

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

JOHN R. SWIFT)
and BARBARA SWIFT,)
)
Plaintiff,)
)
-vs- CIVIL ACTION NO: CV-97-AR-2430-E
MONSANTO CO., INC., et al.)
)
Defendant.)

DEPOSITION OF DIANE HERNDON
TAKEN ON BEHALF OF THE PLAINTIFFS

NOVEMBER 22, 1999

=====

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3 JOHN R. SWIFT)
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 6 -vs- CIVIL ACTION NO: CV-97-AR-2430-E
 MONSANTO CO., INC., et al.)
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 Defendant.)
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9 DEPOSITION OF DIANE HERNDON, taken to
 10 be used in an action pending in the United
 11 States District Court, Eastern Division, Eastern
 12 District of Missouri, State of Missouri,
 13 pursuant to agreement between counsel, under the
 14 provisions of Rule 26(a) of the Rules of Civil
 15 Procedure, taken on the 22nd day of November,
 16 1999, between the hours of eight o'clock in the
 17 forenoon and six o'clock in the afternoon of
 18 that day in the offices of Summers, Compton &
 19 Wells, 8909 Ladue Road, St. Louis, MO, in a
 20 certain cause now pending in the United States
 21 District Court, Northern District of Alabama,
 22 Eastern Division, wherein Swift is Plaintiff and
 23 Monsanto is Defendant; on behalf of Plaintiffs.

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A P P E A R A N C E S

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I N D E X O F E X A M I N A T I O N S

P A G E

DIRECT EXAMINATION BY MS. MALOW 6

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2 IT IS STIPULATED AND AGREED by the
3 parties, through their respective counsel, that
4 the deposition of DIANE HERNDON, may be taken
5 before Christina J. Dunkel, CSR, as Commissioner
6 and Notary Public in the State of Missouri, on
7 November 22, 1999, and that the reading and
8 signing of the deposition transcript by the
9 witness is waived.

10

11

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

19

20

21 IT IS STIPULATED AND AGREED that
22 notice of filing by the commissioner is waived.

23

1 DIANE HERNDON,
2 of lawful age, being first duly sworn to tell the
3 truth, the whole truth, and nothing but the truth,
4 deposes and says on behalf of the Plaintiffs.

5 DIRECT EXAMINATION

6 BY MS. MALOW:

7 Q. Miss Herndon, we're here today to finish up
8 your deposition. Are ready to go forward?

9 A. Ready.

10 Q. You understand that you've taken the same
11 oath that you took the last time to tell the
12 truth and that the penalties of perjury apply
13 today?

14 A. Yes.

15 Q. Let me hand you Exhibit 40. I believe,
16 before the deposition, your lawyers indicated
17 that they didn't have a copy of that. So, I
18 assume you have not seen that yet?

19 A. That's right.

20 Q. Did you do anything in order to prepare for
21 this continuation of your deposition?

22 A. No.

23 Q. Did you look at any documents?

1 A. No.

2 Q. Have you had any conversations between the
3 time of your last deposition and today with
4 anyone other than your attorneys, about this
5 case?

6 A. No.

7 Q. Have you had any conversations with
8 anybody, other than your attorneys, about PCBs
9 since your last deposition?

10 A. No.

11 Q. I know you know where I'm going, but make
12 sure I get my own question out.

13 A. Sorry.

14 MR. PECK: We're not in that big of a
15 hurry.

16 BY MS. MALOW:

17 Q. All right. I'm going to skip around a lot
18 today because I'm going to cover some areas that
19 we covered before. If at any time I ask you
20 something that's confusing, just make sure to
21 let me know, and not answer, and I'll be sure to
22 rephrase it, okay?

23 A. Okay.

1 Q. Have you read any studies on PCBs since
2 your last deposition?

3 A. No.

4 Q. Have you had any conversations with anyone,
5 other than your attorneys, about the Anniston
6 site since your last deposition?

7 A. No.

8 Q. I want to go back to your education and
9 training. We had talked about the fact that you
10 obtained an MBA. What school did you obtain
11 your MBA from?

12 A. I started the MBA at University of Colorado
13 in Denver and got halfway through when I took a
14 job with Monsanto. They transferred me out to
15 St. Louis and I picked up at Southern Illinois
16 University in Edwardsville, which had a
17 satellite campus in St. Louis -- a weekend
18 program, and finished it that way.

19 Q. Okay. What year did you get your degree --
20 your MBA?

21 A. Around 1990. I'm not sure if that's the
22 exact -- but it was around then.

23 Q. Did Monsanto help pay for that MBA degree?

1 A. Right.

2 Q. Was that fully funded by them?

3 A. The half that I hadn't completed already --

4 they did paid for -- a hundred percent.

5 Q. I asked you previously about media

6 training, and you told me about some media

7 training you've received. Have you ever taught

8 media training to any Monsanto employees?

9 A. The only kind of media training that I

10 taught was large classes of people at plants

11 that might have the occasion to be in front of

12 the cameras. For instance, nighttime

13 superintendents, people that worked with the

14 transportation of chemicals -- that were

15 Monsanto people. Usually, we contracted that

16 out, but there were some of our people that were

17 part of a emergency response squads that might

18 be dispatched to a scene of a transportation

19 incident, and they might have the opportunity to

20 be in front of a camera, and it was just

21 basic -- very basic training. You know: What

22 kinds of questions are likely to be asked? What

23 kinds of information it's important for them to

1 communicate through the media -- to the public,
2 that kind of thing. So, the more intense
3 training for people that are in high positions
4 of responsibility like: The plant manager, the
5 environmental superintendent -- those were
6 usually done by our different agencies, but when
7 we'd have a group of people that had less
8 likelihood, I would do it, and they'd generally
9 be half day sessions, and there really wouldn't
10 be any on-camera interviews where the agencies
11 often included on-camera interviews. So, it's
12 just basic how to prepare do's and don't's.

13 Q. Were any of those media training sessions
14 for the nighttime superintendents, or other
15 plant personnel, held in Anniston by you?

16 A. Not by me. No.

17 Q. Do you know who would have conducted such
18 training at Anniston?

19 A. I don't know if they had it. I just know I
20 didn't do it.

21 Q. Did you do any of that type of training at
22 Sauget or Krummrich?

23 A. I don't know whether I did at the Krummrich

1 plants or not. I'm trying to think. Because I
2 did do it at a number of plants. I think I did
3 it at the Delaware River plant in New Jersey --
4 a couple of locations, but I can't remember
5 whether I did it at Krummrich or not.

6 Q. What would be some of the do's and don't's
7 that you would tell nighttime superintendents
8 about media inquiries?

9 A. Do communicate what happened in layman's
10 terms. Don't use a lot of jargon. Do keep in
11 mind of the kinds of questions that people are
12 going to want answered, like, what is this
13 material? How might it affect me or my family?
14 Don't repeat negative words that the reporter
15 might use, because then they become your words.
16 Don't fall for trick questions that the reporter
17 is trying to lead you -- just stick with the
18 facts, and remember that the media does provide
19 a public service in communicating necessary
20 information to the public, and so, make sure
21 that whatever information is important for the
22 public to have that you communicate to the
23 reporter.

1 Q. And you mentioned that for people like a
2 plant manager -- they would be trained by an
3 agency, would that be a company such as
4 Fleishman-Hillard?

5 A. Yes.

6 Q. And when you mentioned on-camera
7 interviews, would Fleishman-Hillard actually do
8 a mock --

9 A. -- interview?

10 Q. -- interview?

11 A. Right. They would.

12 Q. Okay. So, it would be more extensive for
13 the plant manager?

14 A. Yes. Usually a full day, and we usually
15 had smaller classes, too -- three to five
16 versus -- when I did mine, there would be 12 to
17 15.

18 Q. When is the last time that you did any sort
19 of training like that?

20 A. Oh, a long time ago. Late '80s -- early
21 '90s.

22 Q. Okay. Now, I want to go back to your
23 present position. At the time of your last

1 deposition you told me that one of your
2 responsibilities dealt with the news desk. Is
3 that right?

4 A. That's what it was the last time we talked.

5 Q. Has it changed?

6 A. Yes.

7 Q. Tell me what you're doing now.

8 A. About a month ago I moved into the public
9 policy group, which is still part of public
10 affairs, but it's dealing with stakeholder
11 dialog, looking at issues of agricultural
12 biotechnology, and learning from different
13 stakeholders what their interests and concerns
14 and questions are about biotechnology, and
15 looking for middle ground -- common ground.

16 Q. Okay. And, when you refer to stakeholder
17 dialog, what are you talking about?

18 A. There are different facets of society that
19 are uncomfortable with this new technology and
20 they have legitimate concerns that need to be
21 respected and taken back into the company, and
22 the way we operate, and present our products,
23 needs to be colored by this outside feedback

1 that we get in through this dialog process. So,
2 you know, similar to what we do with Community
3 Advisory Panels at our plants, it's a way for us
4 to operate our businesses, taking the issues and
5 concerns of the public in mind.

6 Q. That's what I was trying to figure out. Is
7 the stakeholder dialog issue that you're dealing
8 with on the biotechnology front a CAP or is it
9 different than a cap.

10 A. A CAP would be a collection of peoples that
11 stays the same over a period of time, and it
12 would represent different facets of
13 stakeholders, so you would have a pretty diverse
14 group, but they would always be the same people,
15 or you might have people rotate on and off every
16 few years, but we're actually going out and
17 meeting with different groups of stakeholders
18 and listening to them, they're actually
19 eliciting training that we take, so that we
20 don't go in and try to present or answer
21 questions, but rather we try to learn as much
22 from them about what's on their minds and take
23 it back into the company.

1 Q. And you began this function, when?

2 A. About a month ago.

3 Q. Who else does that besides yourself?

4 A. There's another director, who I report to.

5 There's a woman in Europe who works on this

6 program on the European side, and then there's

7 another woman in the United Kingdom, which,

8 although that's part of Europe, they have their

9 own program going, and there are different

10 consultants that we use in each country that are

11 helping us with the programs.

12 Q. And who's the director to whom you report?

13 A. Kate Fish.

14 Q. Is she in St. Louis?

15 A. Yes.

16 Q. F-I-S-H?

17 A. Uh-huh.

18 Q. And the consultants that y'all are using,

19 who are they?

20 A. In this country, a woman named Deborah

21 Anderson.

22 Q. What company is she with?

23 A. Her own. It's called Farsight.

1 Q. Where are they based?

2 A. I think she's in Cincinnati.

3 Q. This agricultural biotechnology issue, is

4 that the bovine hormone growth stimulator, or

5 something else?

6 A. Well, that's one product, but mostly what

7 we're dealing with now are crops.

8 Q. And what's the controversy about this

9 technology?

10 A. It's just a new technology. It's a way to

11 improve crops to resist pests -- be they insects

12 or viruses, or -- we have herbicide resistant

13 products, too, and some people are very

14 comfortable with it. Some people are

15 uncomfortable with the biotechnology.

16 Q. Well, I guess what I'm trying to get at is

17 the people who are uncomfortable with this

18 technology -- what concerns have they raised

19 about why they're not comfortable with it?

20 A. We've been working with this technology for

21 about 20 years, but the crops have only been on

22 the market for three to four years. And people

23 want some comfort level that enough testing has

1 been done both from an environmental and from a
2 human health point of view.

3 Q. Has this technology already been approved
4 by FDA?

5 A. Yes. And EPA and USDA -- for the crops
6 that we've submitted -- it's not for everything
7 under the Sun.

8 Q. As part of your role in conducting the
9 stakeholder dialog on this technology, what
10 types of groups of people -- what groups of
11 people are you talking about?

12 A. Well, our program isn't as far along in
13 this country. So, we've just kind been of
14 laying the groundwork, and we have met with a
15 couple environmental organizations, and
16 actually, in Europe they've been doing a lot of
17 foundation study, too, so they've only have one
18 or two, so far. We're just gearing up.

19 Q. Which environmental organizations have you
20 met with?

21 A. Environmental Working Group and
22 Environmental Defense Fund. That's pretty much
23 it.

1 Q. And is that your primary job is you're the
2 person that's going to meet with these
3 stakeholder groups?

4 A. I'll meet with some of them, but we'll also
5 have business people, and whoever really is
6 closest to those organizations, going in and
7 talking to them. And, what I'm doing is more of
8 the organization -- you know -- making sure we
9 have systems to capture the information, feed it
10 back into the company, get back to the
11 stakeholders on a regular basis.

12 Q. Has there been negative publicity about
13 this biotechnology to date?

14 A. Uh-huh. Yes.

15 Q. Okay. And what -- "Wall Street Journal" --

16 A. There's been positive publicity, too. Like
17 I said, it's a new technology. People are just
18 learning about it themselves. There's probably
19 been more negative press in the United Kingdom
20 than there is in the United States, but even so,
21 people are interested in learning more, and it's
22 a new issue for the media. So, anything knew
23 about it -- positive or negative -- gets covered

1 pretty extensively.

2 Q. Other than this new area of responsibility
3 that you have since your last deposition, are
4 there any other additional responsibilities
5 you've taken on?

6 A. No.

7 Q. Do you still have the responsibilities that
8 you had at the time of your last deposition?

9 A. No.

10 Q. This is a full-time job?

11 A. Right.

12 Q. Let me just back up a little bit, because
13 when I took your deposition last, you had
14 mentioned having some responsibility for a news
15 desk.

16 A. Uh-huh.

17 Q. I wanted to ask you a few more questions
18 about that area.

19 A. Okay.

20 Q. What types of news stories would be handled
21 by the news desk?

22 A. We contracted with different news vendors
23 to get the Reuters News Wire, Dow Jones News

1 Wire, Associated Press, Financial Times, and a
2 service called, "LUCE on Line". That's:
3 L-U-C-E, LUCE on line. That includes UMI and
4 UPI. So, a lot of news that was carried on any
5 of those wires, we would sort through for what
6 was being said about Monsanto.

7 Q. So, if, for example, there was an article
8 about this agricultural biotechnology, that
9 would be flagged or pulled?

10 A. Yeah, and depending on what media outlet it
11 was. If it was a small outlet, and if the story
12 didn't say very much new, then we might not pull
13 it, but, it was a "New York Times" or "Wall
14 Street Journal" story, we certainly would pull
15 it, and if it was some new twist or new issue
16 that was being covered in a pretty novel way, we
17 would pull it.

18 Q. And then, what happened to the articles
19 that were flagged?

20 A. They go into a clip report that is
21 distributed to executives and our public and
22 government affairs people on a daily basis.

23 Q. During the time that you had

1 responsibilities on the news desk, do you recall
2 any articles that were related to Anniston?

3 A. That would have been February of '99
4 through like October, September or October --
5 whenever -- about a month ago, so, I guess
6 October. I don't recall any.

7 Q. How many other people would have that
8 function of going through those articles besides
9 yourself?

10 A. I was the one that did most of the sorting.
11 I kind of managed the news desk. We have an
12 intern who worked under me that I would send the
13 articles, and he would format them, and put them
14 into the Clip Report the way we would usually
15 send them out, so I was the chief sorter. There
16 were a few other people who had access to the
17 news wire that would do their own searching
18 according to specific issues that they might
19 have been involved with, but as far as the news
20 desk function, I was the chief person for that
21 period of time.

22 Q. After they would be distributed to the
23 executives and public and government affairs

1 personnel, would there ever be a time where
2 someone would contact you to do anything further
3 with those clippings?

4 A. Like what?

5 Q. That's what I'm asking you. I mean, does
6 it ever come back to you, after they're
7 distributed, to put together some sort of media
8 plan or --

9 A. No. I wouldn't do the media plans. That
10 would be up to whichever public affairs group
11 was closest to whatever issue was being covered.

12 Q. So, any action that was necessitated from
13 the clipping would be handled elsewhere?

14 A. That's right. We were, basically, a
15 research function.

16 Q. All right. At the last deposition I had
17 asked you about contact that you had, personally
18 had either with EPA, ATSDR, federal or state
19 officials, and I believe your answer was that
20 you didn't personally have that kind of contact?

21 A. That's right.

22 Q. Are you aware, though, when you had
23 responsibility for Anniston, if there were any

1 documents that memorialized meetings that either
2 the plant manager, or someone else from St.
3 Louis would have had of those entities?
4 A. I don't recall -- you mean, like, minutes
5 or --
6 Q. Or notes, or whatever, yeah.
7 A. I don't recall seeing anything like that.
8 Whether they kept them among themselves, I don't
9 know. But, I never saw minutes from those
10 meetings.
11 Q. And, just to kind elaborate -- just to make
12 sure I'm clear, I believe your testimony was
13 that with respect to lobbying activities for the
14 Anniston site, or for any site in the State of
15 Alabama, that you had no such responsibility?
16 A. That's correct.
17 Q. All right. At your last deposition I asked
18 you a series of questions about an article that
19 was anticipated by a reporter named Scott
20 McMurray with the "Wall Street Journal". Do you
21 recall that?
22 A. Right.
23 Q. Let me show you the article, because at the

1 time I didn't have it, and ask you to take a
2 look at that. Let's go ahead and mark it.

3 (Whereby, the Court Reporter
4 marked Exhibit 41.)

5 BY MS. MALOW:

6 Q. I'm going to hand you what's been marked as
7 Exhibit 41. Take whatever time you need to read
8 that.

9 A. Okay.

10 Q. Have you now read Exhibit 41, Ms. Herndon?

11 A. Yes.

12 Q. For purposes of identification Exhibit 41
13 is a "Wall Street Journal" article dated
14 Wednesday, June 17th, 1992, entitled, "Denying
15 Paternity. Monsanto Case Shows How Hard It Is
16 To Tie Pollution To A Source." This was written
17 by a reporter at the "Wall Street Journal",
18 Scott McMurray; is that right?

19 A. Yes.

20 Q. Do you recall that, when I took your
21 deposition the last time, we talked about the
22 fact that there was some concern that
23 Mr. McMurray may be writing a negative article

1 about the Monsanto -- Monsanto's involvement
2 with what's known as "Dead Creek"?
3 A. Right.
4 Q. After reading this article -- strike that.
5 First of all, had you read the article
6 before today?
7 A. Yes, but it's a '92 article, so I hadn't
8 read it in a long time.
9 Q. Sure. After reviewing the article today,
10 do you agree that the article was negative?
11 A. I'd say so.
12 Q. You had issued a memo to various folks at
13 Monsanto prior to this article coming out
14 indicating what the plan was in case the article
15 turned out to be negative. Do you recall that?
16 A. I think my memo was kind of following the
17 chain of communications from what the chemical
18 group reported to the chemical companies
19 management, and then, I took their information,
20 their material, and put it in a memo to
21 corporate management, which was the role that I
22 played as part of the corporate group.
23 Q. In reading McMurray's article, he mentions

1 a concept known as the "co-incidence defense,"
2 that is that Monsanto took the position that it
3 was not responsible for the PCB contamination
4 near the Sauget site. Is that right?

5 A. It sounds like there could have been any
6 number of parties that might have been
7 responsible for the PCB being there.

8 Q. Yet, you would agree that Monsanto was the
9 only manufacturer PCBs ever, correct?

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

12 THE WITNESS: Not ever, but in the
13 United States.

14 BY MS. MALOW:

15 Q. In fact, Sauget was one of two facilities
16 in the United States where Monsanto manufactured
17 PCBs; is that correct?

18 A. Right, but we had a lot of customers of
19 those products.

20 Q. The only other facility where Monsanto
21 manufactured PCBs was Anniston, Alabama?

22 A. That's correct.

23 Q. And the position that McMurray states was

1 taken by Monsanto, with respect to the Sauget
2 contamination, is the same position that
3 Monsanto took with respect to the contamination
4 of PCBs in the neighborhood around the Anniston
5 site, correct?

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

8 THE WITNESS: At the Sauget site, I
9 know that there was only one location in
10 all the sites that are Sauget sites, that
11 Monsanto pretty much had responsibility
12 for, that we were the only one to deposit
13 waste in, and that was the Krummich
14 Landfill -- Monsanto Landfill. The
15 others had had a number of contributors,
16 so what's in those other sites, including
17 Dead Creek, did not necessary come from
18 Monsanto, or only from Monsanto. I don't
19 know who they came from, but I know that
20 there were multiple contributors.

21 MS. MALOW: Objection; nonresponsive.

22 Q. My question was: Didn't Monsanto take the
23 same position with respect to the contamination

1 of PCBs in the Anniston, Alabama area, as it did
2 with respect to the PCB contamination near the
3 Sauget facility?
4 A. I'm --
5 Q. Are you aware that Monsanto has taken the
6 position that the PCB contamination in the
7 neighborhood around their Anniston, Alabama site
8 may have been caused by other parties other than
9 themselves?

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

12 THE WITNESS: I'm -- I don't know that
13 they did that -- that we did that at the
14 time.

15 BY MS. MALOW:

16 Q. After this article came out, what follow-up
17 media stories were there?

18 A. I don't recall.

19 Q. Do you remember there being any?

20 A. I don't know. I don't remember.

21 (Whereby, the Court Reporter
22 marked Exhibit 42.)
23

1 BY MS. MALOW:

2 Q. Let me show you another document, and see
3 if we can refresh your memory. Take a look at
4 what's been marked as Exhibit 42, please.

5 A. Okay. Do you need me to read the whole
6 thing?

7 Q. If you need to answer any questions, you
8 might want to.

9 MR. PECK: That document actually comes
10 with a front page.

11 MS. MALOW: Does it?

12 MR. PECK: Yeah.

13 MS. MALOW: Do you have it?

14 MR. PECK: Yeah. Do you mind if I show
15 her that just to make it -- as far as my
16 copy, that she hasn't actually seen
17 contains some highlighting, which was
18 mine, but that was just so, you know --
19 the context of it.

20 THE WITNESS: Yeah, okay.

21 BY MR. PECK:

22 Q. Just for the record, the document I just
23 showed her was a June 17th, 1992, memo from

1 Loren Wassell, GSW136126, which was just a cover
2 memo to the Plaintiff's Exhibit 42.

3 MS. MALOW: Tell me what the DSW is,
4 again.

5 MR. PECK: 136126.

6 MS. MALOW: I could have figured that
7 out.

8 THE WITNESS: Okay.

9 BY MS. MALOW:

10 Q. Can you identify for the report what
11 Exhibit 42 is, please?

12 A. It's -- it looks like, either a background,
13 or some kind of statement related to the "Wall
14 Street Journal" story giving some follow-up
15 points and Q and A's after the article came out,
16 or maybe, it was before. I can't tell.

17 Response to --

18 Q. Do you know, if, in fact, Exhibit 42 was
19 prepared before the McMurray article came out,
20 knowing that there was one that was eminent?

21 A. What was the date of the article?

22 Q. June 17th.

23 A. Okay, and this came out June 17th, too, so

1 was probably prepared after.

2 Q. Right, but we had covered some other

3 document that --

4 A. -- this morning's -- story in the "Wall

5 Street Journal."

6 Q. At your last deposition we had covered some

7 other articles where it talked about being

8 concerned that executives might wake up in the

9 middle of the night because McMurray had being

10 nosing around about this story. So, I guess,

11 the question I'm really trying to get at is:

12 Did this get prepared ahead of time in

13 anticipation of the inevitable article on the

14 17th, and by "this" I mean Exhibit 42?

15 A. I don't know. I wasn't the author of the

16 article or the statement, so I don't know if it

17 was prepared in advance or not.

18 Q. Did you have any involvement in preparing

19 the response to the "Wall Street Journal"

20 article by McMurray?

21 A. I don't believe so.

22 Q. It does indicate that it's authored by

23 Loren Wassell?

1 A. Wassell.

2 Q. But you don't recall whether or not you had

3 any hand in the preparation of it?

4 A. He was in the chemical group, and, for the

5 most part, I think this media response, or

6 working with Scott McMurray, was handled by the

7 chemical group. Corporate was kept informed,

8 again, so that our corporate executives wouldn't

9 be surprised, but I don't believe that I was

10 part of creating any of this.

11 Q. Okay. It indicates in Exhibit 42 that

12 there were some studies that were being

13 conducted by Monsanto and that those results

14 were being reviewed by Monsanto in the Illinois

15 EPA -- do you see that at the bottom?

16 A. Right.

17 Q. Do you know what the results of those

18 studies were?

19 A. No. I don't know.

20 Q. In the article which we've marked as

21 Exhibit --

22 MR. PECK: Was that a "no"?

23 THE WITNESS: That was a "no."

1 BY MS. MALOW:

2 Q. In the article -- "Wall Street Journal"
3 article -- marked as Exhibit 41, it indicates
4 that Monsanto's own contractor, Gherity & Miller
5 had stated based at the waste at the sites and
6 the waste produced by Monsanto that it could be
7 suggested that Monsanto was responsible for
8 both. Do you see that?

9 A. That was his opinion.

10 Q. Did you, in fact, have any conversations
11 with anyone at Gherity & Miller regarding this
12 issue?

13 A. I did not. That wouldn't have been my area
14 of expertise or responsibility.

15 Q. And in the response to the "Wall Street
16 Journal" article which we've marked as Exhibit
17 42, it does state that materials were sent by
18 Monsanto to that area, right?

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

21 THE WITNESS: Where does it say that?

22 BY MS. MALOW:

23 Q. I'll rephrase it.

1 A. The response may have come from Monsanto,
2 but we were not the only source.

3 BY MS. MALOW:

4 Q. And the argument really is not that
5 Monsanto didn't contribute at all to the
6 problem, but that they didn't cause the entirety
7 of the problem?

8 A. Right.

9 Q. It also mentions in the response; Exhibit
10 42, that Monsanto had committed millions of
11 dollars towards responsibility for protecting
12 human health and the environment in the State of
13 Illinois. Do you know how much money Monsanto
14 spent in that effort?

15 A. No. Where are you?

16 Q. It's the first page, the paragraph right
17 above landfill.

18 A. No. I don't know how much.

19 Q. In the section on the landfill it talks
20 about a public meeting that was held by
21 Monsanto. Did you participate in that public
22 meeting?

23 A. No, I didn't.

1 Q. Do you know anything about the landfill
2 study that was conducted by Illinois EPA?
3 A. No. You know -- no, I don't.
4 Q. Who would be -- who would be the people
5 that would know the answers to those questions?
6 A. Probably the remediation people in the
7 chemical company. So, maybe Mike Light, Steve
8 Smith would probably be the two.
9 Q. Are they still with the company?
10 A. Solutia, far as I know.
11 Q. Okay. And in the section under "Landfill",
12 in the response to the "Wall Street Journal"
13 article, which we've marked as Exhibit 42, it
14 talks about the fact that land filling, even in
15 a modern, protected landfill is viewed as the
16 last option in terms of disposal, correct?
17 A. Yes. Right.
18 Q. Do you know anything about the samples that
19 were taken from the portion of Dead Creek --
20 A. No.
21 Q. -- referenced there?
22 A. No, I don't.
23

1 (Whereby, the Court Reporter
2 marked Exhibit 43.)

3 BY MS. MALOW:

4 Q. Let me show you what I've marked as Exhibit
5 43. You can take a look at that.

6 A. Okay.

7 Q. I need to actually back up to 42, real
8 quick.

9 A. Okay.

10 Q. We talked about the fact that that's
11 authored by Loren Wassell. Do you know whether
12 he actually prepared it?

13 A. Do you have your cover letter? It says the
14 consent was largely drawn from existing
15 preparedness materials except for a few new
16 issues raised by this story. I don't know
17 who -- he probably put it together after the
18 story came out, but I don't know where the
19 original material came from.

20 Q. And when he says that it was prepared with
21 existing preparedness statements, what would
22 those be? Just others that have been used for
23 similar types of news stories?

1 A. General inquiries I would imagine. Yeah.
2 As they were talking to the community, maybe,
3 about the issues. I really don't know.
4 Q. Do you know what new items were put in
5 there to be responsive to this specific article?
6 A. No. I can't tell.
7 Q. Do you know who else would have had input
8 to that response from "Wall Street Journal"
9 article Exhibit 42?
10 A. I don't know.
11 Q. When you looked at Exhibit 42, does that
12 strike you as a typical preparedness statement?
13 A. Yes.
14 Q. Do you know if, in fact, the response was
15 ever utilized?
16 A. I don't know. You asked whether there were
17 any other media that had called, and I don't
18 know. That's how it would have been used, but I
19 don't know if any other media were interested in
20 doing follow-ups.
21 Q. Right. And then, if you look at Exhibit
22 43, which is your memo dated June 16th, 1992,
23 the day before this article came out, you

1 mention in the last paragraph that the chemical
2 group also has an action plan to communicate
3 with the local community should the story be
4 very damaging, and, also, has preparedness
5 statements for any subsequent media inquiries,
6 right?

7 A. Right.

8 MR. PECK: You're now referring to
9 Plaintiff's Exhibit 43?

10 THE WITNESS: Right. I think I said
11 that.

12 MR. PECK: Maybe, so.

13 BY MS. MALOW:

14 Q. What are you referring to when you mention
15 the chemical groups action plan in this document
16 Exhibit 43?

17 A. I believe -- I think we talked about this
18 the last time, that Fleishman-Hillard put
19 together a pretty detailed communication
20 follow-up plan. Now, how much of that they
21 intended to use, I don't know, because it was a
22 lot more extensive than we would normally
23 execute, but, that -- I knew they had that plan,

1 and it was up to them how much of that they
2 needed to or wanted to use.
3 Q. And when you mention that there are
4 preparedness statements for any subsequent media
5 inquiries, were you referring to something other
6 than Exhibit 42?

7 A. Didn't we, in conjunction with this, supply
8 some background, or some material to executives?
9 I think there was an attachment to this, wasn't
10 there?

11 Q. I don't know. I'd have to go back through
12 the whole set of four boxes.

13 A. Maybe this was all I had. I'm trying to
14 remember.

15 Q. Would it have "enclosure" or "attachment"
16 if there were things attached to this memo?
17 Would that be noted on there?

18 A. Probably. So, maybe this was all that went
19 to executives. I don't know. I don't know. I
20 don't know --

21 Q. All right.

22 A. -- if there was anything other than this.

23 Q. Is it just coincidental that your memo of

1 June 16th, 1992, Exhibit 43, came out the day
2 before this article came out in the "Wall Street
3 Journal"?
4 A. You mean, did I know it was going to come
5 out the next day? I think from this it says we
6 expect it to come out very soon. So, yeah. I
7 mean, we probably knew it was eminent, but not
8 exactly which day the "Wall Street" was going to
9 use it.

10 Q. Did you get a heads-up that that article
11 was coming out on the 17th?

12 A. We usually don't. We can kind of tell by
13 how close they are in their fact checking how
14 close they are to being able to run the story,
15 but not the exact day.

16 Q. This is a bit tedious, but if you would,
17 for the record, just identify for me the full
18 names of each of the people that are on your
19 memo, Exhibit 43, and also, if you would tell me
20 whether they are still employed with either
21 Monsanto or Solutia, or if you know their
22 whereabouts.

23 A. Okay. G.W. Denison, I don't remember who

1 that was. It was someone in D building, and
2 that was where the executives had their offices,
3 but I don't remember who that person was.

4 Q. Real quick, before you go on. That is a
5 question I was going to ask you. What is the "D
6 Building"?

7 A. "D building" was a building where all our
8 executives had their offices. So, it was the
9 chairman, vice chairman, the chief counsel who
10 was our top lawyer, our top financial guy, our
11 top scientist. They were all in that building.
12 We probably had 12 executive in that building.

13 Q. And that building was located in St. Louis?

14 A. Right. On the Creve Coeur campus. Dick
15 Duesenberg was our chief lawyer. I guess you
16 call it first counsel.

17 MR. PECK: General counsel.

18 THE WITNESS: General counsel, yeah.

19 Bob Flynn -- I think he was with Monsanto
20 Electronic Materials Corporation, which
21 was sold a long time ago to a German
22 company, so that had nothing to do with
23 chemicals. It was just another company

1 that Monsanto owned.

2 Q. Do you know his present whereabouts?

3 A. I have no idea.

4 Q. Okay.

5 A. Dr. Gilgore. I'm not sure about him. I

6 don't remember where he -- Oh, wait. Hum. This

7 was a long time ago. Flynn might have been with

8 our NutraSweet Company. Well, I hate to

9 speculate. Anyway, I'll go to the ones I do

10 know. Earl Harbison was the president of the

11 company for a number of years. Dick Mahoney was

12 the chairman. They're both retired. Mike

13 Miller -- I forget what role he played, but now

14 he's with Solutia. Phill Needleman is still

15 with Monsanto. He's our chief scientist and

16 co-president of our Searle Pharmaceutical

17 Company. Bob Potter, of course, was president

18 of the chemical company, and he went with

19 Solutia -- was their chairman and, I think, is

20 now retired. Nick Reding was the vice chairman

21 of Monsanto. He's now retired. Bob Shapiro is

22 the current chairman of Monsanto. Larry

23 Solley -- I'm not sure about him -- where he

1 was, and Frank Stroble, and I don't remember
2 what his role was, and Virginia Weldon was the
3 vice presidents of public policy. Do you want
4 me to go through the cc's?

5 Q. Please.

6 A. Dan Bishop was the director of corporate
7 communications -- public affairs, for the whole
8 company. He is now deceased. Lori Fisher has
9 been in our corporate communications group, and
10 now she's with agricultural public affairs
11 group. Nick Filippello is our vice president in
12 charge of investor relations. Scarlot Foster is
13 our media relations director. Chuck Fry was
14 with Searle, the pharmaceutical company. He's
15 no longer -- I don't think -- well, I shouldn't
16 say that. I don't know where he is. Gerry
17 Ingenthron was with the agricultural public
18 affairs group. He's now retired. Larry O'Neill
19 was with the chemical public affairs group. And
20 then he was with the news desk before me. He's
21 now retired. And, I don't remember who this
22 last person was.

23 Q. Okay. If you'll look at the first

1 paragraph of your memo, which is Exhibit 43, it
2 indicates that you've received some calls this
3 week checking several facts in the story and
4 have reason to believe the publication might run
5 this story in the near future. Do you recall
6 any of the specific facts that were being
7 checked?

8 A. No, I don't.

9 Q. Were those phone calls being received by
10 you or directed to you?

11 A. No. I think they went to Kevin.

12 Q. Cahill?

13 A. Yes.

14 Q. You also indicated they may reference the
15 recent stock drop. What was that about?

16 A. I don't remember.

17 Q. And you also mentioned a Brio settlement.
18 What was the Brio settlement?

19 A. The Brio was one of our Superfund sites in
20 Houston and I know we did a settlement around
21 that time, but I don't remember what part of the
22 Brio negotiations that was part of.

23 Q. And the article by McMurray, which is

1 Exhibit 41, references around \$39 million that
2 was paid. Was that Brio moneys?
3 A. I believe so, but, again, I don't remember.
4 Q. And the Brio case involved neighbors around
5 a site that were alleging contamination?
6 MR. PECK: Object to the form of the
7 question.
8 THE WITNESS: Well, again, I don't
9 remember the circumstances around that
10 lawsuit.
11 BY MS. MALOW:
12 Q. And I believe you've already testified that
13 you're not personally aware of any subsequent
14 media inquiries as a result of this article?
15 A. That's right.
16 Q. All right. The preparedness statements
17 that you referred to in Exhibit 43 that may have
18 already existed before the article came out --
19 do you know who would have had responsibility
20 for preparing those?
21 A. I don't know. I don't remember.
22 Q. Do you remember doing any preparedness
23 statements on this issue?

1 A. I don't recall.

2 Q. Okay. Let's switch gears. We talked

3 before at length about CAPs. Do you recall

4 that?

5 A. Right.

6 Q. I have a few follow-up questions in that

7 area. I know that there are several sites where

8 CAPs have been put in place at Monsanto sites,

9 correct?

10 A. Right.

11 Q. Are you aware of Monsanto preparing any

12 type of handbook or handout for any of its CAPs?

13 A. I know we used a CMA guidebook on community

14 advisory panels that they made available, and we

15 got a certain number and would hand those out to

16 plant managers if they were interested in

17 starting one. At least, to get them started

18 reading up on Community Advisory Panels.

19 Q. Would there then be a specific handbook

20 that would be put together that was site

21 related?

22 A. Related to each individual location?

23 Q. Right.

1 A. No.

2 Q. Okay.

3 A. You know we had some centralized

4 information on CAPs. As we would talk to plant

5 managers about forming a CAP if they don't have

6 one already, we would share what information we

7 had. The chemical group, at one point, put

8 together this workshop to try to share ideas

9 among plants that already had CAPs, to keep

10 invigorated, because sometimes the members would

11 lose interest if there don't seem to be any new

12 material to share with them after a certain

13 amount of time. It was also to encourage some

14 of the plants that didn't have community

15 advisory panels to start thinking about how they

16 might start one up. In some cases it wasn't

17 appropriate to have one, if there are very small

18 plants, and a very small community and they knew

19 everyone in the community, but there were still

20 ways that they could involve the community in

21 what they were doing at the site, even if wasn't

22 a formal CAP. And so, the workshop helped to

23 share ideas about that.

1 Q. Are you aware of any bylaws that Monsanto
2 put together for any of its CAPs?

3 A. Some of the plants might have had them. It
4 would really be up to each site how they wanted
5 to operate, and that would be just an
6 organizational detail about how they wanted to
7 operate together.

8 Q. Did you have any part in preparing bylaws
9 for any CAPs?

10 A. No.

11 Q. How about minutes of CAP meetings? Are you
12 aware of whether or not it was the usual
13 practice for there to be minutes kept of the CAP
14 meetings?

15 A. I believe some plants did keep minutes and
16 others didn't. It really varied by plant. Some
17 were a lot more formal in how they held their
18 meetings than others. Others would -- some
19 would just have monthly or even quarterly
20 meetings. They would sent out an agenda. They
21 would go through the agenda; they would get
22 community input from the meeting before about
23 what the community wanted on the agenda, and

1 once it was finished, it was finished. So, not

2 every site had minutes, but some did.

3 Q. And that would be up to that particular

4 site to decide what they wanted to do?

5 A. That's correct.

6 Q. We talked about the fact that you had

7 worked with Michael Elliot of Bourne Elliot to

8 try to establish a CAP for Anniston, and at that

9 time it was not something that could be

10 established?

11 A. Right.

12 Q. I went back and took the rest of

13 Ms. Russert's deposition and she had indicated

14 to me that in 1997 a CAP was reissued. The idea

15 of forming a CAP was reexamined. Were you

16 involved -- were you involved at all in that

17 process?

18 A. I don't think so. I don't believe so. As

19 you know, I had the plant from '94 until

20 sometime in '97, but we were transitioning out

21 with the Solutia Monsanto split, so it was

22 sometime early in '97, I believe, that I was

23 handing off files and, Beth, or I don't know,

1 whichever -- I guess it was Beth first -- yeah,
2 that started taking on responsibility for that
3 site.

4 Q. Around even though you didn't have official
5 responsibility for that site at the time, were
6 you brought up to date, or in the loop, on that
7 issue?

8 A. No. Once the companies were split we had
9 enough to work on with our own issues and
10 responsibilities.

11 Q. So, are you aware of only one time during
12 the period where you had Anniston that y'all
13 looked at forming a CAP?

14 A. Yes.

15 Q. We went over the last time the fact that
16 Elliot had put together a list of some possible
17 candidates for the CAP, do you recall that?

18 A. Yes? Right.

19 Q. And I believe he may have even had some
20 conversations with those individuals before it
21 was decided that the CAP would not be formed?

22 A. That's right.

23 Q. What information did Monsanto learn from

1 any of the work that was performed by Michael
2 Elliot?

3 A. I'm trying to recall. And, we didn't get a
4 lot of information from him about his individual
5 conversations. He prepared a grid that showed
6 who the potential people were that he might talk
7 to, and just because he was going to talk to
8 them, didn't necessarily mean they were a
9 candidate for the CAP. CAP It just meant that he
10 was trying to get a good set of folks who might
11 lead him to who the community leaders were and
12 who the best mix of people on the CAP might be.
13 So, he established a pretty good list. He made
14 contact with, as I remember, a pretty small
15 percentage of that list, and ran into enough
16 road blocks that -- just came to the conclusion
17 that it wasn't really feasible to pursue it much
18 further.

19 Q. Did he provide you with any information
20 regarding what sort of key issues were important
21 in that community?

22 A. I think you have the grid, and I don't
23 remember seeing it since the last time we

1 talked, but I think what's on that grid were the
2 issues that we talked about.

3 Q. Let's make sure we're talking about the
4 same grid.

5 I believe this was Exhibit 25 to your
6 last deposition, but I'm not sure if it's your
7 or Beth Russert.

8 A. It is. It's 25.

9 Q. Good. So Exhibit 25 is the grid and what
10 you're telling me is the only information that
11 was really provided was what is on the grid,
12 because this doesn't really address issues in
13 the community.

14 A. Yeah.

15 Q. It's just titles or associations.

16 A. I don't recall whether he got into any more
17 information. This is all I remember -- what was
18 on here. I thought there might have been more,
19 but this is it.

20 Q. Okay. And there were a couple of
21 handwritten notes that are to the left hand
22 margin on Exhibit 25. Do you know whose
23 handwriting that is?

1 A. It looks like mine.

2 Q. An do you know why it was that you were

3 indicating no with respect to those individuals?

4 A. I think it's that he couldn't talk to these

5 people, and whether or not that was related to

6 the litigation, I can't say for sure. I don't

7 recall.

8 Q. Okay. Do you know what the FAX line is at

9 the top of Exhibit 25?

10 A. What do you mean? On this -- on the side.

11 Q. The transmittal information?

12 A. Huh-uh. 404 that's Atlanta, isn't it --

13 area code? So it might have been Michael

14 Elliot's office, but I don't know. Georgia

15 Tech. That's probably -- that's where he had

16 his office, so that would make sense.

17 Q. Okay. And, there were also, I believe,

18 Exhibit 15 to your last deposition was Anniston

19 area influentials. Do you recall that?

20 A. Right. That's right.

21 Q. And I'm just trying to remember if you had

22 been able to tell me how these two lists,

23 Exhibit 15 and Exhibit 25 are related, if at

1 all.

2 A. Well, I think, as I explained the last

3 time, what Michael Elliot did was start with the

4 plant staff and some hourly people at the plant

5 to find out from them who they thought the

6 community leaders were. Jack Mayauski had been

7 around -- not for a long time, but long enough

8 that he had established a list of who he thought

9 the community leaders were -- the people that he

10 kept in touch with, and that was Jack's list.

11 This was Michael's list. I don't know whether

12 Jack provided that list to Michael Elliot or

13 not, but that's the explanation for each list.

14 Q. So Jack's list is Exhibit 15 entitled,

15 "Anniston Area Influentials"?

16 A. Right.

17 Q. And Elliot's list is Exhibit 25?

18 A. Right.

19 Q. And then, there's another list of names and

20 numbers which I don't think I introduced at the

21 last deposition. Let's go ahead and mark this

22 and see if you can identify whose handwriting

23 this is and what this is about.

1 (Whereby, the Court Reporter
2 marked Exhibit 44.)
3 BY MS. MALOW:
4 Q. Can you identify Exhibit 44?
5 A. That's not my handwriting.
6 Q. Have you seen it before?
7 A. I don't know. I don't remember it.
8 Q. Do you recognize the handwriting?
9 A. No.
10 Q. It does seem to have some of the same names
11 on it that are on Exhibit 15 and Exhibit 25; is
12 that right? Such as Barbara Boyd?
13 A. Yeah. Barbara Boyd is on it.
14 Q. If you'll look at the last page of Exhibit
15 44, there's a date entry of 3/7/95 and it says
16 8M Public Health Dan Cooper Special Project
17 State Health Department, Dr. Hughes and Cheryl
18 Browbar. Do you know what that refers to?
19 A. No. This isn't my document.
20 Q. Okay. Do you remember having any
21 discussions with Jack Mayauski, or anyone else
22 about the plant regarding ADEM's involvement
23 with forming a CAP?

1 A. No.

2 Q. Would it be acceptable to have an ADEM
3 representative on a CAP?

4 A. I'm trying to think if we've done that
5 anywhere else. I don't think so. I don't think
6 we've done that anywhere else, and I don't -- I
7 think the agency probably would not think it
8 appropriate if they were working with us on a
9 remediation to also sit on the CAP. So, I'd say
10 probably not.

11 Q. Do you know if, in fact, anyone with the
12 Anniston Plant contacted ADEM to try and get
13 names of potential CAP members?

14 A. I don't know whether they did or not. A
15 CAP would be for the immediate neighborhood
16 working in the Anniston community. It wouldn't
17 be a state-wide CAP. So, whether or not the
18 state health people could recommend local people
19 might be kind of a stretch. I just don't know.

20 Q. And then, also, in that last page of
21 Exhibit 44 there's a notation dated 3/9/95 that
22 mentions Tom Wright and Charles Johnson being
23 involved to enhance drainage along Snow Creek do

1 you know anything about that?

2 A. No. Those names aren't familiar to me.

3 Q. Okay. I just want to make sure -- I think

4 we already covered at your last deposition, a

5 letter from Pete Yons (ph) of Yons and

6 Associates dated March 19th, 1996. Did we

7 already cover that?

8 A. Right. We did.

9 Q. Okay. Were you involved at all with

10 helping to establish a CAP, or any sort of

11 community interest interaction consulting

12 program for the Soda Springs Monsanto facility

13 in 1992?

14 A. I don't think they had a CAP. I don't

15 remember.

16 Q. All right. Well, there is a document that

17 was sent to Mike McCullough, plant manager at

18 Soda Springs from Prudential regarding a

19 community interaction consulting program. Are

20 you familiar with that at all?

21 A. No. And, I think I was in corporate by

22 that time.

23 Q. Okay.

1 MR. PECK: What are we talking about
2 year time frame.
3 MS. MALOW: '92.
4 THE WITNESS: She said '92.
5 BY MS. MALOW:
6 Q. I've got to back up to that Anniston area
7 influential document. Is that your handwriting
8 on that document?
9 A. The "no's"?
10 Q. No. That's 25. This was Exhibit 15.
11 A. Oh, no. I'm pretty sure this is Jack's.
12 Q. Okay. Were you involved with utilizing
13 Prudential Community Consulting Services for the
14 Carondelet CAP?
15 A. No. Beth Russert had responsibility while
16 they were forming their CAP.
17 Q. Are these Beth's notes?
18 A. No. Those are my notes, but -- let me just
19 remember. Because I remember consulting with
20 her when we were thinking of using Prudential
21 for Anniston. Let me just make sure that this
22 is --
23 Q. Let me go ahead and mark this because I'm

1 not sure if we did before.

2 (Whereby, the Court Reporter

3 marked Exhibit 45.)

4 BY MS. MALOW:

5 Q. Can you identify what Exhibit 45 is?

6 A. Notes related to the formation of

7 Carondelet Community Advisory Panel.

8 Q. And those are your notes?

9 A. Those are my notes from talking with Beth

10 Russert. I believe I was talking to Beth. It

11 might have been somebody at the plant. I guess

12 it doesn't say. Well, anyway. That's what it's

13 about.

14 And they were telling me the process

15 that Prudential went through to form the CAP,

16 which was a very involved, long term process.

17 Q. But, you didn't have any involvement with

18 Prudential in terms of trying to form a CAP in

19 Anniston, or did you?

20 A. I think we might have talked to them as one

21 of the firms that we interviewed, and I don't

22 remember why we decided not to use them.

23 Because we knew that they did CAPs. I think it

1 was just because we got great recommendations on
2 Michael Elliot, and he was at Georgia Tech,
3 which was pretty convenient.

4 Q. Okay. Then there's -- it looks like a
5 follow-up to those notes, which I think was
6 actually marked as Exhibit 33 to your last
7 deposition. Is that connected to Exhibit 45?

8 A. Yeah. Looks like it's taken exactly from
9 it.

10 Q. Okay. And why were you sending these to
11 Jack Mayauski?

12 A. It doesn't have a date, '95, and this is
13 the time -- is this before or after we were
14 dealing with Michael Elliot?

15 Q. Elliot sent a bill from --

16 A. Invoice shows December 30th of 95. So,
17 this might have been before we selected Michael
18 Elliot. So, it was probably just when we were
19 in the stages of starting to think about a
20 Community Advisory Panel and how to set one up
21 and how different other plants set theirs up.

22 Q. So, you were just sharing information with
23 him at that point?

1 A. That's what it looks like.

2 Q. All right.

3 MR. PECK: Can we take a short break.

4 MS. MALOW: Sure.

5

6 [WHEREUPON A BREAK WAS TAKEN.]

7

8

9 (Whereby, the Court Reporter

10 marked Exhibit 46.)

11 BY MS. MALOW:

12 Q. Can you identify Exhibit 46, please?

13 A. Okay.

14 Q. What is Exhibit 46?

15 A. It's a note to me from Jack Mayauski, dated

16 June 9th, '95, talking about the fact that we're

17 probably going to need to purchase some homes

18 around the Mars Hill Church and relocate those

19 people.

20 Q. And he asks you in this e-mail whether or

21 not you have information about other Monsanto or

22 non-Monsanto locations doing this type of

23 activity and what experience is out there. Do

1 you recall what your response was to that

2 question?

3 A. I don't remember how I responded to him.

4 We haven't -- we don't have a lot of experience

5 with this in Monsanto, or it says non-Monsanto

6 locations. I think the last time you produced a

7 memo from Larry O'Neill that talked about a

8 DuPont site relocation as an example of another

9 facility that relocated people.

10 Q. But, do you remember ever getting him any

11 kind of answer as to what other experiences were

12 with doing this sort of property purchase

13 buy-out program?

14 A. I don't remember what kind of response I

15 put together. Like I said, there's not a lot of

16 Monsanto experience out there.

17 Q. He then goes on to talk about that he's

18 going to attend an ADEM session on Monday with

19 Robert. I assume that's Robert Jones?

20 A. Probably.

21 Q. All right. And he said, "We're not

22 prepared to tell them that we are moving ahead

23 with the property purchase, but I believe that

1 when they review the options they will reach the
2 same conclusions." Do you know why it is that,
3 at that stage, ADEM was not being informed of
4 this decision?

5 A. I don't know.

6 Q. It also seems to indicate in the next
7 paragraph that although he's going to do some --
8 although Jack is going to go out into the
9 community and request a sampling access, that he
10 was not going to alert the community, at that
11 time, to any definitive long-term clean up
12 plans. Is that accurate?

13 A. That's what it says.

14 Q. Okay. And then he goes on to talk about
15 using Michael Elliot and trying to form a CAP?

16 A. Right.

17 Q. And when he refers to the fact that Mike
18 has agreed to pay for the cost of Mr. Elliot to
19 get the CAP up and rolling do you know if that's
20 Foresman, or Pearly or him that Mike refers to?

21 A. Probably Mike Foresman.

22 Q. Okay.

23 A. Because he had the financial responsibility

1 over the site.

2 Q. All right. Let me show what I'm going to
3 mark as Exhibit 47.

4 (Whereby, the Court Reporter
5 marked Exhibit 47.)

6 BY MS. MALOW:

7 Q. This seems to not be complete, but I think
8 the part I'm going to question you about is all
9 there. Can you identify what that is?

10 A. It's a memo from Jack to me related to
11 Community Advisory Panels dated December 1st,
12 '95.

13 Q. He talks about in response to your e-mail
14 to him regarding the make-up of the CAP, and the
15 facilitator issue. He mentions two possible
16 candidates as an on-plant facilitator. One is
17 Robert Jones and the other is Alan Rutherford.
18 Who is Mr. Rutherford?

19 A. I believe he was an employee at the site,
20 but I don't remember what his function was.

21 Q. Do you know where he is now?

22 A. No. I have though idea.

23 Q. Do you know if, in fact, you guys ever made

1 a decision about using a plant facilitator?
2 A. Well, I think in the initial discussions
3 with Michael Elliot, we had wanted him to
4 facilitate in the beginning, and I don't know
5 how long the "beginning" would mean, but we
6 wanted to make sure it was set up right and
7 organized right and that, at least, the first
8 several meetings were done -- were conducted
9 right with the professional facilitator. And,
10 then, I think there was some discussion of him
11 giving some facilitation training to either a
12 local person or a plant person to take over
13 after that.

14 Q. But it never got that far?

15 A. No.

16 Q. Okay.

17 (Whereby, the Court Reporter
18 marked Exhibit 48.)

19 BY MS. MALOW:

20 Q. Take a look at Exhibit 48. Are those your
21 notes?

22 A. Yeah.

23 Q. Do you know when, in time, those notes were

1 made? There's no date on them -- I mean, in
2 terms of was that before or after Exhibit 47,
3 the e-mail?

4 A. I have no idea.

5 Q. Okay. It looks like you're writing down
6 some notes regarding some of the work that
7 Michael Elliot did. Is that accurate?

8 A. That's what it looks like.

9 Q. And the third bullet point is: "Get any
10 information about these recommended people. Who
11 they are; what they do; etcetera." Again, other
12 than what we've already identified in Exhibit
13 25, which is the grid, do you know of any other
14 information?

15 A. I don't.

16 Q. The last point says: "If started CAP and
17 members sign up"?

18 A. "If start a CAP --

19 Q. Okay.

20 A. -- and members sign up for lawsuit must
21 go." and I don't know if there was anything
22 beyond that. It doesn't show it.

23 Q. What does that refer to?

1 A. I don't know. I think it was starting to
2 talk about the complications of not being able
3 to approach certain people if they were
4 litigants or potential litigants, but I don't
5 know what the rest of that note was intending.

6 Q. Okay. I'm going to switch gears a little
7 bit. There's an agenda, which I believe we
8 previously marked as Exhibit 27 to your last
9 deposition that seems to relate to the Sauget
10 site.

11 A. Okay.

12 Q. And you are listed under public affairs for
13 Monsanto Corporation; is that right?

14 A. That's what it looks like.

15 Q. Okay. In this document, Exhibit 27, it
16 mentions image research. Who conducted this
17 image research?

18 A. Where does it say that.

19 Q. It's the last bullet point. "Positives
20 identified in image research?"

21 A. Let me read through it this.

22 Q. Sure.

23 A. I'm trying to recall this document.

1 I don't know. The only research I can
2 think of is the community action service that
3 Bill Adams and his group did periodically at
4 many of our sites and that was -- it was
5 community relations oriented.

6 Q. Well, on this agenda, which is Exhibit 27,
7 it lists some consultants including: Bruce
8 Harrison, Michael Petroezello, and, then, some
9 folks from Fleishman-Hillard.

10 A. Uh-huh.

11 Q. Do you see that?

12 A. Yeah.

13 Q. Do you know of any work that any of those
14 consultants did with respect with image research
15 for Monsanto?

16 A. I don't remember. I don't know.

17 Q. It talks --

18 A. I can't recall any image research that was
19 done.

20 Q. Who are Bruce Harrison and Michael
21 Petroezello?

22 A. Well, the firm is E. Bruce Harrison.
23 They're a PR firm, and Michael Petroezello works

1 for them. I don't recall him in relation to
2 this issue, but I've run into him on other
3 occasions in the PR community.

4 Q. Do you know if E. Bruce Harrison has ever
5 done any work in connection with the Anniston
6 site?

7 A. I don't think so. At least not during my
8 time, but I can't tell you before or after that.

9 Q. Okay, and, then, the individuals listed
10 under Fleishman-Hillard: Allen Akerson, Robert
11 Pierce, Marjorie Brooks, Peter --

12 A. Far?

13 Q. F-A-U-R?

14 A. Right.

15 Q. Do you know if any of those individuals
16 were people that you contacted when you
17 contacted Fleishman-Hillard about the Anniston
18 site.

19 A. Bob Pierce, because he was in charge of the
20 environmental group that we dealt with the
21 most -- that my group dealt with the most. And
22 Marjorie and Peter worked for Bob. Allen was
23 kind of the executive contact account director,

1 I guess, from Fleishman-Hillard to Monsanto, but
2 we didn't get him involved. Most of my contact
3 was directly with Bob Pierce.

4 MR. COOPER: Just for clarification,
5 are we talking about the Anniston site or
6 the Sauget site?

7 MS. MALOW: That specific question was
8 directed to the time that she contacted
9 them about trying to find someone at
10 Anniston --

11 THE WITNESS: And that was Bob Pierce.

12 BY MS. MALOW:

13 Q. You are listed as being someone that was
14 going to give a presentation regarding a
15 community relations plan for the Sauget site.
16 Do you recall what the plan was?

17 A. I don't. And even from this, I don't know
18 that it's community relations related to the
19 Sauget site or to the Krummrich plant. This is
20 1990; I don't remember.

21 Q. It looks like, according to the purpose on
22 this agenda, which is Exhibit 27, that there was
23 going to be an effort to put together a public

1 and community relations strategy to deal with
2 the remediation efforts at Sauget. Was a
3 similar effort put together when the remediation
4 process was started at Anniston? That is, to
5 use outside consultants and look at image
6 research, things of that nature?

7 A. No. Like I said, you know, our early
8 attempts to find outside PR consultants were to
9 try to find a local agency that could help Jack
10 with some of the issues he was dealing with
11 trying to go introduce him around to the
12 different community leaders and set up meetings
13 for him, but other than that, we really didn't
14 we do anything like this.

15 Q. Why was the -- why was the Sauget
16 remediation treated differently than the
17 Anniston remediation in terms of how it was
18 handled with respect to using outside
19 consultants?

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

22 THE WITNESS: I don't know.

23 BY MS. MALOW:

1 Q. Is this typical or atypical to have such an
2 extensive agenda with respect to remediation at
3 a site?

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

6 THE WITNESS: I don't know who put this
7 agenda together. It's a pretty involved
8 agenda for an organizing meeting. I
9 don't know. It just depends on who's
10 organizing the meeting what kind of
11 agenda they put together.

12 BY MS. MALOW:

13 Q. "Sander Strategy Development Objective "on
14 Exhibit 27 --

15 A. Uh-huh.

16 Q. -- was that same objective -- the objective
17 that Monsanto had with respect to the
18 remediation for the Anniston site?

19 A. "To complete open, positive community
20 relations, constructive communication, and a
21 minimum of negative attention." That sounds
22 legitimate.

23 BY MS. MALOW:

1 Q. Okay. Earlier before the deposition
2 started, I handed you Exhibit 49 to review. Did
3 you do that before we started your deposition
4 today?

5 (Whereby, the Court Reporter
6 marked Exhibit 49.)

7 THE WITNESS: Yes.

8 Q. What is Exhibit 49?

9 A. It's community dialog workshop put on at
10 Monsanto's headquarters in St. Louis, June 24th,
11 1996, and it was -- as I mentioned before, it
12 had to do with Community Advisory Panels.

13 Q. Were you an attendee at that presentation?

14 A. Yes.

15 Q. At the back of Exhibit 49, there's a
16 participant list, and I didn't see your name,
17 but that doesn't mean you weren't there?

18 A. And I was looking at that participant list,
19 too, and it looks like there are pages
20 missing -- like it might have been double-sided,
21 and only one side was copied.

22 Q. You know, it's those lawyers every time.

23 A. Because it goes from C to L and I'm sure

1 there were alphabetical, like H, me, that would
2 have been in the middle, and then it goes from M
3 to Q.

4 MS. MALOW: If Mr. Peck would please
5 provide me with the full document.

6 MR. PECK: What I think --

7 MS. MALOW: This is a brand new
8 document that I think I just got from
9 Mr. Kelly.

10 MR. PECK: This is my copy, which I
11 also got and I'll be happy to give it to
12 you because it's an extra. Since I
13 didn't have anything original -- it has
14 both names on it.

15 MS. MALOW: Okay. Good. Thanks.

16 MR. PECK: Why don't y'all substitute
17 it?

18 MS. MALOW: We'll make this 49.

19 BY MS. MALOW:

20 Q. All right. So, you definitely were at this
21 presentation?

22 A. Right.

23 Q. Was this a one day workshop?

1 A. No. I think it was more than one day,
2 maybe a day and a half.

3 MR. PECK: You're on there somewhere.

4 I remember seeing you.

5 THE WITNESS: Where am I? That's weird

6 Oh, here on the first page, okay.

7 BY MS. MALOW:

8 Q. Do you know why this workshop was held?

9 A. Yeah. As I mentioned before, it was -- the
10 intent was to give Community Advisory Panels a
11 jump start in the company. We would have them
12 at a number of sites for quite a while and some
13 of the members were losing interest. So it was
14 hard to get good attendance. Some sites we
15 wanted to get CAPs started and there was, you
16 know, just -- I don't know, not a lot of
17 excitement around them at some plants. Just
18 because there were so many other priorities and
19 they didn't see it as a priority if they didn't
20 have any big problems. And, at some sites, it
21 wasn't appropriate for them to have a CAP
22 because they were so small and they knew
23 everyone anyway, but we wanted to give them some

1 ideas of what they could do to involve the
2 community more.

3 Q. Do you know whose idea it was to have this
4 workshop?

5 A. The chemical group put it on, but I think
6 it was probably a joint idea, probably of that
7 chemical public affairs group with Mike Pearly,
8 and the ESH folks were also interested in trying
9 to get strong CAPs at as many facilities as
10 appropriate.

11 Q. Did you have any role in preparing for this
12 workshop ahead of time as far as getting
13 speakers lined up or putting together any of the
14 presentation materials?

15 A. I know they were doing it -- whether I was
16 involved in any of the meetings leading up to
17 it, I don't recall, but they did most of the
18 work themselves.

19 Q. "They" -- the chemical group?

20 A. Right. The chemical public affairs group.

21 Q. Who were the participants of this workshop?

22 A. It was up to each plant to decide who they
23 wanted to bring. A good number of sites sent

1 their plant managers. If they had a public
2 affairs people, which very few plants did, they
3 would sent that person. Some sent their
4 environmental superintendents. It just depended
5 on how they were organized and who had
6 responsibility for community interaction and
7 community relations.

8 Q. How about respect to the non-Monsanto
9 participants -- who were they?

10 A. Again, from looking at this just before I
11 came, some were professionals with other
12 companies that had large or small CAPs and had
13 experiences to share. Some were consultants,
14 either with CMA or with their own companies, who
15 could talk about CAPs in a more general
16 industry-wide fashion.

17 Q. Were you familiar with Erin Donovan prior
18 to this workshop?

19 A. Yes.

20 Q. What was your familiarity with her?

21 A. She was involved with the community
22 right-to-know start-ups and helping plants do
23 community relations community communications

1 around those announcements. She consulted
2 through CMA with a number of companies at
3 different points in time, and I think she was
4 with Rowen and Blewitt for a while, too, which
5 was -- I think they were pollsters. I don't
6 remember exactly what Rowen and Blewitt did.

7 Q. A what?

8 A. A pollsters, survey.

9 Q. Oh, company polster.

10 A. Yeah.

11 Q. Do you know why MS. Donovan was asked to
12 speak at this workshop?

13 A. I've got to go back to the agenda. "Risk
14 communications planning in your community."

15 Q. What does that mean?

16 A. Does she have her presentation in here? I
17 know when we were doing community right-to-know,
18 we were trying to help plant managers and their
19 staffs gain an appreciation for how people would
20 receive the information they were going to
21 communicate, and, I imagine, it was the same
22 kind of communication in this workshop.

23 Q. Meaning, if there's a potential risk to the

1 community, going over how that should be
2 explained to the community? Is that what that's
3 about?

4 A. Well, yeah. I mean, it's how people are
5 going to take information that you impart. So
6 for instance, if you talk about chemicals in
7 jargonese -- information that would come out
8 most material safety data sheets, people aren't
9 going to understand it. It's going to seem
10 foreign. It's going to seem more scary then if
11 you talk about the chemical in ways they can
12 associate with, being a chemical that they used
13 to scrub the cements in their garage, or
14 whatever a common use might be of a chemical.
15 Help them gain a familiarity with whatever
16 information you're trying to communicate.

17 Q. Did you give any speeches at the workshop?

18 A. No.

19 Q. Was your role just, basically, to attend?

20 A. Yes.

21 Q. It mentions in Exhibit -- what is that
22 40 --

23 A. -- 9.

1 Q. Exhibit 49, that were there were some
2 posters that I guess were on display during the
3 workshop. Do you know what those posters were?

4 A. I don't remember.

5 Q. What feedback did Monsanto get after this
6 workshop was conducted -- from the participants?

7 A. As I recall, it was well received. It did
8 give people more ideas about what they could do
9 to reinvigorate their CAPs. I don't know that
10 anything brand new started up, directly, as a
11 result of this workshop, but I think it did kind
12 of give a shot in the arm to the whole process
13 in the company.

14 Q. Do you know how many new CAPs were formed
15 after that workshop took place?

16 A. That's, again, I don't know that anything
17 happened directly as a result of having this
18 workshop or everyone went home and said, "Voila,
19 I found the secret. I will now, next week,
20 start up a CAP. I think where there wasn't one,
21 it was, then, the responsibility of the chemical
22 public affairs person whoever had responsibility
23 for each site, to have further conversations,

1 and follow up, and see if they could get
2 something started where something maybe wasn't
3 before.

4 Q. At your last deposition I had marked as an
5 Exhibit, Exhibit 35, which is entitled,
6 "Community Dialog, Community Advisory Panels,"
7 was this one of the materials that was used at
8 this workshop in June of '96?

9 A. I think we established last time that it
10 was.

11 Q. Okay. Last time I didn't have 49. I'm
12 just trying to tie them together. Is that
13 right?

14 A. Yeah. Right.

15 Q. Okay. I don't have anything else on that.

16 A. Okay. Are you done with this one?

17 Q. Yeah.

18 (Whereby, the Court Reporter
19 marked Exhibit 50.)

20 BY MS. MALOW:

21 Q. Let me show you Exhibit 50 and ask if you
22 can identify that.

23 A. Okay.

1 Q. What is Exhibit 50?

2 A. It looks like a communication from me to

3 Jack about CAPs.

4 Q. When I read it, it seemed like it was notes

5 that were taken that related to this anecdotal

6 story about why a CAP didn't work in Anniston

7 from this workshop. Am I incorrect?

8 A. Did Jack present at that one?

9 Q. I don't know. That's what I'm trying to

10 figure out.

11 A. Let's see if he's listed. I can't tell. I

12 don't see him listed on the agenda.

13 Q. What is your recollection of what Exhibit

14 50 is? I mean, do you think you put together

15 notes about the CAP in Anniston for Jack?

16 A. Well, it looks like it's me giving advice

17 to Jack for talking about the experience of

18 trying to put together a Community Advisory

19 Panel and problems run into, but whether it was

20 for this workshop or not, I don't recall and I

21 don't know what it would have been for.

22 Q. Okay.

23 A. It very well could have been for this. I

1 just don't remember.

2 Q. Are you familiar with any information on
3 CAPs that has been authored by ATSDR?

4 A. No. You know, I guess not.

5 I know EPA is eager to have Community
6 Advisory panels related to remediation sites,
7 but I don't know what role ATSDR plays in that.

8 Q. I'm going to show you what was marked as
9 Exhibit 5 to Ms. Russert deposition. Can you
10 identify that for me?

11 A. "Prudential Community Interaction
12 Consulting, Community Advisory Panels, an Option
13 for Community and Industry Dialog."

14 Q. Have you seen this document before?

15 A. I think I've seen some pages of this. I
16 don't remember this cartoon. I've never seen
17 that before, and I don't -- I don't think I've
18 seen a presentation this long from them before,
19 but a couple of pages in this look familiar,
20 like something Prudential might have shared with
21 me when we were looking at who to use for the
22 Anniston CAP.

23 Q. If you'll look at this second page of

1 Russert Exhibit 5, it talks about defining the
2 issues and the need for communication, and that
3 the potential gap between the industrial
4 companies and the local community can result in
5 litigation. Do you see that?

6 A. Yep.

7 Q. And, yet, I believe you've previously
8 testified that you didn't think that that was
9 any basis for forming a CAP to prevent
10 litigation from arising?

11 A. Well, that's not the -- the intent. The
12 intent when you form a CAP is to gain a window
13 into the community about what their issues and
14 concerns are so that you can deal with those
15 issues and not have them grow into something
16 much bigger later on, because you haven't
17 addressed it all along when the concerns were
18 arising. You know, whether or litigation occurs
19 later on, you don't have a lot of control over.
20 This is marketing material and so they're
21 probably going to throw everything they can into
22 trying to tell you what they can do or should do
23 for you.

1 Done.

2 Q. With that one. That was the big one. All
3 right. Let's go back to that line.

4 A. Back to this?

5 Q. No.

6 All right. At your last deposition we
7 talked about your familiarity with Dr. Renate
8 Kimbrough are you aware of any efforts to
9 publicize PCB studies that Dr. Kimbrough has
10 authored?

11 A. I'm not familiar with anything like that.

12 Q. During the time that you had responsibility
13 for Anniston, did you have any particular role
14 in dealing with the media? I believe you told
15 me last time that Mayauski was the primary
16 contact with the media.

17 A. That's right.

18 Q. Did you have any particular contact with
19 the media with respect to the Anniston site?

20 A. I think, once or twice, a call from Sean
21 Riley came in to us in St. Louis, and our usual
22 response was to send them back down to the plant
23 for whatever information they needed.

1 Q. We talked about that your main contact with
2 Anniston was with Jack Mayauski. Were there
3 other folks at the Anniston plant that you dealt
4 with when you had responsibility for that site?

5 A. There was a team of people. Alan Faust was
6 doing the remediation. Joe Hanson, who worked
7 with Allen. Robert Jones was the Environmental
8 Superintendent, although he wasn't as involved
9 with the remediation. You're talking about just
10 the Anniston people not the corporate people,
11 right?

12 Q. Right.

13 A. That's pretty much it.

14 Q. Did you keep any correspondence regarding
15 the work that you did with respect to the
16 Anniston site?

17 A. Whatever I had I turned over to Beth.

18 Q. Same would be true of telephone
19 conversations or notes from calls?

20 A. If I kept any. If I didn't need them, I
21 probably didn't keep them.

22 Q. You previously testified that you worked
23 with Jack Mayauski on community relations

1 activities, general community relations, and
2 remediation efforts. Were there any other
3 activities that you did with respect to
4 Anniston?

5 A. That's pretty much it.

6 Q. Have you had any conversations with
7 anybody, other than attorneys, regarding the
8 trial setting in the case pending in Anniston,
9 Alabama?

10 A. You mean during the years that I had the
11 plant?

12 Q. At any time.

13 A. It was mostly just the team, you know, the
14 lawyers and, I mean, I'd hear about it. I
15 wasn't involved in any of the details of it.

16 Q. Did you have any responsibility for pulling
17 together articles that were used to -- or for
18 the motion to transfer venue that was filed by
19 Monsanto or Solutia?

20 A. No.

21 Q. We talked last time about a few different
22 community philanthropic activities. Did you
23 have any familiarity with things like the

1 Habitat for Humanity Home, or paving the parking
2 lot at the school, things of that nature?
3 A. When did that happen?
4 Q. I think they were after your time.
5 A. Yeah. Because that's not familiar to me.
6 Q. Okay. Can you estimate the numbers of
7 hours that you spent working on projects related
8 to the Anniston site during the time you had
9 responsibility for it?
10 A. That's hard to do because I had --
11 Q. How about percentage of time that you would
12 have devoted in a given month to Anniston?
13 A. Maybe 15 percent.
14 Q. You haven't had to give a deposition since
15 your last one, have you?
16 A. No.
17 Q. Did you have any involvement in helping
18 prepare speeches for Rotary Club or other civic
19 organizations in Anniston?
20 A. No.
21 Q. Have we covered all of your visits to the
22 Anniston site?
23 A. What do you mean covered all of my visits?

1 Q. Well, do you know how many times you went
2 out to the Anniston facility?

3 A. Over three years? That's hard to say.

4 Q. Do I think it was more than ten times?

5 A. Well, probably -- yeah, maybe, between ten
6 and twenty.

7 Q. And none of those visits involved any
8 contact with regulatory officials?

9 A. No. That wasn't my function.

10 Q. We talked last time about the ADEM's
11 Research Community Survey that was performed for
12 Anniston. Do you recall that?

13 A. Uh-huh.

14 Q. With whom at the plant did you discuss the
15 results of that survey?

16 A. Jack Mayauski, and then, I think a few of
17 his staff in a further meeting, where we looked
18 at the results and what we could do where, you
19 know, there were recommendations for future
20 action -- for instance giving a smaller number
21 of larger donations.

22 Q. We also talked at your last deposition
23 about the property purchase program. Do you

1 recall that?

2 A. Right.

3 Q. And I had asked you about your familiarity

4 with Dr. Brian Hughes, and I believe you said

5 you did not have any contact with him?

6 A. That's right.

7 Q. Were you aware that Dr. Hughes went door to

8 door telling people to move and providing them

9 with a Prudential realtor contact information?

10 MR. PECK: Object to the form of the

11 question.

12 THE WITNESS: I don't know whether he

13 did or not. I don't recall.

14 BY MS. MALOW:

15 Q. Do you know of a person named Mueller?

16 A. No.

17 Q. Did you have any role in the letters that

18 were prepared by Dr. Kaley to John Pool of ADEM

19 regarding the status of the buy-out program?

20 A. Do you have something I could look at?

21 Q. I don't have anything with me. Just

22 wondered if you were involved in those letters.

23 A. I don't recall. I know I wouldn't have any

1 input. Whether I saw them or not -- I don't
2 know.

3 Q. If someone like Dr. Kaley was going to
4 write a letter to a regulatory agent would PR
5 look at that before it went out?

6 A. Not necessarily. If it was something that
7 involved the community, then possibly, and for
8 instance, if this involved the property purchase
9 program, I might have seen it, but if it was a
10 pretty straightforward status report on where
11 things stood, Bob would have been as familiar
12 about that as I would have been.

13 Q. Do you have any knowledge regarding who
14 placed the Kimbrough study in the Alabama
15 newspapers?

16 A. No.

17 Q. Do you know who provided the "Anniston
18 Star" reporter with that study, or any critiques
19 of that study?

20 A. No.

21 Q. Have you ever been involved in setting up
22 any meetings with congressional aids to discuss
23 Dr. Kimbrough's PCB study?

1 A. No.

2 Q. Do you know who would have done that?

3 A. No. What years were those done?

4 Q. Recent.

5 A. Well, I -- it's Solutia, I wouldn't have

6 been involved.

7 Q. Do you know who paid Dr. Kimbrough's

8 expenses when she came to the site in 1995?

9 A. I don't know for sure.

10 Q. Do you have -- we talked before about the

11 fact there was this land swap where Alabama

12 Power had some land which was the West End

13 Landfill, that there was some detection of high

14 levels of PCBs, and Monsanto took back the

15 property. Do you remember that basic concept?

16 A. Yeah.

17 Q. Okay?

18 A. Superficial knowledge.

19 Q. Do you have any knowledge regarding the

20 West End Landfill?

21 A. Not much.

22 Q. What knowledge do you have about that?

23 A. Just that they were doing testing there and

1 putting a remediation plan together there, too,
2 but that didn't involve property purchase.
3 Q. Were you aware of this detection of PCBs
4 via someone at Monsanto or did you learn about
5 it through reading the papers?
6 A. In the community?
7 Q. The outbound power?
8 A. That was before my time, so, I don't
9 remember whether it was.
10 Q. You think you learned about it after the
11 fact?
12 A. Yeah.
13 Q. Do you remember who told you about that?
14 A. No, I don't remember.
15 Q. Okay. Do you know Carol Browner with EPA?
16 A. Personally?
17 Q. Well, have you ever had any contact with
18 her?
19 A. I mean, I know who she is. She's the
20 administrator and I've never had personal
21 contact with her.
22 Q. Or any other EPA officials?
23 A. No.

1 Q. Do you know of any contact by anyone at
2 Monsanto with Carol Browner?

3 A. Mike Pearly might have, but I don't know.
4 He dealt with EPA officials on a lot of
5 different issues.

6 Q. And you haven't had any contact with anyone
7 at the Alabama Department of Public Health
8 regarding the Anniston site?

9 A. No.

10 Q. Or ADEM?

11 A. No, that was Kaley and the plant people --
12 the remediation folks.

13 Q. What is your understanding of Monsanto's
14 relationship with ADEM?

15 A. Working relationship?

16 Q. Right.

17 A. Well, I know we were working together,
18 along with a number of other agencies, on a
19 remediation plan.

20 Q. Do you know why it is that it was that that
21 remediation plan was being handled by ADEM as
22 opposed to EPA?

23 MR. PECK: Object is to the form

1 question.

2 THE WITNESS: I don't know.

3 BY MS. MALOW:

4 Q. Have you ever had any involvement in tort
5 reform legislation?

6 MR. PECK: In Alabama or --

7 MS. MALOW: Right now. It's broad.

8 MR. PECK: Okay.

9 THE WITNESS: For a year or two, I did
10 have state government affairs
11 responsibility for a few sites -- not
12 Alabama, and I know one of the issues
13 that would come up almost every year was
14 tort reform.

15 BY MS. MALOW:

16 Q. And I take it that Monsanto was in favor of
17 tort reform?

18 A. Right. And, we were part of industry
19 coalitions. So, I know I wasn't doing any work
20 on my own related to tort reform. It was part
21 of larger industry groups.

22 Q. Okay. Are you familiar with a guy named
23 Jerry Ford, a former Monsanto employee, that,

1 then, served on City Counsel in Anniston?

2 A. I don't recall his name now.

3 Q. We talked last time about some times where
4 the press would be invited out to the Anniston
5 site for a tour. Were you involved in putting
6 together any sort of package, or tour, for the
7 press?

8 A. As far as materials to give them, I might
9 have suggested some general materials that would
10 give them back background on Monsanto as a
11 company, and then whatever background material
12 we might have on the plant, and I think the
13 plant had a brochure. I'm not a hundred percent
14 certain, but I think they did. And as far as a
15 tour, I think there was a general discussion
16 about what kinds of things you would show a
17 reporter to help them gain a perspective of what
18 was at the site, and how the testing program,
19 and the subsequent remediation plan evolved. I
20 don't recall whether I had input into that, but
21 it was a team effort.

22 Q. Who else would have been on that team?

23 A. Jack, certainly. Alan Faust when he came

1 on as remediation person. Possibly, Robert for
2 some historical knowledge. Bob Kaley.

3 Q. Did you put together any press packages
4 regarding Anniston?

5 A. No. No formal packages.

6 Q. Do you remember assisting with any press
7 releases regarding the Anniston site?

8 A. None come to mind.

9 Q. Do you recall preparing talking points
10 regarding the Anniston facility?

11 A. We probably had some talking points. It's
12 been a while -- so I don't I don't remember what
13 they said, and you might have a copy.

14 Q. I covered some with Kevin Cahill. I
15 wondered if you had authored any with respect to
16 any PCB related issue?

17 A. We might have had, you know, Q and A's
18 related to the property purchase program, or
19 remediation, and it would be at whatever point
20 in time we were at with the program when I had
21 the site. So, Kevin might have had a future
22 iteration of a Q and A, I just don't recall, but
23 it would be common practice to have some kind of

1 material like that on hand.

2 Q. Did you ever get involved in preparing
3 letters to the editor regarding the Anniston
4 site?

5 A. I'm trying to remember. Kaley might have
6 done a letter to the editor. And, I don't
7 remember which newspaper, and, then, there would
8 have been a number of us looking at that, and
9 possibly making comments, but I don't remember,
10 I mean, I don't -- I wasn't the author of a
11 letter to the editor on my own and I don't
12 remember what input I would have had.

13 Q. How about drafting speeches for anyone at
14 the Anniston plant. Did you do that?

15 A. No.

16 Q. How about modifying speeches that were
17 drafted?

18 A. I don't recall any -- seeing any speeches
19 that I was part of.

20 Q. We talked before about you being listed as
21 a secondary contact for press, media,
22 television, radio inquiries. Did you have any
23 other such roles during the time that you had

1 responsibility for Anniston?

2 A. You mean for other issues?

3 Q. Well, I mean, just any other time where you

4 were the contact?

5 A. For Anniston or for PCBs or what?

6 Q. Anniston or PCBs.

7 A. I was only the Anniston contact during the

8 years when I had responsibility for the Anniston

9 plant, '94 to '97, and even then, as I said

10 before when we would get media inquiries, if

11 they were related to the Anniston issues, we

12 would send those back down to the plant. My

13 involvement as being a media contact for PCBs

14 was limited to the material that was in the PCB

15 background, and if they wanted more information

16 than that, then I would send them to Bob Kaley.

17 Q. Okay. During the time you had

18 responsibility for Anniston, did you put

19 together a plan to place positive media stories

20 regarding the Anniston site?

21 A. Not a plan. It's part of the community

22 relations plan. One of the things that we tried

23 to do at all of our sites was try to get some

1 positive attention. It didn't always have to be
2 media attention for a plant donations --
3 donations from the plant to the Community. And,
4 so, when we had the Birds of Pray Exhibit. It
5 wasn't an exhibit, I guess it was more of a
6 demonstration for elementary schools done by the
7 World Bird Sanctuary, we let the media know
8 about that so we could get reporters or
9 photographers at least out there to see the kids
10 and the birds. When we would give money to --
11 what was it -- the traveling, some kind of
12 traveling museum -- science museum, or something
13 like that, we might have done some kind of media
14 notification. That would have been a normal
15 community relations activity and when I said we
16 didn't always have to get media publicity it
17 might be a, you know, a donation that we don't
18 get publicity for, but we do it because it helps
19 the community meet a stated goal, and so, if the
20 community leaders know we're contributing to
21 that goal, that's good enough recognition.
22 Q. What briefing pieces did you put together
23 for media contacts for Anniston?

1 A. I don't know that I put any together.

2 Q. Who would have had responsibility for that?

3 A. Well, you know, other than in your report
4 and environmentally in your report, and a plant
5 brochure, I think the rest of the briefings were
6 mostly just verbal. I know they would be shown
7 a site map, given them an overview of the area,
8 be given a walking tour, or a verbal description
9 of what was going on in the different areas --
10 the neighborhood, and on the site.

11 Q. And you mentioned a little bit ago that
12 with respect to plant tours of Anniston of the
13 press, that you would have a general discuss on
14 what to show the press. What would you
15 recommend be shown and not be shown to the
16 press?

17 A. Well, it wasn't a matter of what not to
18 show. It was a matter of what would we
19 anticipate them being interested in and what
20 would be good for them to have a clear
21 understanding about so that they could write
22 better informed stories. So, trying to put
23 yourself in the journalist's frame of mind. If

1 you were a journalist, and you're going to be
2 writing stories about this, what would be useful
3 for you to know?

4 Q. What would be useful?

5 A. For them to see the area that was involved
6 and the remediation for them to understand the
7 plans for the remediation, and, therefore, why
8 property was needed to be able to fulfill the
9 remediation plan for them to understand the
10 history of the site. Pretty much along those
11 lines.

12 Q. Were there any articles that were written
13 about the Anniston site during the time you had
14 responsibility for it that you had been involved
15 in ahead of time as far as meeting with the
16 reporters or prepping them?

17 A. No. I didn't meet with the reporters.

18 Q. Back to Scott McMurray, the guy that wrote
19 the article about Sauget. Did you ever have any
20 conversations with him, directly?

21 A. No.

22 Q. Did you ever have discussions with Jack
23 Mayauski on his dealings, or interactions, with

1 the "Anniston Star" editor, or managing editor,
2 or other employee of the Star?
3 A. Did I have conversations with him about his
4 contact with -- when he talked to reporters from
5 the "Anniston Star," we would know about it. I
6 mean, when we would have discussions, he would
7 mention that this reporter was interested in
8 doing a story on this or that. As far as the
9 managing editor, I think Brandy Ayers was the
10 publisher, and I think he was also considered
11 one of the Anniston community leaders. So, Jack
12 had regular briefings with him. I don't know --
13 they probably weren't formal briefings, but when
14 he would run into him one other another
15 occasion, he would bring him up to speed on what
16 we were doing.

17 Q. Have you been involved, while you've worked
18 for Monsanto, with any of the publicity
19 NutraSweet?

20 A. No.

21 Q. How about Agent Orange?

22 A. Some. But, again, that was a pretty
23 technical area to which I often deferred to Bob

1 Kaley.

2 Q. What about with the Bovine hormone growth
3 stimulant?

4 A. No. That wasn't my area.

5 Q. Back to Fleishman-Hillard. Do you know who
6 it is that negotiated the corporate contract
7 with Fleishman-Hillard?

8 A. People above me. And, so, I'm thinking it
9 was probably Dan Bishop, and possibly, Virginia
10 Weldon. Dan was the director over at corporate
11 communications, and he reported to Virginia
12 Weldon, who had public policy of which public
13 affairs at that time was a part.

14 Q. And down why it was that Fleishman-Hillard
15 was first retained by Monsanto?

16 A. I think a number of agencies were allowed
17 to --

18 MR. PECK: You're talking about just in
19 general?

20 MS. MALOW: Right -- general.

21 THE WITNESS: Because they had -- they
22 made the best presentation, and I
23 imagine, and I don't know what their

1 financials look like compared to what
2 some of the other firms might have been
3 proposing, and I don't know who the other
4 firms were, but I do know that they
5 considered others besides just
6 Fleishman-Hillard.

7 BY MS. MALOW:

8 Q. But what event was it that generated this
9 interest in looking outside the company to get a
10 PR firm involved?

11 A. Oh, we've had PR -- as a major company,
12 it's not unusual to have -- to retain public
13 affairs, public relations firms, and have a
14 contract with them, and, in fact, before I came,
15 we had a contract with Hill and Knowlton and
16 they had some kind of strange arrangement,
17 whereby, they were going to try to contract out
18 the public relations department, downsizing the
19 people from Monsanto, but having them be
20 absorbed by Hill and Knowlton and then,
21 contracted back on a timed basis back to
22 Monsanto, and that arrangement just turned out
23 disastrous. And so, as the company got back on

1 track with more internal people again, then they
2 needed another PR firm, and we were no longer
3 working with Hill and Knowlton, and it was at
4 that point they did a search and came up with
5 Fleishman-Hillard, which was based in St. Louis.
6 So, they were very familiar with Monsanto.
7 They're a global firm, but they are
8 headquartered in St. Louis.

9 Q. Switching gears again. We had talked about
10 that there is a Monsanto philanthropic budget.

11 Do you remember that?

12 A. Right.

13 Q. Have you ever served on the Monsanto fund
14 board?

15 A. No.

16 Q. Do you know Marilyn Hartnett?

17 A. I did. She's retired from the company now.

18 Q. What was her function?

19 A. She worked with John Mason -- was the
20 President of Monsanto Fund, and with a number of
21 the planted sites on their fund's budget, and we
22 would work -- from a community relations
23 capacity, we would work closely with her to make

1 sure that the fund budget and the community
2 relation plan were in sync.

3 Q. Is she still in the St. Louis area?

4 A. I don't know.

5 Q. Who is it that has to clear charitable
6 contributions that are, you know, somewhere
7 around a million dollars? Is that something
8 that has to be done by the president of the
9 company?

10 A. If they're charitable contributions, you
11 mean, from the Monsanto fund.

12 Q. Right.

13 A. That would probably go through the fund's
14 board.

15 Q. Are you aware of contributions that are
16 made through any campaign arms of Monsanto?

17 A. I know we have a Political Action
18 Committee.

19 Q. Right. Do you know of any other campaign
20 arms?

21 A. There are two -- one is a Political Action
22 Committee, and I think that's employee
23 contributions, and I think there's a citizenship

1 fund, or maybe it's a citizen -- there are two,
2 one is more corporate donations, and the other
3 is employee donations. Both, as I recall, are
4 fairly small.

5 Q. Did you have any role in what contribution
6 should be made to local politicians or officials
7 in the Anniston area?

8 A. No.

9 Q. Have you ever heard of the Spirit of
10 Anniston Program?

11 A. No. It's not familiar to me.

12 Q. We talked last time about some
13 environmental justice issues and we discussed
14 NEJAC, do you remember that?

15 A. Uh-huh.

16 Q. Why did Monsanto participate in NEJAC?

17 A. I believe we were invited to participate.

18 Q. It's not mandatory?

19 A. No. It was an EPA committee that was set
20 up to look at issues of environmental justice.

21 As I recall, it was predominately weighted with
22 environmental justice activists. There were
23 only a couple of industry representatives. We

1 were, maybe, one of two.

2 Q. Do you have any knowledge regarding

3 picketing that was done in the Sweet Valley or

4 Cobb Town areas regarding the remediation?

5 A. What time frame.

6 Q. It was during the time that you had

7 responsibility. I can't give you an exact date?

8 A. Yeah. I seem to recall that there was some

9 picketing, but I don't remember who was doing it

10 or why.

11 Q. Do you remember any sort of plans that were

12 put into place to deal with those events, or to

13 try and soften the reports in the media or on

14 the news?

15 A. I don't remember. It's long enough ago, I

16 just don't remember the details.

17 Q. Do you know if anyone from St. Louis, such

18 as Foresman, or Joe Hansen, participated in ADEM

19 remediation meetings?

20 A. Oh, well yeah. I mean, as far as putting

21 the remediation plan together, sure.

22 Q. You previously testified that Monsanto will

23 sometimes hire outside consultants to put

1 together presentation materials. Which outside
2 consulting firms are hired?

3 A. What presentation materials?

4 Q. Well, we were talking about an
5 environmental justice presentation material, and
6 you had said -- you had testified that there
7 were teams where outside consultants would be
8 hired to put together such materials.

9 A. I don't -- I don't know about an
10 environmental justice presentation. I think, if
11 I'm remembering from several months ago, when
12 you were talking about using outside firms to
13 put together presentations, we would use
14 Fleishman-Hillard. We would use whatever PR
15 agency -- usually Fleishman-Hillard because they
16 had the corporate contract, but sometimes there
17 were other firms, depending on what issue was,
18 if the Monsanto staff didn't have the resources
19 to do the work. So, they were kind of our
20 overflow work route, and, you know, if there
21 was -- if you needed a speech done that you
22 don't have time to write, if you needed a
23 presentation that you didn't have time to put

1 together, you would let them put it together for
2 you. Of course, you would have to have
3 oversight over what was said, but if you didn't
4 have time to do the work, they would do the
5 work. Now, as far as an environmental justice
6 presentation, I don't know what you're talking
7 about.

8 Q. Okay. We talked before about your asking
9 Fleishman-Hillard to do a search for a PR firm
10 in the Anniston area?

11 A. Right.

12 Q. Do you remember whom you dealt with
13 directly at Fleishman-Hillard on that issue?

14 A. I believe I made the request of Bob Pierce.

15 Q. What size firm did y'all want?

16 A. It didn't matter. We just wanted a firm
17 that was local that had knowledge of the
18 Anniston community and that could help Jack with
19 getting his feet on the ground with just general
20 community relations activities, and then set up
21 meetings that he needed to do, related to the
22 remediation.

23 Q. Do you remember from whom it was that you

1 heard that the Alabama Power Company had
2 discovered high levels of PCBs on the landfill
3 site?

4 A. Again, that all happened before I came on
5 board. So, I don't -- before I have the
6 Anniston. So, I don't know whether it was in a
7 briefing when I did take on the site or in
8 reading clips related to the site when I took it
9 on.

10 Q. As we sit here now, what knowledge do you
11 have in that regard as to those events?

12 A. It's very fuzzy. I'd hate to try to put it
13 together at this point.

14 Q. We talked before about the fact that you
15 had some familiarity with Lois Gibbs. Do you
16 remember that testimony?

17 A. Well, I mean, I know she was involved with
18 Time's Beach -- or Love Canal, and I know
19 she's -- she's done a lot of work with grass
20 roots activism, but other than that, I never had
21 any personal dealings with her.

22 Q. So, it was just more reputation?

23 A. Right.

1 Q. Do you know who took over John Mason's
2 function with respect to the Monsanto Fund after
3 he retired?

4 A. Deborah Patterson.

5 Q. I previously asked you about how often
6 Monsanto will use an outside agency, such as
7 Fleishman-Hillard to put together a media plan
8 regarding potentially detrimental news articles,
9 and you testified that it depends on the
10 circumstances. Can you elaborate on what you
11 meant by that?

12 A. Well, you know, we have a lot of negative
13 press now related to ag-bio tech, and we don't
14 we don't have firms like Fleishman-Hillard
15 putting long, involved plans together for us. I
16 don't know why the request was made of
17 Fleishman- at the point that it was, around the
18 "Wall Street Journal" article, and you'd have to
19 ask the chemical group folks why they requested
20 that. I know it was a very extensive plan, but
21 it was also a PR agency that they asked, and
22 that's the kind of work that they do. So,
23 whether or not they used all the recommendations

1 in that, I don't know. You'd have to ask them.

2 Q. And in talking about CAPs with -- we've

3 talked about the fact that there's this desire

4 to be perceived as a good neighbor, right?

5 A. Right.

6 Q. And doesn't that relate to wanting to

7 establish credibility in the community?

8 A. Right.

9 Q. We talked also about conversations that you

10 had with Kevin or Beth in 1997 when you stopped

11 having responsibility for Anniston. Can you

12 remember any other details, other than what

13 we've already discussed on that issue?

14 A. No. I mean, we had a meeting. We

15 transferred files, and that was pretty much it.

16 Q. Did you have any role with respect to the

17 media attention to the fish advisories for the

18 Anniston area?

19 A. Did I have any role related to media

20 attention?

21 Q. Right. When there was the -- the idea of

22 the fish advisory went into place?

23 A. I didn't have any media contact. I don't

1 know what you mean by --
2 Q. Well, I mean, what was your involvement
3 with respect to the fish advisories in Alabama?

4 A. I knew that fish advisories were being
5 issued.

6 Q. Was there any sort of plan put in place to
7 deal with those advisories from the company's
8 perspective?

9 MR. PECK: By the public affairs
10 office?

11 THE WITNESS: I don't remember.

12 MS. MALOW: That's what I'm trying to
13 figure out.

14 THE WITNESS: I don't remember what we
15 did.

16 BY MS. MALOW:

17 Q. Have you heard of "Bama Brief"; a
18 publication?

19 A. Seems like that's a newsletter of one of
20 the plants -- not the Anniston plants, but maybe
21 it's Decatur.

22 Q. Did you have any role in that publication?

23 A. No, and I never had that plant.

1 Q. We talked about Michael Lithcott. Do you
2 remember his name?

3 A. Right.

4 Q. Do you know anything with respect to any
5 work that he did regarding the Sauget site?

6 A. No.

7 Q. Did you ever deal with Magnolia clips?

8 A. I remember receiving them. I think that
9 was a contract that Beth Russert put in place,
10 and even when I took it over from her, the
11 contract was still active, and they'd just be
12 pouches of clips that we would get,
13 periodically, that had to do with the Anniston
14 site or remediation, or any of the issues
15 related to it.

16 Q. Did you ever instruct Magnolila Clips to
17 clip articles related to PCBs?

18 A. That was probably one of things that they
19 were searching for. I don't remember what the
20 key word list was. Beth probably set that up,
21 but I know we did get clips related to the
22 remediation.

23 Q. Do you have any knowledge about Kevin

1 Cahill attending the Inaugural Ball for Governor
2 Seigelman?

3 A. No. I don't know about that.

4 Q. Did you have any involvement with any
5 decisions to contribute to the bass tournament
6 in Alabama?

7 A. No.

8 Q. Do you have knowledge about Monsanto's
9 involvement as a member of the Alabama Business
10 Counsel?

11 A. I don't think so.

12 Q. I think this is kind of out the order, but
13 let me show you these materials and see if you
14 know what these are.

15 (Whereby, the Court Reporter
16 marked Exhibit 51.

17 MS. MALOW: Can you identify Exhibit
18 51?

19 THE WITNESS: The top page says, "Toxic
20 Waste in Alabama -- Pounds and
21 Thousands," and then it's a color-coded
22 map of the state, and I don't know who
23 generated this, and put the list

1 together. Do you?

2 A. No. That's what I'm trying to figure out.

3 At the very back there's a -- it looks like a

4 front page, it says, "Poison's In Our

5 Neighborhoods. Toxic Pollution in Alabama

6 Citizen's Fund." I'm just trying to figure out

7 where this information came from or who

8 requested it.

9 There were, you know, after the toxic

10 release inventory went into the effect in the

11 summer of '88, then the EPA started

12 computerizing all the waste data compiled from

13 manufacturing sites all across the country, and

14 then, quite a few activist's groups would

15 compile the information in different formats,

16 taking the information off EPA's computer

17 database, and that looks like something that

18 Citizen Fund must have done.

19 Q. Okay. Do you know if you gathered this

20 information?

21 A. I don't know. You, know sometimes we would

22 get calls from the media referencing a report

23 and we'll say "what report?" And then we get,

1 either the report, or the pages that were
2 pertinent to the plans, but I don't know whether
3 I requested this particular one or not.

4 Q. Okay. Do you know whether Monsanto ever
5 utilized any of the statistics that are
6 contained in Exhibit 51?

7 A. Did we what?

8 Q. Ever utilized those statistics for
9 anything?

10 A. Well, depending on what our ranking was in
11 the different reports, we would let our
12 management know, you know, we're number 31 in
13 the state, or number 5 in that state, depending
14 on what state we were ranked.

15 Q. And you don't have any knowledge whatsoever
16 regarding the Geriatric and Infant Daycare
17 Proposal?

18 A. No.

19 Q. Have you heard of a group called the
20 Coalition for Environmentally Responsible
21 Economies, CERE?

22 A. Yes.

23 Q. Did you have anything to do with completing

1 a questionnaire for CERE?

2 A. Probably. We got a number of
3 questionnaires, from a number of groups, CERE,
4 being one of them, and they usually ask for
5 corporate data about waste generation,
6 immunization projects, and social
7 responsibility, and a number of different areas.

8 (Whereby, the Court Reporter
9 marked Exhibit 52.)

10 BY MS. MALOW:

11 Q. Can you identify Exhibit 52?

12 A. It's a faxed sheet from CERE to Larry
13 O'Neill, by a person named, Brad Sperrer,
14 S-P-E-R-R-E-R, from CERE. "Here are the
15 questions we believe that the topics covered
16 represent most, if not all, of the outstanding
17 issues of interest to CERE. We would be very
18 grateful to have your written responses on
19 Tuesday, September 10th to give us time to
20 absorb them and construct a prioritized agenda
21 for discussions. If you have any questions
22 please call me or somebody. Thanks again, Bob."

23 Q. Do you know whether or not Monsanto ever

1 completed those questions?

2 A. I'm trying to look at a date. Yeah. '96.

3 I know that we were trying -- we wanted to be
4 considered for membership as part of CERE, and
5 to become a member, you had to go through a
6 process -- answering questions, having a number
7 of your executives interviewed, and I know we
8 had started the process, but as we went through
9 the process, we came closer and closer to the
10 board approval of splitting the company any into
11 two, and then, that complicated this process
12 with CERE, and so, at some point, we decided to
13 put the whole thing on hold. Whether or not we
14 finished this questionnaire or not I don't
15 remember.

16 Q. Why did Monsanto want to be considered for
17 membership?

18 A. It was just an organization -- they're the
19 ones that put the CERE Principles together,
20 which started out as the Valdez Principles, and
21 it was considered kind of a -- we have the
22 Monsanto pledge; they had the CERE principles,
23 we're kind of a compilation of principles that

1 they, and the member companies felt were
2 important to operate, you know, socially
3 responsible fashion, and I think we thought that
4 CERE Principles matched up pretty well with our
5 Monsanto pledge, and that's why we thought it
6 would be appropriate for us to be members.

7 Q. But, you don't know if, specifically, these
8 questions were ever answered?

9 A. I don't know if they were answered. I know
10 we never completed the process because of the
11 split, and I don't think we ever picked it up
12 again after the split. But I don't know whether
13 this questionnaire part was ever finished or
14 not.

15 Q. If you'll look at the last page it says,
16 "Principle 10, Audits and Reports. What is
17 Monsanto's position on the matter of audit
18 privilege, generally?" Do you know the answer
19 to that question?

20 A. I'm not sure what they mean by privilege.

21 Q. Are you familiar with self-auditing --

22 A. Right.

23 Q. -- concepts?

1 A. Yeah.

2 Q. Do you know what position Monsanto has
3 taken with respect that issue?

4 A. Well, we conducted self-audits.

5 Q. Okay. Do you know whether or not Monsanto
6 has been in favor of that?

7 A. Of conducting self audits?

8 Q. Yeah.

9 A. Yeah. I mean, we did it. I'm not sure
10 what is meant by audit privilege.

11 Q. If you'll back up to Principal 8,
12 "Informing the Public," and look at paragraph 2,
13 it talks about whether the company has ever
14 conducted facility wide environmental and safety
15 audits with local citizens from the community
16 named as designated members of the audit team.
17 Has Monsanto done that?

18 A. I don't know whether we've ever done it
19 with community members on the audit teams. I
20 know we have trained people at every facility
21 that are rotated among the plants so the
22 auditors usually aren't people from that plant.
23 They're trained people from other plants that

1 are trained in what to look for.

2 Q. But, they're still Monsanto employees?

3 A. Right. And so, like I said, I don't know

4 whether we've ever included community members as

5 part of that or not. I don't recall that we

6 ever did, but there might have been.

7 Q. Are you aware of Monsanto offering to pay

8 for an independent scientist to assist community

9 organizations in their analysis of local risks

10 or exposures?

11 A. I think we did that at the Brio site, and I

12 don't remember who the -- the experts were. I

13 know -- I know they got TAG grants to do that.

14 Q. Got what?

15 A. Tag -- Technical Assistance Grants from the

16 EPA to pay for scientific advisors, and I'm

17 thinking that we might have contributed to that,

18 too, but I can't say for sure.

19 Q. Okay. Have you ever had any contact with

20 the Surgeon General, David Satcher?

21 A. No.

22 Q. Do you know of any contact that Monsanto

23 has had with him?

1 A. I don't know of any contact.

2 Q. Okay. Have you ever attended any

3 government hearing held by the I Editorial Board

4 of Anniston?

5 A. No. Of the "Anniston Star?" The internal

6 board of --

7 Q. I don't know. I just have Anniston.

8 A. I'll say, no.

9 Q. Did you have any involvement in handling

10 the rent on the building where the former Mars

11 Hill Church of was located?

12 A. The rent on the building. I'm not

13 remembering anything.

14 Q. Do you know why there was an incineration

15 plan for disposal of PCBs for the Sauget site

16 and not in Anniston?

17 MR. PECK: Object to the form of the

18 question.

19 THE WITNESS: I don't know. You'd have

20 to ask our technical guys.

21 Q. We talked last time about your knowledge

22 regarding some allegations that had been raised

23 by activists about Monsanto's use of IBT,

1 Industrial BIO Test. Do you remember that?

2 A. I remember you touched on it.

3 Q. You testified that there had been some

4 allegations raised by activists about that

5 topic. Do you remember what any of the

6 allegations were?

7 A. I just remember it's a complicated area,

8 and as much as I could defer to Bob Kaley, I

9 would.

10 Q. Do you know Donna Vandiver? She's a former

11 employee.

12 A. Yes.

13 Q. Did you ever use her for any PR efforts?

14 A. After she left Monsanto?

15 Q. Yes.

16 A. No.

17 Q. Did you ever have any discussions with

18 Donna about a CAP for Anniston?

19 A. I don't think she was one of the firms that

20 we were considering.

21 Q. Have you ever had any contact with any

22 resident in the city of Anniston?

23 A. No.

1 Q. We talked about some blood testing of
2 Anniston workers. Do you remember any of the
3 results of those tests?

4 A. No.

5 MS. MALOW: Let's take a break. I want
6 to look through these documents and see
7 what else I need to cover.

8

9 [WHEREUPON A BREAK WAS TAKEN.].

10

11 (Whereby, the Court Reporter
12 marked Exhibit 53 and 54.)

13

14 THE WITNESS: Okay.

15 BY MS. MALOW:

16 Q. Can you identify what Exhibit 53 is,
17 please?

18 A. A memo from Marjorie Brooks at
19 Fleishman-Hillard to Loren Wassell, Kevin
20 Cahill, and Andy Smith -- August 21st of 1991 --

21 Q. And it looks like it's a draft Q and A for
22 media inquiries about the Dead Creek testing
23 project; is that right?

1 A. Right.

2 Q. She mentions that the information is based
3 upon the E & E report on the Sauget sites. Do
4 you know what that refers to?

5 A. No. I was wondering, too. I don't
6 remember.

7 Q. And a copy of this was sent to Robert
8 Pierce at Fleishman-Hillard?

9 A. Right.

10 Q. Did you ever see this document before
11 today?

12 A. I might have. It looks like it's a draft
13 there. It says "first draft" at the top there
14 are still places with spaces open for additional
15 answers. I might have seen it.

16 Q. Well, for example, on page three of Exhibit
17 53, there's a question, "Since Monsanto knew of
18 the contamination years ago, why didn't the
19 company do the testing sooner?" And there's a
20 blank for the answer, do you know what
21 Monsanto's position was when they had to
22 eventually answer that question?

23 A. I don't know what the history was leading

1 up to the point where they were doing voluntary
2 testing at this point, or, at least, I don't
3 recall what it is, now. So, I don't know.
4 Q. Okay. And then there's also a question
5 number 15, on the next page that says, "One
6 resident has claimed that his dog went in the
7 creek, and then died of chemical burns? What
8 does Monsanto say about that?" And there's a
9 blank for the answer. Do you know what answer
10 Monsanto eventually gave to that question?

11 A. I knew we had a position on it, or at least
12 more information. I can't remember what -- what
13 the facts are now, but I know we had an answer,
14 and it's probably blank because whoever put this
15 Q and A together didn't know the answer at the
16 time they put this first draft together.

17 Q. Or is it blank because it's a tougher
18 question to answer?

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

21 THE WITNESS: No, I think they were
22 collecting information, for instance,
23 Section B is, "Approximately how long in

1 length?" There's a blank. Whoever put
2 this first draft together didn't know
3 some of the technical information.
4 Probably, someone who had experience with
5 the remediation over time would have been
6 able to answer that one, and what we've
7 done in the past related to testing in
8 that area, and would have known -- might
9 have known what, if anything, happened
10 with the dog, and -- I really don't
11 recall.

12 BY MS. JOHNSON:

13 Q. If you'll look at the second to last page
14 of Exhibit 53, there's also another question
15 that's left blank that says, "If Monsanto won't
16 voluntarily clean up Sector B, can the Illinois
17 EPA file suit to force Monsanto to do so?" Do
18 you know what the answer was to that question?

19 A. No, I don't.

20 Q. And there's also a blank where it asks,
21 "Will Monsanto clean up sites L and M?" Do you
22 know what position Monsanto eventually took on
23 that issue?

1 A. No. And I don't remember what sites L and
2 M are either.

3 Q. Tell me what Exhibit 54 is, please?

4 A. It's a memo from Bob Pierce to Loren
5 Wassell, a proposal for research and a PR plan.

6 Q. And is this the predecessor document to
7 Exhibit 20 to your deposition, which was the
8 actual media plan that was put into place for
9 Sauget?

10 A. This is January 21st of '91, Exhibit 54,
11 and Exhibit 20 is May 28th of '92, so --

12 Q. But is it dealing with the same topic?

13 A. This -- no. This is the Wall Street
14 Journal story and I think this is broader --
15 related to the overall testing program --

16 Q. Okay. So?

17 A. -- the voluntary clean up of Dead Creek.
18 This is broader. This is issues specific to the
19 media.

20 Q. And, this is difficult for us to know what
21 you're talking about later. So, when you say
22 "this." Let's go back to clarify. Exhibit 20 is
23 the Fleishman-Hillard proposal for dealing with

1 --

2 A. -- the "Wall Street Journal" story.

3 Q. All right. And, Exhibit 54 was a broader
4 public relations plan that --

5 A. -- related to the Sauget sites.

6 Q. All right.

7 A. Okay. Sorry.

8 Q. And, is Exhibit 54 fairly detailed and
9 extensive?

10 A. As to what they propose they should do, yes
11 it is.

12 I don't know if the chemical group
13 people was to Loren, and whoever might have been
14 working for him. I don't know whether they
15 accepted all of this or just parts of it.

16 Q. Okay. And in Exhibit 54, the paragraph
17 regarding general research and background, it
18 states that they're going to research the
19 experience of another company, Zero Copper, and
20 working with the Illinois EPA on their voluntary
21 clean up of a portion of Dead Creek and in
22 garnering favorable publicity for this action.
23 Is that your recollection of what they were

1 trying to do is get some favorable publicity for
2 Monsanto for the clean up of dead creek?

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

5 THE WITNESS: Here they were just
6 studying what they're copper was doing
7 related to try to go get positive
8 publicity. whether Fleishman-Hillard was
9 going to try to get positive publicity
10 for a cleanup that Monsanto might do. I
11 don't know. I don't know. I don't know
12 if that's part of this plan. I don't
13 remember seeing that in here. Maybe it
14 is. I don't remember. Looks like it's a
15 lot the preparedness media training, Q
16 and A's, background paper.

17 Q. What are the media kits that they're
18 referring to on the last page?

19 A. I don't remember. I might have known what
20 they put in them at the time, but being -- this
21 being 99, and this was put together in '91, I
22 don't remember what they put in a media kit.

23 Q. Had you seen Exhibit 54 before today?

1 A. I don't know. I might have, but it doesn't

2 stick out this my mind.

3 Q. And the estimate -- the budget estimate for

4 performing these services was \$4,500 a month for

5 the first year?

6 A. Uh-huh.

7 Q. Is that right?

8 A. That's what it says.

9 MS. MALOW: I'll pass the witness.

10 MR. PECK: All right. No questions.

11 It's up to you. I think you probably

12 waived last time.

13 THE WITNESS: Okay.

14 MR. PECK: She'll waive.

15 THE WITNESS: Okay.

16

17 (Whereby, signature was waived by

18 agreement of counsel and

19 witness.)

20

21

22

23

1
2 CERTIFICATE
3

4 I, Christina J. Dunkel, CSR, do hereby
5 certify that pursuant to Notice there
6 came before me DIANE HERNDON, who was
7 by me first duly sworn of her oath to
8 testify to the truth of her knowledge
9 touching and concerning the matters in
10 controversy in this cause; that she was
11 thereupon examined upon her oath, and
12 her examination was taken in shorthand
13 by me and later transcribed into
14 computer-aided transcription under my
15 supervision, and that the deposition is
16 a true record of the testimony given by
17 the witness.

18 IN WITNESS WHEREOF, I have hereunto
19 subscribed my name and affixed my seal
20 this 16th day of December, 1999.
21
22

23 Christina J. Dunkel, CSR