 Q Beyond a half million dollars, what

4 did you have to do to obtain authority?

5 A There was an increased authorization

6 level for expenditures that paralleled

7 Monsanto's capital authorization procedure.

8 There was a financial control bulletin

9 basically put in place to set in place a level

10 of authorization.

11 Q Did the next level of authorization

12 lie with your superior, Mr. Lafferre?

13 A Yes.

14 Q Do you know what his level was?

15 A I think his was a million.

16 Q And then it continued to roll up the

17 chain?

18 A Yes.

19 Q Do you know what level of authority

20 the president of the chemical company had?

21 A I believe it was three million.

22 Q And what happened beyond three

23 million?

24 A Five million. At the CEO it was ten

25 million, and beyond that the board.

1 Q So ten million to the CEO?

2 A Yes.

3 Q And then beyond that it had to go to
4 the board?

5 A Yes.

6 Q Did you ever seek any authorization to
7 participate in the remediation of Segment A of
8 Dead Creek?

9 A No.

10 Q Did you ever make any recommendations
11 against authorizing company funds to remediate
12 Segment A of Dead Creek?

13 A There was never a recommendation
14 presented to me to do that that I would have
15 had to recommend against.

16 Q So you don't recall any formal
17 decision one way or the other with respect to
18 remediation of Dead Creek Segment A?

19 A Well, again, not to mix words, but we
20 would have only had to effected a positive
21 decision to participate or to reject a
22 recommendation, and I didn't reject one and I
23 didn't recommend one.

24 Q That's what I meant to ask you. As
25 far as you were concerned, you never got to a

1 decision point one way or the other?

2 A That's correct.

3 Q Is that because, as far as you know,

4 Marmon or Cerro never asked?

5 A Somewhere along the line after the

6 presentation of these documents, there were

7 discussions about our participation, but there

8 was no agreement reached that would have -- as

9 to amounts, roles, responsibilities that would

10 have then triggered a request for

11 authorization.

12 Q So in terms of the way it would

13 proceed, there would be an agreement in

14 principle reached between the parties that you

15 would then take up the chain of command if you

16 felt it was reasonable? You have to answer

17 out loud.

18 A The answer is yes, but in that process

19 that you have described, any agreement would

20 have been conditioned upon approvals.

21 Q Understood. It has to start someplace

22 though?

23 A Right.

24 Q In the Monsanto worldwide guidelines

25 and environmental policies, was there anything

1 relating to when Monsanto would voluntarily
2 commit funds to the remediation of a hazardous
3 waste site?

4 A I believe our program basically said
5 that we would act in a responsible manner
6 relative to Super Fund site allegations. And
7 by that it meant that we would be a
8 constructive participant in the determination
9 of facts and responsibilities, and if we felt
10 that or we would conclude we would have
11 responsibilities, that we would act in an
12 appropriate manner.

13 Q Is that a policy or a guideline that
14 you followed as director of environmental
15 operations for the chemical company?

16 A Yes.

17 Q How did you go about determining
18 whether you had responsibility?

19 A I think that would depend on the
20 situation. Most typically it involved,
21 through the Super Fund process, receipt of
22 request for information which we would respond
23 to. We would typically get involved in the
24 subsequent discussions with the regulatory
25 agencies and other PRPs around the facts of

1 the situation.

2 And typically if we felt that the
3 facts of the situation indicated that we had
4 waste for which we were likely to be liable,
5 we would then become part of the process to
6 determine the extent of the problem and
7 subsequent to that what the remedy proposal
8 should be.

9 Q Did that policy or guideline apply if
10 the entity seeking your participation was a
11 private entity as opposed to a governmental
12 entity?

13 A Yes.

14 Q Did you go through any such exercise
15 with respect to the possibility that Monsanto
16 might be responsible for conditions in Dead
17 Creek?

18 A I would say that the process that we
19 involved ourselves in subsequent to being
20 presented the report by Cerro was that type of
21 a process, to understand the report,
22 understand what the implications were, and I
23 think the difficulty there was is there were
24 discussions that ended up in questions of what
25 is it that you want and how much. And those

1 discussions, you know, basically were not very
2 productive. They were not, you know, based on
3 a judgment of guilt, but let's continue to try
4 and understand them.

5 And I mean if they come to you and
6 say, you know, for a small amount of money you
7 can settle out of these things completely,
8 that may be less burdensome than going through
9 more fact finding, and in some cases we
10 settled out of suits whether we felt we were
11 responsible or not just to get beyond the
12 nuisance aspect of it.

13 Again, the Cerro discussions went
14 into, you know, discussions of facts and
15 negotiations and did not reach, to my
16 recollection, a distinction around
17 responsibility nor agreement on amount.

18 Q Focusing specifically for the moment
19 on the issue of responsibility, did Monsanto
20 make an evaluation as to whether it bore any
21 responsibility for conditions in Dead Creek
22 Segment A?

23 MR. HEINEMAN: Again, obviously you
24 have got to not disclose communications with
25 counsel.

1 MR. RICCI: I concur that he should
2 not disclose communications with counsel;
3 however, to the extent that there was fact
4 finding that went on, those facts don't become
5 privileged simply because counsel was
6 involved.

7 And so to the extent that there was
8 any kind of fact finding with respect to
9 Monsanto's responsibility or nonresponsibility
10 for contamination in Dead Creek, I press the
11 question.

12 MR. HEINEMAN: And I will again say
13 that again I'm happy to have your views on the
14 subject.

15 MR. RICCI: I'm trying to understand
16 the scope of your objection.

17 MR. HEINEMAN: I'm telling him that I
18 don't know the extent to which counsel was
19 present in these discussions, the extent to
20 which counsel advised so as to give rise to
21 the decision. I don't know the extent to
22 which counsel was involved in the fact finding
23 and communicated facts to him so that there
24 was an exchange of information back and forth
25 that was in aid of a legal decision or legal

1 advice. I just don't know the answer to that
2 so that's why I'm cautioning him not to invade
3 a privileged communication.

4 If you can answer the question without
5 doing that, that's fine.

6 MR. RICCI: Can you read back the
7 question.

8 (The requested portion of the
9 record read by the reporter)

10 Q (By Mr. Ricci) I would be happy to
11 take a yes or no answer to that question and
12 then proceed from there. If we can take this
13 in baby steps, maybe we can avoid ending up
14 with loggerheads. Can you answer that
15 question yes or no, Mr. Pierle?

16 A I don't believe that we ever made that
17 -- made a determination such as you have
18 asked.

19 Q Given that it was your corporate,
20 company wide, worldwide environmental policy
21 to be a constructive participant where you
22 determined that you had some responsibility,
23 is there any reason why you didn't make such a
24 determination with respect to Dead Creek
25 Segment A?

1 MR. HEINEMAN: Again, I have to make
2 the same admonition.

3 A I think I indicated earlier on that it
4 was my recollection that there was a lot of
5 dialogue upon presentation of the report. We
6 talked about the question that the lawyer and
7 Warren were involved in around the remedy. My
8 recollection to those conversations is Cerro
9 did what they were going to do.

10 The conversation kind of died and went
11 away after a period of time, and I'm not
12 certain what the lawyer and Warren did with
13 respect to that. But with a lot of things I
14 had to deal with, that just sort of moved off
15 the radar scope, that there was no longer a,
16 you know, a hard press on that. There wasn't
17 a decision that was postured, and the issue
18 just sort of wasn't at the same level of
19 profile that it had been. And it subsequently
20 surfaced in the context of the lawsuit.

21 Q (By Mr. Ricci) If there had been a
22 decision one way or the other as to Monsanto's
23 responsibility for conditions in Dead Creek,
24 would that have come to your attention?

25 A It may have.

1 Q But not necessarily?

2 A It would not have necessarily had to
3 come to my attention.

4 Q Would it have come to the attention of
5 somebody on your staff?

6 A I don't know how to answer that
7 because, you know, all I know is the fact that
8 I don't recall that it ever did. Never got to
9 me.

10 Q Fair enough. Is it more likely that
11 it would have come to your attention if there
12 was a determination that Monsanto bore
13 responsibility than if there was a
14 determination that Monsanto did not bear
15 responsibility?

16 A I wouldn't make that statement.

17 Q You didn't have any lawyers on your
18 staff, did you?

19 A No.

20 Q In complying with your worldwide
21 environmental policy with respect to Super
22 Fund, did the determination of responsibility
23 or nonresponsibility generally come through
24 your department or through legal?

25 A I think the determinations about legal

1 responsibility would have come from the legal
2 department.

3 Q When you talk about responsibility as
4 that term is used or as you used the term in
5 describing the worldwide corporate guidelines,
6 are you talking about legal responsibility or
7 are you talking about something perhaps
8 broader than that?

9 A No. I think the guidelines dealt with
10 responding to legal responsibilities.

11 Q I guess we will leave for the moment
12 whether there is anything broader than legal
13 responsibility under Super Fund.

14 You were director of environmental
15 operations until April of '91?

16 A Yes.

17 Q And what position did you take after
18 that?

19 A My current position.

20 Q Which is?

21 A Vice president, environment, safety
22 and health.

23 Q Environmental safety and health?

24 A Yes.

25 Q Is that for the chemical company?

1 A For the corporation.

2 Q Who do you report to now?

3 A Nick Redding.

4 Q And his position is?

5 A Vice chairman.

6 Q And he reports to the chairman?

7 A Yes.

8 Q And that's Mr. Mahoney?

9 A Yes.

10 Q What are your current duties and
11 responsibilities?

12 A I direct the regulatory management
13 staff that interfaces on federal environmental
14 laws and regulations. I direct the department
15 of medicine that manages Monsanto's medicine
16 and worker health programs, including
17 department of toxicology, department of
18 epidemiology. I direct quality assurance
19 function which includes audit functions for
20 compliance. And I have a department of health
21 and safety that is responsible for the safety
22 and industrial hygiene practices, and a group
23 that works in environmental affairs which is
24 another regulatory function within the
25 regulatory function.

1 Q Are you currently involved in decision
2 making with respect to participation in Super
3 Fund cleanups?

4 A No.

5 Q You do not have any level of
6 authorization with respect to participation in
7 cleanups?

8 A Only for one or two sites that are
9 assigned to the corporation because they are
10 part of past sold businesses. The bulk of the
11 work is handled on all cleanups within the
12 operating units.

13 Q Your authority does not descend down
14 -- I don't know if descend is the correct
15 word. Your authority does not extend into the
16 operating units?

17 A No, it does not.

18 Q And I assume that none of the Sauget
19 sites fall in this category of I will call
20 them orphan sites that are put on the
21 corporation?

22 A They do not.

23 MR. RICCI: This would be a good time
24 for a break.

25 (Recess)

1 Q (By Mr. Ricci) Mr. Pierle, when did
2 you first become aware of the existence of
3 Dead Creek?

4 A Oh, sometime early on in my employment
5 at the Krummrich plant.

6 MR. HEINEMAN: Are you referring to
7 the portion that's on the Cerro property I
8 assume?

9 MR. RICCI: I'm referring to the whole
10 stretch of the creek.

11 Q (By Mr. Ricci) How did you become
12 aware of it?

13 A I don't recall the specifics.

14 Q Was it in conjunction with any one or
15 more of the tasks that you were involved with
16 during your stint at Krummrich from '66 to
17 '70?

18 A I mean the answer to that would have
19 had to have been but as a part of my general
20 duties. I mean it involves sewers and storm
21 water flows, and it was an interconnected kind
22 of system, so I don't differentiate what
23 caused me to think about it.

24 Q Did you have some involvement with
25 storm water flows during your time at

1 Krummrich from '66 to '70?

2 A Well, the waste treatment plant

3 received all of the flows including storm

4 water flows from the plant site and the

5 village and every place else. That's sort of

6 in that construct that I knew it was there.

7 Q Were you aware of the connection

8 between Dead Creek and the village sewer

9 system?

10 A Yes.

11 Q What was your understanding of that

12 connection?

13 A That there was basically part of the

14 Cerro effluent flow out of what I would call

15 the back side of the plant and into the creek

16 area and then into the sewer. It was sort of

17 a conveyance in part for part of the waste

18 water out of the Cerro plant as well as what

19 rainfall would drain into those portions of

20 Dead Creek would then drain into the sewer

21 system and then on down to the waste treatment

22 plant.

23 MR. RICCI: Why don't we mark this as

24 Exhibit 2.

25 (Plaintiff Deposition Exhibit Number 2

1 marked for identification.)

2 Q (By Mr. Ricci) Mr. Pierle, let me

3 show you a document that's been marked as

4 Exhibit 2 to your deposition. And this is a

5 document with Bates No. CER 110759. I ask you

6 to take a look at that. Can you identify this

7 document?

8 A Not specifically. I mean other than

9 reading the notations on the document itself.

10 Q The notation indicates that it is a

11 Monsanto Krummrich plant sewer map; is that

12 correct?

13 A Well, it says a plant sewer map.

14 Q Right. Is that what it appears to be

15 to you?

16 A Yes. I don't understand these hard

17 black lines is what I was delaying on. I

18 don't know what those mean. Those are not

19 sewer lines, to my recollection.

20 Q Right. And you don't have any current

21 knowledge of the numbering system that this

22 map appears to employ?

23 A No.

24 Q Can you identify Dead Creek on this

25 map?

1 A Only by what is written here on the
2 right-hand side of this.

3 Q Okay. And is that consistent with
4 your recollection as to where Dead Creek was
5 located in relation to the Krummrich facility?

6 A That piece of it.

7 Q That would be the northern end of Dead
8 Creek?

9 A That's correct.

10 Q You testified that it was your
11 understanding that Cerro discharged into Dead
12 Creek, and that discharge was then taken into
13 the village sewer system?

14 A Yes. I think what I said was that my
15 understanding was that part of their flow from
16 the plant came out this end of the plant, what
17 I referred to as the back end of the plant.

18 Q Which would be the eastern edge of the
19 plant? Here is north.

20 A Yes. And into this area of Dead Creek
21 and then through the conveyance into the sewer
22 system.

23 Q And this map appears to depict a sewer
24 line running from the northern end of Dead
25 Creek into the 24-inch trunk line that sits on

1 Monsanto's property; is that correct?

2 A That's what it looks like.

3 Q And, again, is that consistent with

4 your recollection of the way that was

5 configured?

6 A Yes.

7 Q Is it your understanding that this

8 line that led from Dead Creek to the 24-inch

9 trunk line passed underneath the Alton &

10 Southern Railroad?

11 A I believe it did.

12 Q This 24-inch trunk line also accepted

13 or carried discharges from Monsanto production

14 processes; is that correct?

15 A Yes, it did.

16 Q Are you aware of which production --

17 are you aware of which production processes

18 had effluent that was carried through that

19 24-inch line?

20 A I don't recall the specific

21 relationship of the plant and the drainage, in

22 which sewers, and what went where.

23 Q Do you recall if effluent from the PCB

24 production operations was carried through that

25 24-inch line?

1 A Not specifically. I would have to
2 retrace the flow or try to figure it out.

3 (Plaintiff Deposition Exhibit Number 3
4 marked for identification.)

5 Q (By Mr. Ricci) Mr. Pierle, let me
6 show you a document that's been marked as
7 Exhibit 3 to your deposition, which is a copy
8 of a July 1, 1977, letter from Phocion Park to
9 Kaye Jacobs of the USEPA. That document has
10 Bates No. CER 014432 through 435, and I'll ask
11 you to take a look at that.

12 A Do you want me to read it in its
13 entirety?

14 Q You can read it in its entirety if you
15 are so inclined. My questions at this time
16 will focus primarily on the discussion on page
17 3.

18 A I generally reviewed the letter.

19 Q Who is Mr. Park?

20 A He was environmental counsel for
21 Monsanto Company.

22 Q You are shown as having received a
23 blind carbon copy of this letter; is that
24 correct?

25 A Yes.

1 Q Do you recall having seen this letter
2 before?

3 A I truly don't remember it.

4 Q Is it fair to say that you probably
5 did receive a copy of this letter at or around
6 July of 1977?

7 A I would assume so.

8 Q Do you recall the name Kaye Jacobs at
9 all?

10 A Only vaguely, that as described in
11 this letter, she was an attorney at the USEPA.

12 Q Do you recall Mr. Park having any
13 involvement in the PCB discharges to the
14 effluent from the Krummrich facility?

15 A I think during this time period, in
16 his capacity he was involved in -- would have
17 been representing or involved in Monsanto
18 internal discussions.

19 Q And also I assume from the letter at
20 least communicating to the USEPA?

21 A Yes.

22 Q You were manager of environmental
23 protection in July of '77; is that correct?

24 A That's correct.

25 Q And am I correct in assuming that you

1 received this letter in conjunction with your
2 responsibilities in that position?

3 A I would assume so.

4 Q Do you believe the representations
5 that Mr. Park makes to the EPA in this letter
6 to be true and accurate?

7 A Are you asking for an independent
8 verification or would I think Mr. Park would
9 send something that wasn't true and accurate
10 or?

11 Q The latter.

12 A I don't have any reason to believe
13 that he would send anything that was untrue or
14 inaccurate.

15 Q If you look at page 3 of the letter,
16 the first full paragraph at the top of the
17 page, it looks to be blocked and indented, the
18 paragraph that begins, "This project does not
19 directly affect the sewer system."

20 A Okay.

21 Q He is discussing in that paragraph the
22 effluent from the PCB production facility. Do
23 you see that?

24 A Yes.

25 Q He indicates that the effluent flows

1 south on the map across area four, and west in
2 a 24-inch trunk line leaving the plant and
3 flowing into the Village of Sauget sewer
4 system.

5 Do you know if the area four discussed
6 in this letter is the No. 4 area within bold
7 lines as shown on Exhibit 2?

8 A I don't know that for a fact.

9 Q Can you tell if the flow from the PCB
10 production department as described in
11 Mr. Park's letter that you were copied on is
12 consistent with the sewer system that's
13 depicted on Exhibit 2?

14 A My recollection is that that is
15 probably what this is referring to, flow into
16 this area. The only thing I'm not certain
17 about is what is this back here which appears
18 to be connected to this 24-inch which goes on
19 out?

20 Q This back here? You are referring to
21 the line north of the bold-faced line that
22 depicts area four?

23 A Yes.

24 Q Does it appear to you that at least
25 some of the effluent from Department 246 is

1 proceeding out of Department 246 in a manner
2 as described in Mr. Park's letter?

3 A Yes.

4 Q Would it be fair to say then that that
5 effluent ultimately enters the 24-inch trunk
6 line that into which the line from Dead Creek
7 also flows?

8 A It appears that that's the
9 configuration.

10 Q And that's as Mr. Park's described it
11 in his letter of July 1, 1977?

12 A Yes.

13 Q Now, you indicated that it was your
14 understanding that effluent flowed north from
15 Dead Creek through the line that's depicted as
16 leaving from Dead Creek to the 24-inch trunk
17 line and then into the trunk line and on to
18 the village treatment plant; is that correct?

19 A Yes.

20 Q On this map you will see that there
21 are arrows that are placed on the line that
22 runs from Dead Creek to the 24-inch trunk
23 line, and there are arrows pointing both north
24 and south. Do you see that?

25 A Yes.

1 Q Do you know what those arrows depict?

2 A I do not.

3 Q Do you have any knowledge that there
4 was ever any flow south from the 24-inch trunk
5 line under the Alton & Southern railroad
6 tracks and into Dead Creek?

7 A I don't recall that the -- you know,
8 the configuration as I recall was these sewers
9 were the ones we talked about earlier. The 24
10 and the 36 that we sampled were free flowing
11 sewers, always flowing in that direction in
12 dry weather conditions.

13 Q When you say "all flowing in that
14 direction," you are talking about west?

15 A West.

16 Q East to west?

17 A That's correct, west towards the
18 treatment facility, pump station and treatment
19 facility. And I don't know what that arrow is
20 intended to depict. I really don't know what
21 would have happened during storm flow, rain
22 flow conditions and that. I don't know.

23 Q That was my next question. You
24 indicated that the flow was generally to the
25 west in dry weather conditions. Are you aware

1 of any situations where the direction of the
2 flow changed during storm events?

3 A No.

4 Q Are you aware of the fact that -- let
5 me withdraw that. Are you aware of whether
6 Dead Creek ever served as a surge pond in
7 situations where the village sewer system
8 became surcharged or backed up as a result of
9 rain events?

10 A I know that Dead Creek had elevation
11 changes at times associated with it.

12 Q You mean changes in the water level?

13 A Of the water level, and I would have
14 assumed that those would have been relative to
15 runoff and collection. I thought there was a
16 village pipe that came in here someplace as
17 well. Maybe that's what that one is and it
18 doesn't show it, but it came into that sewer
19 system as well.

20 There was also at some point in time a
21 pressure connection somehow here, from back on
22 from this arrow at a point in time, and I know
23 that down here at the end of or at whatever
24 this road was, that there was virtually sort
25 of a discontinuous flow that had sort of

1 isolated that section of Dead Creek.

2 Q How did you become aware of this
3 pressure connection relating to Cerro's flows?

4 A I just recall standing back in this
5 area somewhere talking about or discussing
6 that. I don't recall the specifics of it. I
7 know that Cerro's waste was in part out here.

8 Q When you say "out here," you are
9 talking about near Route 3?

10 A To the Route 3 end, but also
11 discussion of where their waste might go.
12 There was just a remembrance of discussions
13 that they had flows that were pumped up
14 towards this end, and I just assume that would
15 have eventually gone across and into the sewer
16 line.

17 Q When you say "pumped up towards this
18 end," you are referring to the north end of
19 Dead Creek?

20 A I believe that's what I recollect
21 remember seeing.

22 Q Were these discussions back in the '66
23 to '70 period or sometime after that?

24 A They would have been prior to my
25 leaving in '70.

1 Q Do you recall the context of these
2 discussions?

3 A I don't.

4 Q Do you recall actually being out there
5 at the northern end of Dead Creek and looking
6 at the connection?

7 A Yes, with some sort of a box or
8 something there that flowed in. I'm not
9 completely clear on it. From time to time as
10 a part of the village and the treatment plant,
11 we had to do flow measurements and solids
12 measurements on who was discharging what as
13 part of the rate structure. And, again, my
14 sense was then I had to have a general
15 understanding of what was going on. That's a
16 hazy remembrance of what the situation was
17 there.

18 Q Do you recall actually being in the
19 vicinity of the north end of Dead Creek with
20 anyone from Cerro?

21 A I don't specifically remember who it
22 was or whether it was a Monsanto person or
23 somebody from the village, or I just don't
24 recall.

25 Q Were you aware of any studies by

1 engineers from Monsanto in the 1960s that
 2 indicated that during certain rainfall events,
 3 there was actually flow from the 24-inch line
 4 south through the line underneath the Alton &
 5 Southern Railroad and into Dead Creek?

6 A No.

7 Q Are you familiar with an individual by
 8 the name of J. W. Kaske?

9 A I remember the name.

10 Q Do you recall that he was a Monsanto
 11 employee?

12 A In our -- I believe he was in the
 13 central engineering department.

14 Q That would be company headquarters?

15 A Yes.

16 Q Do you recall any works or documents
 17 prepared by Mr. Kaske relating to the issue
 18 that I just described to you of flow south
 19 from the 24-inch trunk line into Dead Creek?

20 A No.

21 Q Are you familiar with an individual by
 22 the name of C. N. Stutz?

23 A Yes.

24 Q What can you tell me about Mr. Stutz?

25 A I think he was Mr. Kaske's boss or his

1 boss's boss.

2 Q Are you aware of any efforts by

3 Monsanto in the early or mid '60s to maintain

4 the ability of the village sewer system to in

5 effect back flow south under the Alton &

6 Southern Railroad and into Dead Creek during

7 periods of rainfall?

8 A No.

9 Q The sewer system that serviced the

10 Monsanto plant was a combined sewer system,

11 was it not, combined to accept both storm

12 water and processed discharge?

13 A Yes.

14 Q If there was back flow from this

15 24-inch trunk line under the Alton & Southern

16 Railroad and into Dead Creek, is it fair to

17 say that that back flow would include both

18 storm water and process water from the

19 Monsanto Krummrich facility?

20 A I don't know. I mean that would be

21 pure speculation, and it would be based on the

22 hydraulics and the flows and where the water

23 was. I mean water is generally going to

24 always tend to run downhill, and that's

25 downhill to the west. I couldn't make an

1 assumption about where the water flows or went
2 from where. I couldn't do that.

3 Q But in any event, there was no --
4 irrespective of whether there was flow south
5 into Dead Creek or north from Dead Creek into
6 the trunk line, there was no way for Monsanto
7 to separate its process waste water from storm
8 water runoff insofar as both of those streams
9 were traversing through this 24-inch trunk
10 line that connected up to the line connecting
11 to Dead Creek?

12 A No.

13 Q Clear it out of the way for a moment.

14 MR. HEINEMAN: Are you sure of your
15 answer?

16 MR. RICCI: Why don't you read back
17 the last question.

18 MR. HEINEMAN: There was a double
19 negative in there.

20 (The requested portion of the
21 record read by the reporter)

22 A My answer was I wasn't sure.

23 Q (By Mr. Ricci) Let me rephrase that
24 question. Could Monsanto separate its process
25 work water from its storm water that was

1 running through the 24-inch trunk line?

2 A No.

3 Q That line got them both?

4 A Well, for the areas that it drained.

5 Q Right. And so it would have received

6 both processed water, for instance, from the

7 PCB production department and storm water from

8 that area as well?

9 A Well, and all the other flows and the

10 flows from the village and the flows from

11 Cerro and all of the rest of that.

12 Q Right. I was just taking that as an

13 example.

14 A What do you want me to say? Yes

15 again?

16 Q I just want you to tell the truth,

17 Mr. Pierle, that's all. I think it is clear.

18 (Discussion off the record)

19 (Plaintiff Deposition Exhibit Number 4

20 marked for identification)

21 Q (By Mr. Ricci) Mr. Pierle, let me

22 show you a document that we have marked as

23 Exhibit 4 to your deposition. This is a

24 document with Bates No. CER 011109. And I

25 will just ask you to take a look at it.

1 A I have read the memo.

2 Q Now, this is a March 4, 1969, memo
3 prepared by Mr. Buckley. And as I recall your
4 testimony from this morning, in March of '69
5 Mr. Buckley was your superior and you were an
6 engineer one or an engineer two?

7 A Yes.

8 Q One of those two. Do you recall --
9 Exhibit 4 shows you as being copied on it. Do
10 you recall receiving a copy of this memo?

11 A Not particularly.

12 Q Do you recall the issues discussed in
13 the memo?

14 A Yes.

15 Q Do you recall whether you had any
16 involvement with Mr. Buckley in the
17 preparation of this memo?

18 A I don't recall that.

19 Q In the first paragraph of the memo,
20 there is a discussion of an outburst of press
21 regarding the toxic effects of aroclors?

22 A Yes.

23 Q And aroclors are PCBs, correct?

24 A I don't recall the specific
25 nomenclature used, but certainly there were

1 PCBs that were aroclors.

2 Q Were there PCBs that were not
3 aroclors?

4 A I don't know. I just don't know if
5 the two are absolutely synonymous and equal.

6 Q Okay. The memo doesn't use the term
7 bioaccumulation, but it discusses a concept
8 that I believe is consistent with the term
9 bioaccumulation. Is that a fair statement?

10 A Based upon my knowledge at this time?

11 Q Well, based upon your knowledge either
12 -- well, yes. That's a good characterization
13 of it.

14 A I don't think at that time that issue
15 or that characterization would have meant much
16 to me.

17 Q That really is what I was going to ask
18 you is if you had any awareness of the concept
19 of bioaccumulation or the concept of chemicals
20 that are persistent in the environment
21 building up in the tissues of higher
22 organisms?

23 A All that I was generally aware of was
24 that there were, as this describes,
25 information appearing or allegations about

1 impact of PCBs as detected in, as I recall,
2 bird eggshells, thinning of eggshells,
3 something to that effect. And it was an issue
4 that was taken very seriously within the
5 company.

6 And this seems to describe, you know,
7 an effort to understand its impact and
8 tightened up plant operations were necessary
9 to reduce losses if they were occurring.

10 Q Had you been aware of the similar
11 environmental concerns that had been raised
12 regarding the pesticide DDT?

13 A It wasn't something that I, you know,
14 concentrated on.

15 Q Just maybe what you read in the papers
16 or whatever?

17 A Yes.

18 Q There is a list of proposals that
19 Mr. Buckley makes in this memo. And one of
20 the proposals is to engage in some sampling,
21 and that's in paragraph one. He talks first
22 about sampling sewers. Do you know if that
23 reference is to plant sewers or village sewers
24 or both?

25 A My recollection is that we did both.

1 Q And he talks about sampling the
2 outfall. Do you know what that references?

3 A Not specifically.

4 Q He talks about sampling upstream and
5 downstream river water and sludge. Well, I
6 don't know if that's fair or not. It is
7 upstream and downstream river water and sludge
8 from river and treatment plant.

9 First, let me ask you do you know when
10 he talks about upstream and downstream, do you
11 know if he was talking about upstream and
12 downstream from what?

13 A Well, I would assume that this is the
14 point of entry of the village sewer into the
15 Mississippi River. And therefore that could
16 be what the outfall designation is.

17 Q So that may be the outfall of again
18 the village into the Mississippi River. By
19 March of 1969, the village was operating the
20 primary treatment plant?

21 A Yes.

22 Q Do you know if they just had one
23 outfall into the river?

24 A Yes.

25 Q They did have one outfall into the

1 river?

2 A Yes.

3 Q He talks about sludge from the river.

4 Do you know if he is talking about sediments
5 there?

6 A Again, I would probably interpret it
7 that way.

8 Q Did you have any role in implementing
9 Mr. Buckley's proposal with respect to these
10 sampling activities?

11 A I remember spending a fair amount of
12 time on it both within the department and at
13 the waste treatment plant to try to tie this
14 down.

15 Q Do you recall taking samples from the
16 river?

17 A I don't remember going out there and
18 doing it.

19 Q Do you remember it being done?

20 A I'm pretty sure it was.

21 Q Water and sediments?

22 A That I'm not sure of. It seems to me
23 that we just described, talked about the
24 sediments. I don't know whether we were doing
25 water or not.

1 Q You are pretty sure you were doing
2 sediment but not sure if you were doing water?

3 A Yes.

4 Q How were these different categories of
5 locations determined?

6 A Which are you referring to?

7 Q The sewers, the outfall, upstream and
8 downstream from the river, sediment from the
9 river and the treatment plant, and how was it
10 determined that those were the areas that you
11 wanted to sample?

12 A Well, this doesn't give the specific
13 locations, but my sense is you want to find
14 out, you know, where it is coming from, what
15 is going on in the treatment plant, what's
16 going out the outfall, and if you sample in
17 the sediments upstream and downstream, is
18 there any differentiation or is there any
19 difference between PCB levels in those two
20 areas.

21 Q So basically you are looking at where
22 the PCBs might be coming from and where they
23 are going?

24 A Yes.

25 Q In relation to the sewer system?

1 A Yes, for Monsanto.

2 Q Right. Did you have any knowledge at
3 this point in time as to whether the primary
4 treatment plant had any ability to remove PCBs
5 from Monsanto's effluent?

6 A As I recall the work that went on
7 here, there was a general understanding that
8 PCBs were heavier than water, that they would
9 settle out, and that it would likely be that
10 if they were in the sewer system, then it
11 would be logical to assume that they were
12 being removed in the waste treatment plant.

13 Q Before discharge?

14 A Before discharged to the river.

15 Q Did sampling ultimately reveal that
16 that was not the case?

17 A I don't recall the specific test
18 results and what we found or what we didn't
19 find.

20 Q If you had been aware of back flow
21 from the 24-inch trunk line into Dead Creek,
22 would you have recommended sampling Dead Creek
23 sediments for PCBs?

24 A I think the probable -- I don't recall
25 that scenario, that question coming up. I

1 mean thinking about it now, it would have
2 seemed consistent with our thought that these
3 were heavier than water. They are going to
4 flow generally in the area of the sewer, that
5 they are going to be in the bottom of the
6 sewer moving their way along. Independent of
7 what the water is doing, they are going to be
8 moving on down to the treatment plant, and
9 that's where they ought to be if they are
10 found. Their solubility in water was so low
11 that I wouldn't think that anyone would have
12 expected these things to be up in the water.
13 I think that's again part of the reason to
14 focus here on sludges, because that's where
15 you would find it. You find it in the heavier
16 materials.

17 Q So based upon that understanding, it
18 would be likely that the primary treatment
19 plant would be fairly effective at removing
20 PCBs from the discharge?

21 A One would think that it would be.

22 Q In paragraph two of Mr. Buckley's
23 memo, he talks about discontinue sewerage
24 spent aroclors within the plant. Do you know
25 what he is talking about there?

1 A In a couple of the departments, and I
2 don't remember the numbers and that, there
3 were some heat transfer systems that were
4 periodically what they called spent or used
5 up, and they would have to be removed and
6 replenished with fresh material.

7 And I don't know specifically whether
8 this was -- this memo looks here to be some
9 general guidance on some things that could
10 happen and you ought to consider, if it is
11 happening don't do it. I don't know that it
12 is predicated on, you know, knowledge in fact
13 that these things were going on, but it was
14 more about here are some things -- that's the
15 way it reads to me. Here are some things that
16 could go on, and this is what you ought to do
17 about it.

18 (Plaintiff Deposition Exhibit Number 5
19 marked for identification.)

20 Q (By Mr. Ricci) Mr. Pierle, let me
21 show you a document that's been marked as
22 Exhibit 5 to your deposition and ask you to
23 take a look at it. It is a document with
24 Bates No. CER 010897.

25 A I have perused the note.

1 Q Okay. This is a September 9, 1969,
2 memo from Mr. Bigge to Mr. McCutchan. Who was
3 Mr. Bigge?

4 A I remember him as an engineer in the
5 plant engineering department.

6 Q Plant engineering was different than
7 technical services?

8 A I believe it was.

9 Q And who was Mr. McCutchan?

10 A Not sure.

11 Q You are shown as being copied on this
12 memo, as is Mr. Buckley. Do you recall having
13 received a copy of this memo?

14 A Yes, I do.

15 Q Do you recall anything specific about
16 this memo or the issues discussed herein?

17 A I remember specifically working with
18 Mr. Bigge around the aroclor department and
19 some work that we were jointly doing to try to
20 understand where PCBs were, especially in the
21 sewer systems and around the area, and what we
22 might do from a collection and removal point
23 of view at the point of loss.

24 And what this memo, I believe,
25 describes was the set of recommendations to

1 put in improvements within the department to
2 try to capture or at least provide protection
3 to prevent the loss of free aroclors to the
4 sewer.

5 Q Were you involved in developing these
6 recommendations?

7 A Yes.

8 Q If you will look at the last page of
9 the exhibit, there is a map with various items
10 appearing to be written in on the map, sort of
11 overdrawn on the map. Is that your
12 handwriting?

13 A No. Wait a minute. Let me -- are you
14 referring to these?

15 Q I'm referring to, for instance, where
16 it says in the upper, left-hand corner, "Flows
17 to existing sewer, proposed settling basin."

18 A No. That is not.

19 Q Does your handwriting appear anywhere
20 on this memo?

21 A It appears to me that the notations on
22 page 1 are mine.

23 Q All of them?

24 A The handwritten --

25 Q Right.

1 A -- notations.

2 Q Right.

3 A I'm not sure about the brackets up at
4 the top, but the balance of that does appear
5 to be mine.

6 Q And that little arrow next to your
7 name would indicate that this was actually --
8 this is actually a copy of your copy of the
9 memo?

10 A Yes. Well, it is a copy or a copy of
11 a copy.

12 Q Okay. The first paragraph talks about
13 the main process area, old and new. And I
14 would just ask you to review that. If you
15 haven't already done so, review that paragraph
16 in a fair amount of detail because I would
17 like to ask you a couple questions about it.

18 A This paragraph one?

19 Q Yes.

20 A Okay.

21 Q Can you identify on the map that's
22 attached to this memo the old and the new
23 process areas referred to in that first
24 paragraph?

25 A That's not nomenclature that means

1 much to me. I'm having trouble getting
2 oriented on this thing.

3 Q There is a directional indicator in
4 the upper, right-hand corner. I don't know if
5 you saw that. Would it help you to refer to
6 one of these larger maps?

7 A No, I don't think so. What was your
8 question again?

9 Q My question was whether you could
10 identify the old and the new process areas as
11 discussed here.

12 A No. It doesn't strike anything that's
13 meaningful to me.

14 Q Okay. They talk about a plan to
15 intercept the main sewer running south from
16 the department with the settling basin. Can
17 you identify that settling basin on the map?

18 A I believe it is the area in the lower,
19 left-hand corner or what would be the
20 southwest corner of the map.

21 Q So it is where it says, "Proposed
22 settling basin"?

23 A Yes.

24 Q Were you -- according to this drawing,
25 it appears that there is an existing trench

1 and that the flow goes from that trench south
2 into a box and then west into another box and
3 then south; is that correct?

4 A Yes.

5 Q And this settling basin was going to
6 be installed at the southern terminus of the
7 line as it appears on this map?

8 A Yes.

9 Q Not to say that that's the terminus of
10 the sewer.

11 A Yes.

12 Q Is it fair to say that -- let me
13 withdraw that. Was that settling basin ever
14 installed?

15 A I believe it was.

16 Q Is it fair to say that prior to the
17 installation of that settling basin, the flows
18 from what are labeled the existing trench went
19 straight into the sewer system without any
20 efforts to remove the PCBs?

21 A When we began this exercise, I recall
22 us -- these were very shallow trenches that
23 were designed principally to pick up pump
24 condensation and waters that would be
25 relatively low flows for the most part, but

1 they were shallow. You could see in them.

2 They were maybe a couple of feet deep.

3 And I recall that when we began this

4 exercise, one of the first things we did was

5 to put sort of a wood barrier into these to

6 let the water actually build up and fall over,

7 and we were collecting amounts of aroclors in

8 the trenches. And then this became a more

9 permanent facility that caught, you know,

10 water from -- trying to now pick up water from

11 the sewers and the trenches throughout the

12 department.

13 Q This wood baffle or weir that you were

14 talking about was installed sometime in or

15 around 1969?

16 A Yes.

17 Q In response to the concerns that had

18 been raised about PCBs into the environment?

19 A Yes.

20 Q But before the installation of the

21 settling basin?

22 A Well, I think the actions that were

23 under way before then is what we talked about,

24 the heavy tars and the heavy concentrated --

25 where there were known and expected losses to

1 have been occurring, they were already taken
2 off and taken to the landfill.

3 Q Okay. I'm just trying to understand.

4 A I think the general assumption would
5 have been around here, that most of the rest
6 of these water streams couldn't carry much
7 unless you had a spill or a leak because the
8 stuff should have been in the process.

9 So what we were doing beforehand was
10 running the department, taking off what were
11 known to be concentrated materials to the
12 landfill. The rest were thought to be waters
13 from the process that were going out the
14 sewers, and I think once we began to take a
15 further look, we began to see some free
16 materials, and then put this basin in as the
17 next measure to collect any of the free
18 separable materials.

19 Q First putting aside the off-site or
20 nonsewer disposal of the heavier materials,
21 the heat transfer fluids, for instance, let's
22 just put that to the side for a second.

23 Just with respect to the sewer
24 discharge from Department 246, the first
25 control mechanism that you installed was this

1 wood weir or baffle in what's labeled the
2 existing trench. Is that true?

3 A That's the first thing that I'm aware
4 that we did after the --

5 Q The concerns were raised?

6 A The prior letter raising the issues.

7 Q And you put one in at the southern end
8 of the existing trench that runs north and
9 south in the area west of the building labeled
10 Department 246?

11 A Yes. I thought we had one in sort of
12 this trench here, the one that runs east and
13 west.

14 Q I was going to ask you about that
15 next.

16 A At the bottom. I guess my memory is
17 less clear on this trench.

18 Q You recall putting one in at the
19 western end of the trench at the bottom of
20 this map, but you have a less clear
21 recollection of putting one in at the southern
22 end of the trench that runs north/south?

23 A That's correct.

24 Q And the weir or the baffle was
25 installed prior to the installation of these

1 settling basins that are discussed here?

2 A Yes.

3 Q And prior to the March 1969 memo from

4 Mr. Buckley that raised the concerns about

5 PCBs, neither the weir nor the settling basins

6 had been installed; is that correct?

7 A Yes.

8 Q You indicated that when you put in the

9 weir, it appeared that it was successful in

10 restricting the flow of PCBs into the sewers;

11 is that correct?

12 A Yes.

13 Q And was the settling basin also

14 successful in limiting the flow of PCBs into

15 the plant sewer system?

16 A I'm less clear on that. I was

17 personally involved with this bit of work on

18 sort of the project engineering studies and

19 work. I was not involved in the operational

20 start up or performance of the settling basin.

21 Q You had transferred out by the time it

22 got installed?

23 A Well, it would have been the

24 department's responsibility. I don't know

25 whether I was still at the plant or not. I

1 don't recall the precise date of completion of
2 that project.

3 Q Prior to the installation of the weir
4 in the trench, is it fair to say that any PCBs
5 that existed in that trench would flow
6 unencumbered into the sewer system?

7 A Again, I don't know whether there was
8 anything else being done in the department or
9 not. I mean I was not aware of anything else.

10 Q These trenches, did they -- were they
11 open or were they grated, grated with a T?

12 A They were grated, and you could walk
13 on top of them.

14 Q So they would accept storm water as
15 well as process water?

16 A As I recall this area, it may have
17 been within the perimeter, and there was just
18 mainly water. I don't recall much water in
19 this ditch, high volumes.

20 Q The memo refers -- the memo states the
21 plan is to intercept the main sewer running
22 south from the department with the settling
23 basin. Do you know why the line leading into
24 the settling basin that you pointed out to us
25 previously was referred to as the main sewer?

1 A As I recall, these trenches picked up
2 basically materials that might, you know, leak
3 out of pumps or whatever in these particular
4 areas that had lower flows. The sewer line, I
5 believe, contained a drowning jet that
6 contained higher volumes of water, and that
7 did not go into these sort of surface drainage
8 trenches.

9 Q But it did exit into the sewer system
10 at the same point as the trenches did? In
11 other words, the drowning jets did pass
12 through what's labeled as the proposed
13 settling basin in the lower, left-hand corner
14 of the map?

15 A I believe that was the intent of this
16 project and the design.

17 Q It wasn't necessarily designed
18 strictly for the trenches. It was also
19 designed for the drowning jets?

20 A That's correct.

21 Q Can you tell me where the chlorinators
22 were on this map?

23 A No. I really can't.

24 Q Have you ever heard of an apparatus
25 known as the blow tank?

1 A No.

2 Q So I guess you can't tell me where it
3 is, can you?

4 A No, I can't.

5 Q Are you aware of whether any of these
6 circles on the map indicate storage tanks?

7 A No. I really don't recall the
8 physical layout of the department.

9 Q Directing your attention back to
10 Exhibit 2 to your deposition, can you tell me
11 or can you identify on Exhibit 2 -- can you
12 pick up on Exhibit 2 the flows from the
13 proposed settling basin that appears in the
14 lower, left-hand corner of the map that's
15 affixed to Exhibit 5?

16 A I really can't specifically.

17 Q Let me try another one.

18 MR. RICCI: Let's mark this.

19 (Plaintiff Deposition Exhibit Number 6
20 marked for identification.)

21 Q (By Mr. Ricci) Mr. Pierle, let me
22 show you a document that's been marked as
23 Exhibit 6 to your deposition. It is a map
24 that was produced by Monsanto in this
25 litigation with Bates No. CER 111933.

1 And according to the legend, at least,
2 it is a map of section four sewer map, and I
3 would ask you to just take a look at that and
4 see if you can orient yourself and then tell
5 me to the best of your ability where the
6 proposed settling basin that appears in the
7 bottom, left-hand corner of the third page of
8 Exhibit 5 would appear, if at all, on
9 Exhibit 6.

10 And just for your information, the
11 date of Exhibit 6 appears to be May of 1972
12 with then some subsequent provisions.

13 A Well, I would believe it is in this
14 area, because the two points are the two
15 trenches. And I believe laying the maps near
16 one another would indicate that it would have
17 been in that area. I have no idea if that is
18 intended to be it or not.

19 Q Okay. But at least based upon your
20 review of the two maps, it looks like it is in
21 the area of the manhole that appears to be
22 labeled 4AA2; is that right?

23 A Well, whatever that square is.

24 Q Okay. That square is labeled 4AA2.
25 If you could review -- referring back to

1 Exhibit 5, the memo, if you could please
2 review the paragraph labeled No. 2 on the
3 first page.

4 A I have read it.

5 Q Can you identify on the map that's
6 attached to Exhibit 5 the area that's
7 discussed in paragraph 2?

8 A Could you repeat the question?

9 Q Can you identify on the map that's
10 attached to this Exhibit 5 the area that's
11 discussed in paragraph 2 of the memo?

12 A I believe it is the area at the top of
13 the exhibit.

14 Q Okay. The proposed settling basin in
15 the upper, left-hand corner?

16 A I believe as I read it, it talks about
17 catch drainage, catch pans and settling
18 basins, so I think it describes the area at
19 the north or at the top of this exhibit.

20 Q So moving from northwest to southeast,
21 there is a proposed settling basin, and then
22 there is proposed catch pans, and then there
23 is a proposed trench. Do you see that?

24 A Yes.

25 Q And those are the devices that are

1 referred to in this paragraph 2?

2 A Yes.

3 Q Can you explain the situation in this

4 area -- well, let me withdraw that. Do you

5 know whether the recommendations discussed in

6 this memo were actually implemented?

7 A I believe I remember observing the

8 placement of the catch pans and the basin out

9 on this north side. This was a loading area.

10 And the pans were beneath the loading areas,

11 and then they collected the flow into the

12 settling basin and then on to the sewer.

13 Q Can you describe what the situation

14 was in this area prior to the installation of

15 those apparatuses?

16 A I believe this was open ground. This

17 was put in as a protection device in the event

18 of spillage or over flowing during filling

19 operations.

20 Q What happened to that spillage or over

21 flowing, if anything, prior to the

22 installation of these catch pans and drainage

23 basins?

24 A I don't know.

25 Q Can you direct your attention next to

1 paragraph 3 of the memo, on page 2.

2 A I have read this.

3 Q Can you identify where on the map the
4 proposed changes discussed in paragraph 3 are
5 depicted?

6 A In reading it and looking at it, it
7 would seem to indicate to me that it is the
8 area sort of on the east side of this drawing.

9 Q Where there is written in "proposed
10 roadway" and then "new sewer"?

11 A Yes.

12 Q Kind of cut off on this copy.

13 A Yes. And it may also pick up -- it is
14 difficult to tell from the memo which proposed
15 trench goes with which system.

16 Q Is it fair to say that you did not
17 have -- go ahead.

18 A I'm trying to interpret the memo and
19 the drawing, and I'm not reflecting firsthand
20 memory of this.

21 Q Okay. Is it fair to say you do not
22 have a very clear recollection of the
23 configuration of the PCB production
24 department?

25 A Yes. All I remember is sort of

1 describing this was the principal production
2 department. This was the product loading area
3 that was out to the north side of that because
4 that's where the rail tracks were and the
5 loading docks, and that's about the extent of
6 what I remember from a factual basis.

7 Q So that the record is clear, the
8 "this" that we are referring to is the
9 production department and is the area in sort
10 of the southwest quadrant of this map. Is
11 that a fair statement?

12 A Did you describe it as the southern
13 half of this?

14 Q I said the southwest quadrant. Maybe
15 a better description would be the southern
16 half.

17 A It looks like it encompasses most of
18 that.

19 Q Maybe over to the area that's labeled
20 the east tank farm?

21 A Yes. That was basically the areas
22 covered by the existing trenches or the items
23 identified as existing trenches.

24 Q In paragraph 5 of this memo there is a
25 discussion of tank car loading spots west of

1 Department 254 not shown on sketch. Do you
2 recall where Department 254 was? Is that the
3 rip track?

4 A I don't believe so. I believe it was
5 on one of the drawings, wasn't it?

6 Q I don't know. I don't have a
7 recollection of it. I will let you take a
8 look though. Do you know if it was this one
9 or the earlier one?

10 A I don't recall.

11 Q Okay. So it is depicted on the map
12 that we have marked as Exhibit 1 to your
13 deposition, basically due west of the building
14 on that map that's labeled 246?

15 A Yes.

16 (Plaintiff Deposition Exhibit Number 7
17 marked for identification.)

18 Q (By Mr. Ricci) Mr. Pierle, let me
19 show you a document that's been marked as
20 Exhibit 7 to your deposition with Bates
21 No. CER 013924.

22 A Do you want me to read this or?

23 Q Why don't you focus first on the first
24 page, and then we can move on from there.

25 A I have read this.

1 Q Is this a document that you prepared?

2 A Yes.

3 Q Do you recall preparing this document

4 or do you recall the issues raised in this

5 document?

6 A Yes.

7 Q Yes to both?

8 A Yes.

9 Q In the summary paragraph on the first

10 page, there is a statement, "Department 245 is

11 now hauling 3,600 to 4,800 gallons a year of

12 spent aroclor to the Monsanto landfill." Do

13 you see that?

14 A Yes.

15 Q Prior to 1969, was Department 245

16 discharging this spent aroclor into the

17 sewers?

18 A I don't recollect if that's what the

19 conclusion was or not.

20 Q Well, you say, "Department 245 is now

21 hauling 3,600 to 4,800 gallons a year of spent

22 aroclor to the Monsanto landfill. The

23 remaining major source of aroclor in the sewer

24 is Department 246."

25 If the remaining major source of

1 aroclor in the sewer is Department 246, does
2 that suggest to you that there was an
3 additional source of aroclors in the sewer
4 that was eliminated?

5 A It could be read that way. I just
6 don't recall whether or not that, you know, if
7 it occurred every year or I don't recall the
8 details around what was coming out of 245.

9 Q Do you recall the type of aroclor that
10 was being used in Department 245?

11 A No, I do not.

12 Q Do you recall if it was being used as
13 heat transfer fluid?

14 A I believe it was or at least as a heat
15 transfer fluid. I don't know in what kind of
16 system.

17 Q Do you recall if it was Therminol?

18 A I do not.

19 Q Are you familiar with a product by the
20 name of Therminol?

21 A Yes, but only in the context that, as
22 I said before, I wasn't spending a lot of time
23 differentiating between PCB, aroclors,
24 Therminols or what those names meant or
25 whether they were the same.

1 Q You were more concerned basically with
2 the gross PCBs into the sewer?

3 A Trying to understand where we had PCB
4 losses, that's correct.

5 Q Do you understand this memo to be
6 discussing PCB losses to the sewer from
7 Department 245?

8 A As I said, I don't remember the
9 specifics around this. I think as you read
10 the letter as written, you could read it that
11 way.

12 Q But you just don't have any
13 recollection?

14 A I don't recall the specifics about it.

15 Q No recollection of Department 245
16 dumping 3,600 to 4,800 gallons a year of spent
17 aroclor to the sewer?

18 A I don't -- I don't recall any. I
19 don't recall that.

20 Q Do you know how heat transfer fluid
21 becomes spent?

22 A My recollection of that is it meant
23 that heat transfer properties were no longer
24 within specs that were required at the using
25 department.

1 Q On page 2 of this memo under quantity,
2 you indicate that only two departments, 245
3 and 238, have to completely change out their
4 system on a routine basis. What do you
5 understand that to mean?

6 A Well, I think the system again refers
7 to the heat transfer of fluids systems, and
8 that periodically they would have had to sort
9 of drain or empty and fill their system.

10 Q That would be these two departments
11 that you mentioned in --

12 A Yes.

13 Q -- paragraph B1? Do you know if other
14 -- let me withdraw that. As part of the PCB
15 control program that you were implementing,
16 there was a decision that the department
17 should no longer sewer spent heat transfer
18 fluids; is that correct?

19 A I think the general decision was to
20 try and find out where we may have losses that
21 could be going to the sewer and find a way to
22 stop them.

23 Q Was one of the losses that you recall
24 sewerage of heat transfer fluids? Not this
25 specific incident which you already said you

1 don't have a recollection of, but just

2 generally?

3 A I don't recall the details around the

4 systems in terms of a personal involvement and

5 observation on those. I think that the

6 document refers to -- referred earlier to

7 information based on use, based on how much

8 they knew they were putting in as opposed to,

9 you know, going out and sampling like we were

10 trying to do in the aroclor department, what

11 was being lost out of the production unit.

12 Q On page 2 of the memo up at the top,

13 the second paragraph, you state, "The object

14 of this report is to summarize preliminary

15 information on the sources and quantities of

16 aroclor material in the WGK plant effluent."

17 Do you see that?

18 A Yes.

19 Q Under sources, you identify as one of

20 the departments using aroclors Department 245;

21 is that correct?

22 A Yes.

23 Q And then under quantity, you discuss

24 the fact that Department 245 uses 600 gallons

25 every one and a half to two months. Do you

1 see that?

2 A Yes.

3 Q Does that suggest to you that

4 Department 245 was a source of aroclors into

5 the sewers and that the quantity was 600

6 gallons every one and a half to two months?

7 A Well, again, the point of

8 differentiation here is that what we are

9 trying to find out is where was it being used

10 and what sources might it be used in.

11 We knew it was being used in these

12 departments in their systems. They had a

13 makeup or a use rate in these departments of

14 about this much. That means it was going

15 somewhere. There was not, to my knowledge --

16 this is what I'm trying to say -- confirmation

17 that it was going into the sewer.

18 I don't know where it was going, but

19 to the extent that it says these were being

20 changed out, then wherever it could be

21 drained, these materials then should be

22 collected in some fashion and taken I believe

23 it said to the landfill.

24 So the point of difference I think

25 that we are debating on is whether or not I

1 knew that this was going into the sewer. I
2 didn't know that for a fact there, but it was
3 being lost from the system. And the sewer is
4 one place it could have been lost to.

5 But this was preliminary information,
6 and I don't recall going out and verifying
7 that this stuff was actually, yes, we have
8 seen it leaving that unit and somebody is
9 opening it, and, yes, it is going into the
10 sewer.

11 Q Can you flip over to page 3 of this
12 memo. I'd like to direct your attention to
13 paragraph C1 down towards the bottom there.
14 And you state for Department 245 the aroclor
15 which previously had been sewered is now being
16 hauled to the Monsanto landfill?

17 A Uh-huh.

18 Q This amount amounts to a plant
19 reduction of 36 to 4,800 gallons a year. Does
20 that refresh your recollection that the heat
21 transfer fluid from Department 245 was going
22 into the sewers on a regular basis prior to
23 the institution of this PCB reduction program?

24 A Again, the difference I'm making here
25 is information that I was reporting that may

1 have been given to me as opposed to
2 information that I would have, can tell you
3 that I personally observed.

4 Q Okay. So you didn't observe 3,600 to
5 4,800 gallons of aroclors going into the sewer
6 from Department 245, but it was reported to
7 you that that's what was happening?

8 A That's what I'm reporting here.

9 Q Do you know where Department 245 is
10 located?

11 A I don't see any department markings on
12 here.

13 Q It is not on Exhibit 2. Let's see if
14 it is on -- it won't be on that one.

15 A I'm looking for a proverbial needle in
16 a haystack.

17 Q Let me see if I can help you. If you
18 can check on the area directly north of the
19 line from Dead Creek to the sewer system.

20 A It looks like that could be Department
21 245 there.

22 Q Is that consistent with your
23 recollection of where Department 245 was
24 located?

25 A I believe so.

1 Q Do you know where the sewers from
2 Department 245 entered the village sewer
3 system?

4 A No. 245 was, as I recall, and I think
5 is a department that makes phosphorous
6 pentasulfide. It was a solids operation, and
7 I don't remember spending much time in that
8 department as part of monitoring and
9 surveillance activities, because it was
10 inorganic material and didn't come up in what
11 we described earlier as monitoring programs.
12 I don't recall a lot of water and sewers and
13 all that down in that area.

14 Q After this discharge of the change
15 outs of the heat transfer fluids were
16 terminated, there was no further reason for
17 you to give any attention to 245?

18 A Well, I'm not sure I gave any before
19 that either. And I don't know where the
20 furnace was that serviced 245. I don't know
21 if it was right in the department or outside
22 or where the drain was or where it was. I
23 just -- as I said, I don't recall paying too
24 much attention to that particular area.

25 Q So I guess the answer to my initial

1 question, which is do you know where the
2 sewers from Department 245 entered the village
3 sewer system, would be no?

4 A That's correct.

5 MR. RICCI: Let's go off the record
6 for a second.

7 (Discussion off the record)

8 (Deposition continued)

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1 COMES NOW THE WITNESS, MICHAEL A. PIERLE,
2 and having read the foregoing transcript of
3 the deposition taken on the 28th day of June,
4 1994, acknowledges by signature hereto that it
5 is a true and accurate transcript of the
6 testimony given on the date hereinabove
7 mentioned.

8 _____
9 Michael A. Pierle

10

11 Subscribed and sworn to me before this ____
12 day of _____, 1994.

13 My Commission expires: _____

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17 Notary Public

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1 State of Illinois

2 SS.

3 County of Madison

4 I, Tracey Balsitis, a Notary Public in and

5 for the State of Illinois, duly commissioned,

6 qualified and authorized to administer oaths

7 and to certify to depositions, do hereby

8 certify that pursuant to Notice in the civil

9 cause now pending and undetermined in the

10 United States District Court, Southern

11 District of Illinois, to be used in the trial

12 of said cause in said court, I was attended at

13 the offices of Coburn & Croft, in the City of

14 St. Louis, State of Missouri, by the aforesaid

15 witness; and by the aforesaid attorneys; on

16 the 28th day of June, 1994.

17 The said witness, being of sound mind and

18 being by me first carefully examined and duly

19 cautioned and sworn to testify the truth, the

20 whole truth, and nothing but the truth in the

21 case aforesaid, thereupon testified as is

22 shown in the foregoing transcript, said

23 testimony being by me reported in shorthand

24 and caused to be transcribed into typewriting,

25 and that the foregoing pages correctly set

1 forth the testimony of the aforementioned
2 witness, together with the questions
3 propounded by counsel and remarks and
4 objections of counsel thereto, and is in all
5 respects a full, true, correct and complete
6 transcript of the questions propounded to and
7 the answers given by said witness; that
8 signature of the deponent was not waived by
9 agreement of counsel.

10 I further certify that I am not of counsel
11 or attorney for either of the parties to said
12 suit, not related to nor interested in any of
13 the parties or their attorneys.

14 Witness my hand and notarial seal at St.
15 Louis, Missouri, this 4th day of July, 1994.
16 My Commission expires January 24, 1995.

17 _____
18 Notary Public in and for the
19 State of Illinois

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