IN THE CIRCUIT COURT OF
ST. CLAIR COUNTY, ALABAMA
(PELL CITY DIVISION)

THOMAS C. DYER, et al.,
Plaintiffs,
vs. CIVIL ACTION NO.:
CV-93-250
MONSANTO CO., et al.,
Defendants.

IN THE CIRCUIT COURT OF
ST. CLAIR COUNTY, ALABAMA
(PELL CITY DIVISION)

SHELTER COVE MANAGEMENT, INC., et al.,
Plaintiffs,
vs. CIVIL ACTION NO.:
CV-94-50-PH
MONSANTO CO., et al.,
Defendants.

DEPOSITION OF
MICHAEL R. FORESMAN, P.E.

The deposition of MICHAEL R. FORESMAN, P.E. was taken before Traci Watkins, on October 22, 1998, at the offices of Burr & Forman, Birmingham, Alabama, commencing at 9:00 a.m. pursuant to the stipulations set forth herein:

A P P E A R A N C E S

Appearing for the Plaintiffs:
BURR & FORMAN
BY: E. Clayton Lowe, Jr.
Pete Grammas
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Birmingham, Alabama 35203

Appearing for the Defendants:
LIGHTFOOT, FRANKLIN & WHITE
BY: William S. Cox, III
300 Financial Center
505 20th Street North
Birmingham, Alabama 35203

ALSO PRESENT:
Mike Kelly

I N D E X

EXAMINATION OF
MICHAEL R. FORESMAN, P.E.

EXAMINATION BY:	PAGE NUMBER:
Mr. Lowe.	7

PLAINTIFF'S EXHIBITS:

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STIPULATIONS

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel, that the deposition of MICHAEL R. FORESMAN, P.E. may be taken before Traci Watkins, Notary Public, State of Alabama at Large, at the offices of Burr & Forman, Birmingham, Alabama, on October 22, 1998.

IT IS FURTHER STIPULATED AND AGREED that the signature to and the reading of the deposition by the witness is not waived, the deposition to have the same force and effect as if full compliance had been had with all laws and rules of Court relating to the taking of depositions.

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

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

* * * * *

MICHAEL R. FORESMAN, P.E., having first been duly sworn, was examined and testified as follows:

THE COURT REPORTER: Usual stipulations?

MR. LOWE: Yes. Do you want to read and sign?

MR. COX: We'll read and sign. And, if you could, send it to me and I will forward it to Mr. Foresman. That seems to work.

EXAMINATION BY MR. LOWE:

Q Would you state your full name, please?

A It's Michael Ryan Foresman.

Q And where are you employed, Mr. Foresman?

A I'm employed at Solutia, Incorporated in St. Louis, Missouri.

Q And your office is in St. Louis?

A Yes.

Q What is your present job title for Solutia?

A Director, remediation management group.

Q How long have you held that title?

A Well, I've been with that group since 1990. The title was changed a bit with the spinoff of Solutia.

Q When was the spinoff? Refresh my memory.

A It was in September of '97.

Q For the record, when you say spinoff, that means Solutia spun off from --

A Solutia spun off as a separate corporation from Monsanto Company in September '97.

Q Instead of your title then, let's talk about your duties. What are your present duties in the remediation management group for Solutia?

A I've got a small group of people that manage the remediation of sites associated with the operation of the chemical company of Solutia, Incorporated.

Q Who are the other members of your group?

A I've got six -- seven direct reports who manage on the various projects within the group. Bruce Yare is the head of the environmental technology function.

Q How do you spell his name?

A Yare, Y-A-R-E.

Q Okay. Go ahead.

A Bob Kaley is the director of environmental affairs

within the group, and then I have several project managers, remediation project managers, that report to me that have assigned projects.

Q We know Allen Faust in Anniston. What other projects are there and who are their managers?

A I've got Larry Adams who manages projects on the west coast. Tony Tuk, T-U-K, who is in West Virginia who manages projects in that area. Steve Smith who is located in St. Louis and has a group of projects. Mike Light manages projects out of St. Louis. Jerry Rinaldi, R-I-N-A-L-D-I, who's located in St. Louis, and then a new employee, Craig Branchfield, who was hired two months ago who was located in St. Louis.

Q Who do you report to?

A I report to Mike

Pearlie.

Q Who is he?

A He is the vice president of environmental safety and health for Solutia.

Q Are there any remediation projects other than the Anniston plant involving remediation of PCB's?

A Well, we've got a list of probably 200 plus sites that we're involved with which includes state and federal superfund sites and other plant sites and where we're named PRP and have various share of those sites. There are some of those sites that have PCB's as part of the contamination or part of the chemicals on those sites.

Q Are there any other sites where you've found, I guess for lack of a better term, as much

PCB's as existed in Anniston?

MR. COX: Object to the form.

A Well, there are other sites that have discreet areas on those sites where there are PCB's that are being addressed by the companies that are PRP's.

Q I'm trying to avoid going through all 200.

A That would be long.

Q Yeah. Maybe you can tell me what are the five most significant PCB remediation sites that your company is presently involved with?

MR. COX: Object to the form.

A Well, we have -- obviously, the Anniston project.

Q Other than Anniston. Tell me the other five.

A Projects that are

currently active, I think, we have very few that deal with PCB's. We had a clean-up of a plant site in Boston -- a Massachusetts plant, and as part of that plant site clean-up there were PCB's associated with that remediation.

Q Any others?

A Not of any significance, not as the driver or as the major.

Q In Boston you said there was the Everett, Massachusetts plant?

A Yes.

Q That's the name of the Solutia plant that's in the Boston area; is that right?

A Yes.

Q You cleaned up some PCB's there?

A Well, the plant was shut down in 1993, and we have

remediated that plant site completely and have an agreement in place that we're finishing up to sell the property for development as a large -- big box store, retail.

Q Was this remediation done in conjunction with a federal or state agency?

A Done in conjunction with the state Mass DEP, Department of Enviromental Protection.

Q What was the name of the department?

A DEP, Mass DEP, Massachusetts Department of Enviromental Protection. It was cleaned up under those regulations and that organization.

Q Was it done pursuant to some voluntary consent order or did they sue you or take some administration action?

A No, it was voluntary. We shut the plant down and then took the plant through the Mass DEP regulations for remediation of an industrial site to put it back into productive use.

Q Well, was it Solutia that cleaned up the Boston plant or Monsanto?

A Well, the timing -- at the time we started the remediation I worked for Mansanto. With the spinoff that plant site went to Solutia and we have been managing it as Solutia for a year now.

Q Well, tell me then what methods of remediation your company used to remove PCB's from the Everett, Massachusetts plant.

A Well, the site is a large plant site that was 65 acres and in a small portion of the plant we had PCB's from past heat

transfer system, and heat PCB's and soils. That PCB area is part of the clean-up, was contained and capped.

Q Were there any soil removals?

A Not of PCB's, no.

Q So the method of remediation then was merely capping the area where you found PCB's in the soil?

A Correct, contained and capped that area, and then put clean soil on top of it.

Q Now, this Everett, Massachusetts plant never manufactured PCB's, did it?

A No, it did not.

Q Did you do any tests to determine the volume of PCB's that were on site?

A We may have. I mean, we did testing to determine the

extent of them.
Q You don't recall the range of parts per million in the soil?
A No, I do not.
Q Let's talk about your duties -- well, before I get off that subject, are there any other remediation sites besides this Everett, Massachusetts plant that you recall being involved in where you removed PCB's or capped PCB's?
A We had a -- I think, if I go back to the Kearny plant, and I was not involved in the remediation of that, but at the Kearny plant they had an area that had PCB contamination soils again from a heat transfer system, and those PCB's as part of the clean-up under the state of New Jersey regulations were contained on site.
Q How long ago was that?

A That was, say, '89, '90, '91.
Q And what remediation method was used at the Kearny plant for the PCB's?
A It was capped. The soils were capped on site.
Q So that didn't involve any waterways?
A The Kearny is adjacent to the river in New Jersey. It borders the river. I'm trying to think -- I think it's the Passaic. I'm not sure.
Q Was any testing done to determine PCB levels in the river?
A No. Again, the area of PCB contamination was delineated and it was on the plant site.
Q Well, let me go back to the Everett, Massachusetts site. Did that involve any pollution of

waterways?
A There are two rivers, the Mystic and the Maulden River adjacent to that piece of property and, again, we did a sampling analysis of the materials in the soils on site -- were delineated on site and didn't indicate any material that had moved off site.
Q Now, Mansanto manufactured PCB's at a site in Illinois, didn't they?
A That's correct.
Q Wasn't there litigation regarding downstream land owners in Illinois --
A Not that I'm aware of.
Q -- over PCB's?
A No.
Q Are you aware of any clean-up efforts around the Illinois Mansanto plant for PCB's?
A There have been no

clean-up efforts to date for PCB's in that area.
Q What about litigation, lawsuits regarding PCB contamination around the Illinois plant or downstream from the plant?
A There is an adjacent property owner, Cerro Copper, that did some remediation on their property and then sued Monsanto for cost recovery.
Q Has that case been resolved?
A Yes.
Q Did Monsanto settle with the property owner?
A Monsanto settled with Cerro Copper.
Q Has there been any testing done at the Illinois facility to determine levels of PCB's on the plant site?
A Not that I'm aware of.

There has been nothing in, you know, quite a few years that I'm aware of.

Q So there has been no remediation efforts for PCB's at the Illinois plant site?

A I don't know if there have been -- again, there have not been any on-site remediation at the Illinois plant in quite a few yeare.

Q Well, do you recall any at all in the past 20, 30 yeare?

A Well, I know that when that department was shut down, the manufacturing facility was shut down, that the standard practice for shutdown of any facility is to remove the facility and a couple of foot of dirt and then backfill with clean dirt. So if they followed that standard practice, then there

was -- all the facility and foundations and a couple of foot of dirt around the foundations were removed.

Q Were there any on-site landfills at the Illinois plant?

A Not to my knowledge, no.

Q So you don't have the same problems you've incurred in Anniston then regarding PCB's leaking from landfills, have you?

MR. COX: Object to form.

A There were no on-site landfills at Illinois.

Q Instead of calling this the Illinois plant, what was the name of the plant?

A It was the W.G. Krummrich, K-R-U-M-M-R-I-C-H.

Q Is the Krummrich plant still in operation?

A Yes.

Q What does it make now?

A That's a good question. There are -- there is a facility on site that makes chlorinated cyanuric acid, ACL, which is a powdered bleach used in swimming pools. That's operated on-site. It isn't owned by Solutia. It was sold to another company but it's operated by Solutia. There is a manufacturing facility that makes fornitrilimine (phonetic), which is an additive for rubber manufacturing. I'm really not familiar with the other production units at the facility. It's quite a bit smaller today than it was in the past.

Q All right. Think back for me and tell me if there have been any other lawsuits filed regarding the Krummrich plant and

PCB's, other than that one landowner you mentioned.

A Not that I'm aware of that deal with -- no PCB's. I know the Cerro Copper issue, but PCB's at Cerro Copper was just one part of the lawsuit. That wasn't the driver for the remediation.

Q Have there been any state or federal administrative actions against Monsanto regarding PCB's at the Krummrich plant?

A Dealing with on the plant site? Not that I'm aware of.

Q Okay. So obviously my next question is, what about all sites that have migrated off site?

A As far as I know there is no migration off the plant site other than the issue with Cerro Copper, which is the adjacent property.

Q Were there any

adjacent waterways at the Krummrich plant?
A Mississippi River is adjacent to the Krummrich plant.
Q We got off on these other remediation projects before we got into your duties as director for remediation management group. What exactly do you do in that position?
A The group that I have manages Solutia's liabilities associated with the state and federal superfund sites where Monsanto has been named as a PRP, and those sites that were transferred to Solutia as part of the spin. We also manage liabilities associated with discontinued plant sites and property that Solutia owns with the spin.
Q Did you hold that same

position with Monsanto?
A Yes.
Q How long have you been with Monsanto/Solutia?
A 28 years.
Q What is your educational background?
A I've got a bachelor of science and mechanical engineering. I graduated in January '67 from Missouri School of Mines and Metallurgy. I have a master's degree in civil and environmental engineering in 1972 from Washington University in St. Louis.
Q Let's focus on your involvement in the PCB remediation removal at the Anniston plant. When did you first become involved in that?
A In the Anniston?
Q Right.
A In '93, I got involved

in the Anniston plant.
Q What precipitated your involvement at that point?
A We had an issue with the -- what we called the west end landfill that was a landfill on a piece of property that Monsanto had owned and subsequently sold to Alabama Power.
Q Now, did Alabama Power call that to Monsanto's attention that there was some problem with the property that they had obtained back in the '60's from Monsanto? Is that how that came about?
A It's my understanding that Alabama Power contacted -- the local Alabama Power people contacted our people concerning some analysis that they had done on that piece of property near some of their substations where they found some PCB's in the soils, and then

the discussions ensued on that piece of property.
Q Do you recall that Alabama Power did some of their own testing for PCB's?
A Yeah, I think, that was the start of the discussion.
Q Do you recall the levels of PCB's they found?
A It was in the low parts per million, but I don't --
Q You don't recall it being over 500,000 parts per million?
A No, I don't. I mean, not --
Q Okay. So what did you do then once you received information that Alabama Power had determined that there were PCB's on this former landfill site?
A We looked at the property and went back to try to

look at what the use of the property was and determined that the property had a landfill on it, which we subsequently called the west end landfill, and that had been used by the plant from -- I want to say the 1920's or so, that kind of timeframe, up to the time we sold the property in the, I think, '60's or '70's kind of brackets. That landfill had been used and hadn't been used for disposal of residues and materials from manufacturing. And in the transfer of property to Alabama Power, this property was transferred because Alabama Power needed property to build a new substation. Monsanto needed some property that Alabama Power had to expand its waste water treatment plant, and so that was the basis for the property transfer. And on

that transfer, it was indicated that there was a landfill on that property when it was transferred to Alabama Power.

Q Well, was one of the factors in the transfer the fact that Alabama Power didn't want a piece of property that was contaminated with PCB's?

MR. COX: Are you talking about the -- I'm sorry, Clay. Off the record.

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

Q (By Mr. Lowe) When they got it back in '93.

A In '93 when we did the look at it, it became obvious that when Alabama Power had built the new substation and expanded their operation on that property, that

they had cut into the old landfill and removed the covered material and the capping that was on that landfill, and there were some residues that were exposed by that activity. And so we felt it was best at that point in time to work with Alabama Power to take the property back and do the proper containment on that landfill on that piece of property.

Q What type of containment did you start at that point?

A Well, we developed a plan in conjunction with ADEM to contain the materials that were landfilled on site and as part of that to reroute the storm water drainage that comes on to the property and exits the property and we worked with ADEM and got approval for that plan and then

executed a plan to cap the landfill.

Q We talked with Allen Faust in detail about all of your efforts to reroute water flows and so forth, so we'll try to avoid all the same detail. But after discovering the problem with runoff from the landfill, did you make any effort to determine if there were any other sources of PCB runoff at the Anniston plant?

A Well, the issue with the north end landfill was exposed residue.

MR. COX: West end landfill?

A Excuse me. West end. And we proceeded at that point to contain and cap those materials on site. We had an erosion problem associated with storm water and so we put in quite a bit of effort to

divert the storm water around that existing landfill sale on that property. Subsequent to that, there was additional sampling that was done associated with some storm water permits that indicated that there were low levels of PCB's in some of the sediments.

Q Did you enter into a consent order with ADEM at some point during 1996 regarding the Anniston property?

A We negotiated a consent order with ADEM in '96 to investigate the east side of the plant on property that we owned and other property that -- that was adjacent to the property we owned to investigate the levels of PCB's on those pieces of property.

Q Why did you think that was necessary or why did ADEM think it was necessary?

MR. COX: Object to the form.

MR. LOWE: Yeah, it's compound.

Q Why did you think it was necessary to investigate the east side of the plant for PCB's?

A We had, as I mentioned, as part of some storm water analysis of storm water coming off our property had found some levels of PCB's in some of the sediments and this consent order was an outgrowth of that to expand the investigation.

Q This storm water analysis, is that something your company had done?

A Yes.

Q Now, that was in what timeframe?

A Well, it was before the '96, '95, timeframe. I assume

something like that.

Q So is it safe to say then in the '95 timeframe that there was PCB's escaping from the Anniston property through storm water runoff?

MR. COX: Object to the form.

A We had it analyzed again, storm water samples of water coming off some of our property, and had found in some of the storm water samples PCB's.

Q So you found that the storm water running off the Anniston property contained PCB's sometime in 1995; is that correct?

A That's correct.

Q And part of this runoff was coming from the east side of the property, as well as the west end landfill; is that correct?

A Well, the analysis was on the east side of the property because the sampling was done in conjunction with a storm water permit for the south landfill, which all the water coming off that mountain comes down through the east side.

Q Is there another -- well, there is another landfill on the property, isn't it, besides the west end landfill?

A The south landfill is across Highway 202.

Q If you're looking across the highway, it's on a hill, it's on a slope?

A It's on a hill above Highway 202. That's correct.

Q So before you took any remediation efforts in 1996 and thereafter at the Anniston plant, is it your testimony that the water

coming from the south flowed over the south landfill and then down toward the plant; is that right?

A The water coming off the mountain came around and through certain drainage areas on the south landfill. Some of it went to the east side, some of it came on to the plant property and then over to the east side.

Q What efforts did you make, you being Solutia or Monsanto, to determine where this water was flowing that was coming across the east side of the Anniston property and which contained some levels of PCB's in 1995?

A We did a detailed etiologic study and topographic study of the drainage areas to determine where the water would drain.

Q What did you find? Where did it drain to?

A As I said previously, the water coming off that mountain -- there were several drainage areas and conduits under Highway 202. One of them went off the landfill to the east side property. One of them went to the west a bit and around the base of the west end landfill and then on north, and then some of it came on to the -- came onto the property, Monsanto's property, and then out through the front end of the plant to the east side.

Q And in that direction, the east side flowed to what's known as Snow Creek, did it not?

A It flows essentially down through a tributary to Snow Creek.

Q In conjunction with

the consent order entered into with ADEM in 1996, did Monsanto/Solutia do any additional testing for the existence of PCB's on the Anniston property, other than this east side runoff that you mentioned?

A We have done sampling in the west end area and on some of the drainage areas in the plant site for PCB's.

Q What did you find?

A We found ranging from non-detect to low levels of PCB's in the sediments.

Q Tell me more specifically what those ranges are by using some numbers of parts per million.

A I don't have -- I mean, I don't remember what they were.

Q Is that something Mr. Faust would have been more

knowledgeable about?

A Well, Allen is at the plant site and involved with that project. We have taken an awful lot of samples.

Q He's the director? He's the on-site person for the project, isn't he?

A That's correct.

Q And he reports directly to you?

A That's correct.

Q He reports to you, what, once a month, isn't it, in writing?

A Allen does monthly reports on progress at the site.

Q How often do you visit the plant site in Anniston?

A An average every six weeks or so.

Q What is your role in visiting the plant site every six

weeks?
A Just to sit down with Allen and the project team to check the status of progress on planned activities. We look at what's scheduled to be done and discuss issues that -- concerning timing and activities that we've got planned on those projects.
Q Who else is on the Anniston project team besides Allen Faust?
A Allen is again the project manager there. We have Dale Wilson who's the hydrogeologist who is Solutia who is in my organization and who's on that team. And then the other people that are essentially on the team there are contractors and consultants.
Q Have you completed the remediation for the on-site

Anniston project?
A On the on-site, we are still doing or in the process of doing an on-site RFI remedial feasibility investigation under the regulations, State of Alabama.
Q What is left to do on-site?
A Well, we've had an RFI plan which addresses groundwater issues at the plant site and those are being done again under what the plant submitted to ADEM.
Q Was anything left other that the monitoring for the plant site?
A That I don't know. I'm not familiar with all the details in the RFI. I know we have done the RFI or are in the process of doing the RFI. From the RFI, once that's completed, then the logical step in the regulations is

to do a corrective measure study and once you do a corrective measure study and that's completed, then you select corrective measures that would address any issues and then you implement those corrective measures.
Q What is the clean-up goal for the Anniston plant?
MR. COX: Object to the form.
A It's to comply with the results of the RFI CMS.
Q Well, pardon my ignorance, but what do you see the goals being for those? Are you saying there still has to be more testing and then you determine a goal?
A Well, we have to follow a logical process. I mean, we -- the process under RECRA corrective action, which is what

the plant site is in now with ADEM, under that process you have to do a remedial feasibility investigation and in this case it includes groundwater and some additional wells, looking at other -- what they call solid waste management units, SWMU's, on the plant site and addressing those. So it's a detailed process under RECRA and the corrective action part of the RECRA, hazardous waste regulations, that you take the on-site plant through. And so that plant is being taken to that process.
Q What have you done to prevent any further off-site migration of PCB's from the Anniston plant?
A Well, PCB's are just one part of the RECRA RFI.
Q Sure. But you understand the focus of this

lawsuit is polychlorinated biphenyls, so if you would tell us what you have done to prevent any further release of PCB's from the site, that's what I would like to know.

A We have looked at storm water as an issue on the plant site and the potential for PCB's being in particular in the storm water. We have gone into the plant and repaired storm sewers. We have removed discharges of clean cooling water from the storm sewer and now we put it through the waste water treatment plant we have on site to reduce the flows in the plant site, and we have rerouted storm water around the plant site that used to flow through the plant site from the south side and other areas.

Q Before engaging in

this remediation effort for the Anniston plant, did you or anyone else at Monsanto/Solutia do any sort of historical investigation about the volumes of PCB's that were produced and released from the Anniston plant site?

A I'm not aware of any that was done.

Q Do you think it would have been prudent to go back and try to determine the volume of discharges and storm water or the production process had taken place in the prior years before these remediation efforts?

A It wouldn't have been something that our group would have done, no.

Q So is it fair to say then that your group is just trying to clean up the Anniston plant property as it exists today?

A Our group is responsible for remediation in this case of PCB's at Anniston and other issues, and we addressed those under the current regulatory environment.

Q What about downstream effects? You know the basis of this lawsuit by the property owners along the Choccolocco Creek and Lake Logan Martin. Have you made any efforts toward remediation in those areas?

A Well, we've got to, as we manage projects such as this and others, do things in a logical progression. Our issue was started with the west end landfill and PCB low levels that we found in some sediments. And then we have taken that step by step to determine what the extent of the issue is and then manage that from the plant site and

other areas as you move down the drainage area. Obviously, the next step after the on-site RFI is an off-site RFI under RECRA corrective action, and that progression will be managed under that.

Q Well, before we get off the Anniston site, do you recall how much you spent cleaning up for remediating the Anniston plant?

A I think to date at Anniston we've -- our group has spent approximately $30 million in that area, 30, $31 million.

Q Do you have an additional reserve for the Anniston plant, future remediation?

A We have a current reserve on the books for Anniston.

Q What is that?

A What is that?

Q Amount, what is that

reserve?
A The current reserve balance is $18 million.
Q And that is reserved solely for the Anniston plant and the immediate area?
A The reserve is for known issues for the Anniston plant and adjacent areas.
Q Does that include the potential remediation of Choccolocco Creek and Lake Logan Martin?
A It includes the Choccolocco Creek and Lake Logan Martin area.
Q Is there a current intention to remove PCB contaminated sediments from Choccolocco Creek?
A At the current time, we have a plan, again, under the offset RFI to investigate the issue

of PCB's and sediments in Choccolocco Creek. Obviously, we need to implement that plan and do that assessment before we can plan any remediation.
Q So your answer would be the same then with regard to Lake Logan Martin?
A That's correct.
Q Have you made any efforts to determine any other potential sources of PCB's for Choccolocco Creek and Lake Logan Martin?
A Again, the issue of sources and such would be done as part of this off-site RFI investigation in Choccolocco and Lake Logan Martin. We haven't gone out and tried to do anything else at this point in time, but rather follow the logical process implementing this sampling program

on-site RFI.
Q Are you aware that Monsanto had been doing sediment and fish samples since the early 1970's in the Choccolocco Creek area?
A I'm aware that we've done -- yeah, that sampling had been done, fish sampling.
Q So how much longer do you anticipate taking before you make a determination as to whether or not Solutia will undertake remediation of Choccolocco Creek or Lake Logan Martin?
A Well, we're under a time schedule with ADEM on the off-site RFI work and I don't know the exact dates of those particular activities.
Q What year is it? What year is the deadline?
A I don't know the final

deadline. The progression work will be done -- as far as I know the work on the off-site RFI is being done now. The plan is being done and then the sampling and such will progress this year, next year, to do that work. And based on that, then an assessment will be made of what is the appropriate activities for those areas.
Q Let's assume that sediment testing finds that there is ten parts per million PCB's in the sediment. What does Monsanto intend to do if that occurs?
MR. COX: Object to the form. You can answer it based on that limited hypothetical and answer it.
A Well, obviously, whatever is found will be factored into a model that will be evaluated by, quote, our experts in this area

to determine what is the appropriate response. You can't take one sample and say it is representative and it will drive a particular response. So whatever the analysis is will have to be factored into where the material -- the depth of the material, the bioavailability, whether the material is bound, sediments, et cetera, the flow, the hydraulics of the river, into a model to come up with an appropriate response.

Q Well, you don't deny that PCB's are present in sediment in Choccolocco Creek, do you?

A There have been samplings in Choccolocco Creek that have shown PCB's are present in the sediments.

Q And of course you don't deny that there are PCB's present in fish in Choccolocco

Creek?

A The fish sampling that has been done has shown that.

Q And the same holds true for Lake Logan Martin; is that right?

A That's correct.

Q And you don't deny that Monsanto/Solutia is a source of those PCB's that are found in Choccolocco Creek and in Lake Logan Martin, do you?

A It's a potential source for those.

Q Well, that takes me back to my question of what other sources are there that you are aware of?

A Well, I know that there is one source in Anniston that was an issue and that was Toll Manufacturing Company that discharges into Snow Creek prior to

Snow Creek's intersection with Choccolocco Creek and they had quite a bit of issues with PCB's.

Q What's the volume that you believe of PCB's that Toll Chemical or Toll Manufacturing may have released into Snow Creek?

A I have no idea.

Q What about the timeframe that you think they released those into the creek?

A I think I've heard that it was over a ten-year period of time or so. I don't really know.

Q Well, do you have any estimation of the volume that they released in pounds of PCB's?

A No.

Q Do you have an estimate of the volume of pounds of PCB's that Monsanto released into Snow Creek during the period of its

manufacturing PCB's?

A No.

Q It was in the tens of thousands of pounds, wasn't it?

MR. COX: Object to the form.

A Again, I don't have any idea.

Q As director of remedial projects, you don't think it would have been prudent to go back and investigate how much your company had released into Snow Creek to figure out what your remediation efforts were going to be like?

A No. Again, as I mentioned earlier, we manage projects based on current information that we find based on current sampling programs, and that's the best approach to use. And so all of our remedies are

driven by current analysis and the handling of what we find under the current regulatory structure.

Q So it's fair to say it's your intention, Solutia's intention, to take appropriate remediation efforts should it find PCB's existing in Choccolocco Creek and Lake Logan Martin?

MR. COX: Object to the form.

A Well, as I mentioned earlier, we have an off-site RFI plan in place that we are negotiating with ADEM and we'll follow that process and that will drive the investigation, the analysis and the proposals on the appropriate remedies for what we find.

Q Let's talk about the appropriate remedies. What are the range of remedies then that you

foresee in this case?

A The range of remedies, again, you know, there is a broad range of remedies. I really don't know what the issue is at this point in time.

Q Let's assume we find PCB's in a significant number of the soil samples that even your experts find. What are you going to do about it? What are your options?

A Okay. Again, you're asking me to speculate and I don't like to speculate on remedies for this area, so we'll have to wait until the data comes in and look at the analysis and do all of the -- have the experts and I'm not an expert in aquatic toxicology and that, have those experts do that and make a recommendation as to what an appropriate remedy would

be. It could range from containment, it could range from do nothing in certain areas because the material is not bioavailable, so we don't really know.

Q Let me ask it this way. Being a remediation expert and being the leader over at least 200 other projects where PCB's have been involved, tell us what methods are available.

A Yes. I don't have 220 projects.

Q Let me rephrase it. Just from your experience, tell us what methods are available with today's science to remediate PCB's in waterways and along banks of waterways.

A The only thing that I have seen that has been successful is containment.

Q Now, what is that?

A Where you leave the material and let sediments, depositional sediments, contain the PCB's, where you put down in certain areas a geotextile that would help the depositional sediments remain in place. Those are the ones that we have seen that work. There have been others, dredging and such, that have been practiced, but they have not been very successful because of the inability to control the sediments and, in fact, the actual release of more material into the environment with that dredging.

Q Where have you experienced this geotextile method?

A We've seen some small -- seen some articles on some small projects where they have used geotextiles in certain area essentially to stop erosion in

stream beds and a lot of depositional sedimentation.
Q So this isn't something Monsanto was actually involved in, it's just something you read?
A No, it's just articles that we read.
Q You don't recall the area of the country or the particular project then, do you?
A No. No, I don't. I get quite a few journals monthly and I read articles in those areas.
Q What method did you use? You used the cover method in the Massachusetts plant, right?
A Capped, yes. We capped and contained it, yes.
Q But that wasn't in a waterway, obviously?
A No.
Q Why do you say

dredging has not been successful?
A The articles that I have read -- and again it has just been articles that the Corp of Engineers and others have put out -- say that it's very difficult to control the release of material. If you get in and dredge and stir up the sediments, then you're releasing those into the water and it's very hard to control that process.
Q Well, is it fair to say then that your intention is to leave any PCB's there that are in Choccolocco Creek and Lake Logan Martin?
A No. I think, as I mentioned earlier, it's too early to say what we are going to do. We need to get the scientific information and do the evaluation before we come up with an

appropriate remedy.
Q I have seen in just the documents that you produced that you are indeed a business and you make projections and you make budgets, so certainly you must have made some sort of estimation of what types of solutions there are and the cost of those solutions. Have you done that?
A Not for Choccolocco Creek and Lake Logan Martin, no.
Q Let me show you a document that was produced to us and, I'm sorry, I haven't had it copied, so we only have one copy here, but it's entitled EPA Contaminated Sediments News and it's Bates numbered DSW122205 through 122216, and someone has in handwriting -- it is written Foresman at the top and it has a date of July 25, 1997. Is this a

document that you recall?
A Yes, I have seen this.
Q Now, in there it talks about ways of removing sediment contaminated with PCB's, doesn't it?
A It's a -- again, it's a kind of consortium of articles on EPA sediments and some of their projects that they've got on sediments.
Q It mentions dredging in there certainly as a viable option for removing PCB's, doesn't it?
A That I don't know.
Q Well, if you will hand it back to me --
A It says sediment dredging proposed. I don't know if it says if it's a viable option. Again, it's an EPA document and this was sent to me and was filed

in my file on current literature on PCB's and sediments.

Q Is your only objection to the use of dredging the fact that you deem that it would stir up the sediment and cause further distribution of PCB's along the waterway? Is that what you're telling me?

A No, I'm saying that's one of the problems associated with it. There are other problems associated with dredging of sediments. And how do you handle the sediments once you have removed those? There has been a lot of public opposition to handling of those sediments. Where do you put them, where do you contain them, how do you manage those sediments?

Q But that's done quite often, though, and those issues have been handled, haven't they, in

remediation efforts?

A Well, the Corp of Engineers has a large problem and that's why they are working and they have quite a few initiatives because they are mandated to do dredging to maintain channels and waterways, and their issues are that contamination in sediments, not PCB's, per se, but a lot of other materials and sediments, metals and such, and they have a large issue with those dredgings, such as where can they put the dredgings? In the past, they just dredged and stick them on the river bank, and they have created a lot of problems with that. And so the Corp has been involved in a lot of projects to see if dredging is appropriate and how best to handle it.

Q There are still

approved landfills for accepting PCB contaminated soils, aren't there?

A Yes.

Q Do you find that to be a problem? Are we talking about an economic problem as opposed to a mechanical problem?

A No. Most of the landfills that manage PCB's are real restrictive of what they will accept and if you're talking sediments with low levels of PCB's, they won't want those sediments because they are restricted on volumes and such and they are really in the business to handle more concentrated PCB's.

Q Have you talked to any landfills about accepting PCB contaminated soils?

A Well, I know the Emelle landfill where they manage

PCB's really doesn't want to accept under 500 parts per million. They would as soon not manage that.

Q How about finding somewhere near the shoreline to dewater the sediment and to perhaps cover it, is that a feasible alternative?

A It could be. I mean, yeah, it could be, but again, we're just speculating and it's too early to speculate what might be done.

Q Well, you've heard of that being done, haven't you?

A What?

Q Why can't you do that? I mean, you covered the soil at the Boston plant?

A Yeah, we contained it in place. That's correct.

Q Right. And you also did the same thing in some of the areas in the Anniston plant?

A Contained those in place and that's the best thing to do at least with those at this point. And that was based on all the analysis that was done and decided what was the appropriate remedy.

Q Do you intend to do nothing about -- well, let's assume you find PCB's in Choccolocco Creek and the lake. Is it your intention to do nothing about it?

A As I mentioned previously, we've got a program in place to do the off-site RFI and that off-site RFI -- we'll collect all the data that's necessary to come up with the appropriate remedy for that creek.

Q I'm just trying to get a handle on the scope of what your company is willing to do. Now, if it finds that there is a

significant level of PCB's in the sediments in Choccolocco Creek and Lake Logan Martin, are you going to willingly do something about it or do you need the Court to order you or ADEM to order you or the EPA to order you? What's it going to take?

MR. COX: Object to the form.

A We have always willingly, since I've been involved in this project, done the work that has been requested at this site and will continue to do it willingly. And as I mentioned, we have to go through a logical process to get the information that's needed in order to come up with an appropriate remedy and we'll do that.

Q Another question I have about this whole process is

since the early '70's Monsanto has known about the escape of the PCB's from its plant and finding its way to these waterways that we have a lawsuit over. Why are we just now talking about Monsanto/Solutia doing this in-depth analysis of sediments and water and fish? What took so long?

MR. COX: Object to the form.

A Again, the group that I have and myself, we got involved with the Anniston plant in '93 starting with the west end landfill and that's been my involvement with the Anniston plant on the west end landfill and PCB's. And so that's the timeframe that I worked from there forward. I can't speculate on what happened in the past.

Q Refresh my memory now. How long have you been with

Monsanto in the remediation department?

A Since 1990.

Q And before that you weren't involved in remediation projects?

A No. I was not associated with the remediation group.

Q Who was the director of the remediation group before 1990?

A Will Varnado, V-A-R-N-A-D-O.

Q Is he still with Monsanto or Solutia?

A No.

Q Retired?

A Retired in 1990 -- or 1989.

Q Does Solutia abide by any sort of corporate policies designed for environmental affairs?

A We have, or under development, our corporate environmental guidelines that essentially followed CMA responsible care guidelines.
Q What is CMA?
A Chemical Manufacturers Association.
Q And those are under development, is that what you are telling me?
A I've seen some drafts and I think we've got some guidelines now posted on our Solutia webpage that essentially are statements on environmental and how Solutia conducts itself.
Q And you certainly reviewed those before this deposition, didn't you, the guidelines that are on the webpage?
A I saw those, yes.
Q The printout of them,

I assume?
A Yeah.
Q Who's in charge of creating or designing these corporate policies that are under consideration?
A They ultimately fall in the responsibility of Mike Pearlie.
Q Do you have any input into them?
A I didn't have any input per se into those guidelines.
Q They don't circulate drafts and ask for comments?
A I saw a draft and looked at it and it was, as I looked at it, consistent with what we had done under responsible care. I had no comments on it.
Q Have there been any changes in your corporate policies regarding the environment since

your spinoff from Monsanto?
A We haven't done anything different in the group that I've got when I managed it with -- as Monsanto and now as I have managed it under Solutia.

(Whereupon, a break was taken.)

Q I want to go back to potential means of remediation for PCB's. Now, other than dredging and capping, are you aware of any other methods for remediation of PCB's?
A Well, it really depends on the levels of PCB's in the soils, if you are talking the soils, there are other methods that have been proposed. One that we looked at or at least has been done in a bunch of studies was mixing of lime with the soils and the PCB's

to dechlorinate the PCB's. There have been thermal treatment of soils for removal of PCB's and other organics and there is stabilization. Again, there are all sorts of add mixtures that are available that you can add to the soils, cement dust, lime dust, et cetera, that can be mixed the driver that slurries the soils that bind the materials.
Q That wouldn't work in a waterway, though; you would remove the sediment from the waterway and then --
A It wouldn't work in a waterway, no. You wouldn't want to do that in a waterway.
Q Let me show you a few documents that have been produced to us in conjunction with our document request related to your deposition notice, and rather than

marking them as exhibits, we'll just refer to the first page of the Bates number. The first one is DSW122223 and the next one is DSW122233. The next is DSW122244 and the next is DSW122247. Let me show you these and let me know if you recognize those documents as something you have reviewed before.

A Yeah, I have seen these articles before.

Q And they all relate to potential remediation methods for PCB's; is that right?

A That's -- I think most of them do. I don't know if this one --

Q If there is one that you distinguish, tell me the number that's on the first page.

A This is -- yeah, the Bates number 122233. I don't think this deals with PCB's. The rest of

them do.

Q Let me see the one you are talking about. It says sediment remediation for reducing toxicity and bioaccumulation of chemical contaminants?

A I think it talks about ketone and DDT.

Q Who will you, Solutia, rely upon to make the final determination of what remediation efforts need to be undertaken for Choccolocco Creek and Lake Logan Martin?

A We have a team of people that are working on the off-set RFI work and they include chemists and bioaquatic specialists, et cetera, and that team will do that work and come up with recommendations, which will be forwarded to ADEM. And in conjunction with those

recommendations and ADEM, a decision will be made on the remediation.

Q Well, let's leave ADEM out of the mix. I'm talking about who will you, Solutia, rely on to make a determination as to what you would propose for remediation?

A The team that has been pulled together to do the offset RFI.

Q Tell us who the team is.

A I don't know the names of all of the individuals, but we have various specialists from various consulting firms along with individuals within Solutia that will do this.

Q Tell me who within Solutia is going to do it.

A Well, Allen Faust is on the team, Bob Kaley is on the

team, and Bruce Yare is on that team. Those are the three Solutia people.

Q Do any of those three people have any expertise in actual removal or remediation of PCB's?

A Well, they all have expertise in the environmental area and they have all been involved with the activities at the Anniston site.

Q Well, from what I have seen, and I haven't talked to Mr. Yare, but Mr. Faust and Mr. Kaley seem to be more in an oversight position and the actual remediation work is done by subcontractors or contractors; isn't this right?

A Well, all the actual work, per se, is done by contractors. We have just a small staff of people and so the actual work in this area is managed by

contractors, consultants.
Q Who report to Mr. Faust and Mr. Kaley and Mr. Yare?
A Correct.
Q Who are these specialists that are consultants on this team?
A We have -- and, again, I'm not real involved with the details, but I know we've got representatives from various consulting firms, Blasland, Block and Lee, BD&L, Woodard, Clyde, Golder Associates, Rue Associates. Those are consulting firms that we use and individuals from those firms that are working on that team in various capacities.
Q Let me get this straight. This team is going to do testing and sampling at Choccolocco Creek and Lake Logan Martin over how many years?

A I don't know what the schedule for the RFI is.
Q But then after that they're going to submit their findings or this is their intention to submit the findings to ADEM?
A No, the process, the RECRA corrective action process, requires you to do an RFI and that's your remedial feasibility investigation. Once that's completed, the data from that will be put into conceptual models and then you will do a CMS, which is a corrective measure study, and that corrective measure study will evaluate remediation alternatives and come up with a recommendation on those alternatives. And both the RFI and the CMS in progression will be submitted to ADEM for review and comment. And as a result of those reviews and

comments with the team that's working on it, they will come up with an agreed to ROD, record of decision on what is appropriate.
Q But, anyway, the bottom line is your intention or Solutia's intention is to come up with recommendations to be made to ADEM; is that right?
A That's what is required under the regulatory structure we operate within.
Q Have you placed a timeframe on when you believe you will be able to submit recommendations to ADEM?
A I think there is a timeframe in the off-site RFI. I don't know the dates, but, I think, there is a schedule that has already been established for that.
Q Who is your company dealing with at ADEM?

A I don't know the names of the individuals. Allen Faust is the lead for -- along with the plant contact, Robert Jones, for discussions with ADEM.
Q In your role in this process you keep telling me you don't know some of the details, but what exactly is your role? What is it you want to know as this progresses?
A What I want to know as this progresses is the result of the outcomes of the studies that we do and where we as a corporation are headed on these particular activities and the schedule for those activities.
Q Is there a Monsanto attorney named Tom Bistine in St. Louis, B-I-S-T-I-N-E?
A No.
Q Do you know who this

is I'm talking about?
A Yes.
Q That's quoted in the paper?
A Yes, it's Bistline, B-I-S-T-L-I-N-E.
Q So they misspelled his name?
A I don't know.
Q Well, they had it spelled B-I-S-T-I-N-E.
A Yeah. There is an attorney Tom Bistline.
Q Okay. And are you familiar with the news article from the Talladega Daily Home where he is quoted as saying they would like to resolve this matter through improvements to the lake by building dumping stations for houseboats and recreational facilities? Is that something that your company has discussed

internally?
A I have not seen that article.
Q Here. I will let you read it.
MR. LOWE: Note for the record I gave him a copy of the article I was referring to.
A There is no date on this.
Q It should be on there somewhere.
A No.
MR. COX: The fax header indicates the date of October 15th, and it probably appeared in the paper sometime -- I would agree with you it appeared sometime in the paper along that same timeframe.
Q Apparently your attorney is familiar with it.
MR. COX: I've seen

it.
A Okay. I have not.
Q Do you see the quotes in there attributed to Mr. Bristine?
A Bistline.
Q Bistline, okay.
A What was the question?
Q The question is has Solutia discussed internally these suggested actions for resolving this lawsuit, that is building recreational facilities and dumping stations?
A I'm aware that there have been internal discussions among Allen Faust and Bruce, and, I think, the team on activities that would help improve the quality of the water in Lake Logan Martin marten, and that would -- and those activities, the dump stations and others, would improve the quality

of water.
Q Have you considered any other items, other than dumping stations and recreational facilities?
A I think one of the issues, too, is the existing efficiency and capacity of the waste water treatment plant for houses discharge into the lake, Pell City waste water treatment plant and others.
Q What does that mean? You, Solutia, are willing to contribute money to upgrade the waste water treatment plant?
A Well, a big problem with the lake is the fact that untreated or partially treated sewage is discharged into the lake with associated pathogens and other bacteria which make the lake a concern for people that use the

water, and it is a big concern, I know, of lake owners, ADEM, the Department of Health and the environmental community, and so it was felt that if that's a large concern, that there could be activities that could be done to help improve the water quality of the lake.

Q What about removing PCB's from the sediment? Are you focusing on that?

A Yes. We've got a focus again with the off-site RFI and all of the sampling plan and everything else that we've got to do in that respect. That's being done. But in addition to that, these are activities that from a water quality point of view would have a much larger impact on the people that use the water and the quality of water in Lake Logan

Martin.

Q Why would Solutia want to do anything to improve the water quality through recreational facilities and dumping stations and improved waste water treatment? Why is that something you would want to undertake?

A Because it's a big issue with people that are familiar with the water quality in Lake Logan Martin and is an area where we felt that we could help do those things.

Q In addition to investigating whether or not you can remove PCB's from the lake, right?

A In addition to the studies we planned for analysis of the sediments and other things in the lake and Choccolocco Creek.

Q Well, the studies -- I

keep coming back to this and that is: Have you discussed under what circumstances Solutia will undertake a clean-up of the creek and the lake?

A No.

MR. COX: You mean for PCB's?

MR. LOWE: Right.

Q That hasn't been brought up at any of these meetings?

A We discussed the logical progression as we do in managing these projects and that's with the off-site RFI and the sampling and the analysis of the waterways and collecting all the data, and you have to do that in logical progression.

Q But you haven't ruled out the possibility of having to remove PCB's from sediment in

Choccolocco Creek and the lake?

A We haven't discussed any remediational alternatives as an outcome of this at this point in time.

Q But you still recognize that as a possibility, though, don't you?

A We recognize that's one of the many alternatives that exist.

Q Are you familiar with the Department of Health posting signs along the lake and creek that say do not eat the fish?

A I'm familiar with a fish advisory that was issued. I haven't seen the signs or didn't know that they --

Q You wouldn't have talked with the Alabama Department of Public Health then either, would you?

A I have not had discussions with them, no.
Q Are you familiar with what the potential adverse impact of PCB contamination may have on the environment, particularly along waterways?
MR. COX: Object to the form.
A Is that in reference to what?
Q Wildlife, fish?
A Well, I'm familiar with the fact that PCB's do -- can in fact move up the food chain and accumulate in -- bioaccumulate in different species, fish and others.
Q Have you or anybody at Solutia made any effort to determine what adverse effect PCB's may have had on property owners' use and enjoyment of Choccolocco Creek and Lake Logan Martin?

A I have not.
Q Have you heard of anyone else in the company doing that?
A Not to my knowledge. I don't know if anybody is doing that.
Q That hasn't been part of the investigation that's ongoing?
A Again, I'm not familiar with that.
Q Just from your point of view, just having some knowledge about PCB's, would it be reasonable to believe that if you could not fish or eat fish from Choccolocco Creek, that may affect your use and enjoyment of the area?
MR. COX: Object to the form.
A Well, it's my understanding that the fish

advisory is not an exclusion on eating fish, it's an advisory.
Q Well, let me get this straight now. Tell me exactly then what your understanding of the fish advisory is.
A The fish advisory is a notification which is required under ADEM or Department of Health regulations because the analysis of fish have determined that they contain levels of PCB's over -- I think it's two parts per million, up to two or above and it's an advisory to let people know that this in fact exists and that it's up to the individual to decide what they want to do.
Q So you haven't seen the signs then that clearly state do not eat any fish from these waters?
A I have not seen those

signs.
Q It's the Alabama Department of Public Health. Were you all aware that the Alabama Department of Public Health found these waters, Choccolocco Creek and certain areas of Logan Martin to be a public health hazard?
MR. COX: Object to the form.
A Again, I know there is a fish advisory and that's the way it states that it's an advisory to advise people that these levels exist in these fish.
Q Now, does Solutia follow what was known as the Monsanto pledge? Do you remember that?
A I think that we have guidelines out now that establish how Solutia will conduct business in the environmental area.

Q Well, what are those generally that you can recall?
A Well, again, as I mentioned, they really follow responsible care under CMA that we'll manage our products and processes in compliance with regulations.
Q Well, is one of those pledges under the responsible care program adopted by Solutia to work with others to resolve problems created by past handling and disposal of hazardous substances?
A It may be. That's what it says under -- what is this? Okay. Right.
Q That's something you abide by as we sit here today, is it not?
A That's correct.
Q Do you recall a man named Richard J. Mahoney?

A He's past chairman of the board of Monsanto.
Q Do you recall being instructed to rectify the mistakes of the past while we continue to develop and introduce the new technologies to provide the essentials for mankind in the future?
A I assume that was part of a Monsanto corporate statement.
Q Is it fair to say that one of your goals at Solutia is to rectify mistakes of the past?
A I would say that that -- yes, that's one of the goals.
Q Is that what you intend to do with regard to Choccolocco Creek and Lake Logan Martin?
MR. COX: Object to the form.

A Well, I don't -- what we're doing with Choccolocco Creek and Lake Logan Martin and others is we're investigating issues associated with those waters and we'll do what's appropriate under the information we find.
Q Who at Solutia has the final authority to commit to a remediation for Choccolocco Creek and Lake Logan Martin?
A I assume it would be the chairman of the board, Bob Potter.
Q That's not going to be within Mr. Pearlie's purview?
A Well, I mean, my boss would be involved in that. I would be involved in that. If you said that you needed ultimate authority, it could go to Bob Potter, but more than likely it would be done at Mike Pearlie's level.

Q What are the criteria for moving up to the next level, is it a dollar amount?
A Well, no, I guess it's really a corporate decision on how we will proceed and if it's in conjunction with our guidelines and goals, then it would proceed at that level. If it's not, then obviously there would be a discussion on it, but my feeling would be it would be consistent with what we have done and what's appropriate to be done.
Q What are your guidelines and goals then with regard to this project?
A Again, the goals are to satisfy ADEM and the regulations and ourselves if we have done the right thing based on all the data we collect for those areas.
Q So you think ADEM is

going to have the final decision-making authority in what happens?
A Obviously, ADEM has to sign off on what is proposed by our experts and with that review and sign off, if we are in agreement with them, then we'll proceed on that path.
Q How many times during your remediation project at the Anniston plant has ADEM refused to sign off on something that you have proposed to them?
A In every case where we have proposed something to ADEM, they have commented on that and then it becomes a negotiation with ADEM on what changes they want made and -- from both sides, so what they want and what we propose and so it's a negotiated process with ADEM on that.

Q What particular instances do you recall where they have asked for changes that you have made?
A Again, I said, I think in every document that we have submitted, whether it's a work plan or results of work plans, ADEM has commented in writing or verbally on those and asked for -- made suggestions, asked for changes, et cetera.
Q Who handled that? You didn't handle that, did you?
A No.
Q And so this is what you have heard from who, Mr. Faust and Mr. Kaley?
A That's correct.
Q I thought I heard Mr. Faust say that they didn't make any changes?
MR. COX: Object to

the form.
A Well, they may have. I don't know that.
Q Here is a document that was produced to us yesterday as Bates number DSW121986 and I'll ask you if you recall seeing that document.
A Yes, I have seen this document.
Q What is it?
A It's an agenda for a meeting that was held October 7th, '97 at the plant site.
Q Is that the plant site in Anniston?
A That's correct.
Q Is that a meeting you attended?
A Yes.
Q Is it one of the regularly scheduled -- was it a monthly meeting?

A This was a scheduled meeting at the plant site, yes.
Q And is that the agenda? Is that what this is?
A That's what it looks like to me, yes.
Q It has a heading that says remediation overview and then it has dates, 93-95, west end landfill, 95-98, consent order, 1998 to open off-site RFI, natural recovery. Do you see that?
A Yes.
Q Now, what are those items?
A Well, this is the agenda for a discussion by the people indicated of the remediation that had been completed and was planned at Anniston during this timeframe.
MR COX: He's specifically asking you about the

last two entries under 1998.
THE WITNESS: Okay.
A It was a discussion, again, as I remember of the off-site RFI, and the plan would be to develop the schedule and then a discussion of natural recovery issues associated with it.
Q What is natural recovery?
A Natural recovery?
Q As stated on there.
A In this term is the fact that we were going to do as part of the off-site RFI, a complete analysis of those and see if natural recovery had been occurring in those streams.
Q That's what I'm asking, what is natural recovery?
A Natural recovery is the ability of the streams and lakes to recover from the

contaminants that are in those, whether they be PCB's or other constituents.
Q Is that --
A It's a natural process.
Q Should I take that to mean that there is some belief that over a period of time the PCB's were going to disappear, evaporate or otherwise go away?
A No, that's not correct. What it means is that in a lot of cases where studies have been done, streams that have contamination in them have been able to go through natural recovery and not -- and essentially, through depositional sediments, make the materials that are there not bioavailable and therefore not an issue.
Q So what you are

telling me then is that in some instances you believe that with new sediment being deposited on top of the old PCB containing sediment, then because of that new cover the PCB's haven't been able to reach the top of the sediment, and therefore bioaccumulate?
A If you have depositional sediments on top of others, then those previous sediments are not in -- any materials that are in those are not bioavailable and therefore, you don't have transport and the levels will go down.
Q Well, this effort to ascertain natural recovery, is that something that's covered by your expected investigation?
A That's part of the -- I mean the data that's collected from the off-site RFI investigation

will be used in a stream model to determine whether there is in fact natural recovery and other -- and what the status is for those streams and lakes.
MR. COX: Are you going to mark that?
MR. LOWE: Well, I wasn't. I was just going to refer to the Bates number, unless you want to.
MR. COX: Whatever. Since we're going to have him read and sign it, it may make it easier for him when he's reading it to go back and refresh his recollection as to what you had him look at.
MR. LOWE: Mark that Plaintiff's Exhibit 1, please.

(Whereupon, Plaintiff's Exhibit No. 1 was marked for identification, and the same is attached hereto.)

MR. LOWE: Here is another document. We'll mark this one as Exhibit 2.

(Whereupon, Plaintiff's Exhibit No. 2 was marked for identification, and the same is attached hereto.)

Q Please look at this and let me know if you recall seeing that. That's another agenda for the Anniston remediation program.

A Uh-huh. Yes, I have seen this before.

Q Who prepares those agendas?

A This one is prepared by me.

Q How do you come up with the items to place on the agenda?

A It's just the status of -- the agenda was for review of the Anniston PCB remediation program.

Q Do you see the tabbed page?

A Yeah.

Q It has current status is one heading there?

A Correct.

Q It states low levels of PCB's at Choccolocco Creek. What are you talking about there?

A Well, this was -- the document was written in August of '95, and so at that point in time, the current status was that there had been some analysis of sediments in Choccolocco Creek, which indicated PCB's in those sediments.

Q So in 1995, you discussed at a meeting regarding PCB remediation the existence of

PCB's in Choccolocco Creek; is that right?

A That's what it says here, yes.

Q What was your source of information regarding levels of PCB's in Choccolocco Creek as of 1995?

A I don't know whether this -- I'm not sure where the data had come from. I think the state, ADEM had done some sampling in Choccolocco Creek. I don't know if we had or not. Again, I don't know.

Q So what was the reason for your discussing Choccolocco Creek in 1995, when at that point you were just undertaking remediation around the Anniston plant?

A Well, this slide is entitled Snow Creek, Choccolocco

Creek, and it talks about the history of it, and the fact that there had been some analysis of sediments in Choccolocco Creek and they had low levels.

Q What do you deem to be a low level?

A I would say in the low parts per million.

Q Well, what is a low part per million, less than five, less than ten?

A Less than five.

Q You think the state's testing showed less than five parts per million?

A Again, I don't know the basis for the testing, whether it was the state that had done it or whether we had done some. I don't know if we had done any at that point in time or not. I don't think so. I think the state had

done some sampling.
Q As we sit here today is it your testimony you have been operating under the impression that the levels of PCB's found in Choccolocco Creek have been low levels; that is, by your definition less that five parts per million?
A Well, I don't know if all of them have, but I guess on an average basis or such that they were at that level. I mean, there may have been some that were higher than that.
Q Did you get any information regarding tests conducted by the Alabama Department of Transportation in various areas where there were overpasses over Choccolocco Creek?
A We've got -- we've had some discussions with the Department of Transportation on the

Highway 21 bridge and the fact that they want to have a project to replace that bridge or build an additional bridge. They had done some sampling in that area, yes.
Q Why did they contact Solutia or Monsanto about their project?
A They found PCB's in sediments in the right-of-way for the bridge.
Q So why did they come to you?
A Well, because of the fact that PCB's -- that Monsanto had been involved with PCB's as an issue.
Q Did you deny involvement and tell them where to go or what did you do with the department?
A No. We had been having discussions with the

department on how they can best handle those sediments. They had a concern with exposure to sediments in the construction of the bridge and so we had been working and still working with them on how they could best manage those sediments.
Q Was Toll Chemical discussed when you met with the department?
A I don't know if it was or not. They came to us because we, Monsanto and Solutia, had managed PCB's. Their concern was work exposure during construction of the bridge. And so we are working with them on how to manage those sediments and levels in the right-of-way so that they can do things correctly with their construction workers.
Q Okay. Are you telling me then the reason that the Alabama

Department of Transportation came to Solutia regarding their find of PCB's was so that they would know how to best handle the PCB's during their construction process so that it wouldn't affect the construction workers?
A Yes. They were worried about getting the right information, and not only to their workers, to the contractors that they had a bid, because they had competitively bid the bridge, and they were worried about doing that and the additional costs that might be associated with managing those sediments, how best to do it, how best to communicate to their workers, et cetera. And they came to us and -- mainly because the fellow who was head of the Highway Department, environmental section was -- prior to that was in ADEM

and so he knew about -- knew the contacts of Monsanto people and came to us for that. And so we have been working with them on the appropriate way to manage those so that they could construct the bridge.

Q Is it fair to say then that the Alabama Department of Transportation contacting Solutia had nothing to do with the fact that it may or may not have believed that Solutia or Monsanto had been the source of these PCB's that they had found at the base of the bridges?

A They did not come to us and say you're the source and we want you to do something, no.

Q Was Toll Chemical discussed at this meeting in 1995 that we have the agenda, Exhibit 2?

A Not to my knowledge.

I don't see it as an agenda item.

Q Were they discussed as being a source for the low levels of PCB's in Choccolocco Creek?

A In reference to what?

Q In reference to your agenda. In reference to anything.

A No, I don't think they were discussed. This was an agenda for a meeting within Solutia or Monsanto.

Q In your experience in identifying potentially responsible parties in environmental situations that you have been involved in with your company, isn't it a common practice to try to identify other PRP's?

A Yes. We always look for other PRP's if we are involved with a particular site where we are not the only company involved.

Q Are you aware of any

other documents, particularly agendas, where other PRP's were discussed with regard to being a source for PCB's in Choccolocco Creek or Lake Logan Martin?

A I'm sure there were other -- this doesn't show on this agenda. I think some of the sampling that has been done in Choccolocco Creek indicates that there are PCB's that are above Snow Creek, that are above where Snow Creek comes into Choccolocco Creek and some of the sediments and that would indicate that it was from areas that were not draining into Snow Creek.

Q When were those tests done?

A I would -- obviously, I think, it was after this or so. I don't know. I think there --

Q Now, can we logically

follow your statement then that if these PCB's were found below the confluence of Snow Creek and Choccolocco Creek, that they necessarily came from Monsanto?

MR. COX: Object to the form.

A I don't think so. I mean, obviously, there are other people that discharge into the tributaries in Snow Creek.

Q Well, that's the point of my question. We're identifying PRP's and you have mentioned that Monsanto is one.

A But we haven't -- we haven't spent any effort in that because it's not necessary for what I have been doing.

Q What about in defending the allegations in this lawsuit?

A That's not my

responsibility.
Q Whose responsibility is that?
A That's outside counsel.
MR. COX: That would be my responsibility.
Q Well, are you familiar with any other potential sources of PCB's that found their way into Choccolocco Creek and ultimately into Lake Logan Martin? You have identified Toll Chemical.
A I know Toll Chemical has had a history of issues such as PCB's.
Q How do you know they had a history?
A There were some articles. They were under an enforcement order, I think, with the state, if not the feds, for discharging PCB's.

Q Do you recall what time period that was?
A No, I don't.

(Whereupon, Plaintiff's Exhibit No. 3 was marked for identification, and the same is attached hereto.)

Q This is the next document I'll show you we have marked as Exhibit 3. Please take a look at that for me.
A Okay.
Q Is that a document that you authored?
A No.
Q Did you receive that document?
A Yes.
Q And what is it?
A It's a summary of -- it says here summary of discussion held September 4th during a

meeting.
Q A meeting in Anniston?
A That's what it says, Anniston project review meeting. I don't know if it was in Anniston or in St. Louis.
Q One of the first items on there is to prevent human exposure to PCB's. Do you see that? I believe it's the top one.
A It doesn't say PCB's.
Q What does it say?
A It says prevent human exposure.
Q But we're talking about PCB's in that document, aren't we?
A Could be. I mean, it could be one of many things. It's not --
Q Let me take a look at it then.
A Okay.

Q This says subject, Anniston project review meeting September 4, 1996. It's to Michael Foresman from Allen Faust to Joe Hanson. How many other project review meetings on issues other than PCB's were you involved in in September of 1996?
A Well, Anniston -- there are other issues at the Anniston plant besides PCB's, so what I'm saying is the project objectives would address other issues besides PCB's.
Q What other chemicals then were of concern at that point in time?
A The issue is we've got other analysis that we have to do under the on-site RFI and others in groundwater and such, and organics in those. And so that would become -- you know, that's probably

part of the project objectives to address all of the chemicals that were found.

Q At that point in time how many chemicals then were you concerned about with human exposure?

A Well, this was '96. We had done some of the -- I guess we had done some of the on-site RFI work, but, obviously, PCB's were one of the major ones that we looked at.

Q Why would you want to prevent human exposure to PCB's at the Anniston plant in 1996?

A Well, there are certain levels. It depends on the levels and that's the -- the objective is to mitigate those potential for exposures. That's why the project was driven by capping and containment.

Q Were you involved in the purchase of adjoining property to the Anniston plant?

A Yes.

Q What statements were made to the property owners regarding the existence of PCB's on the property?

A I don't know the exact wording of the statement. There was a property purchase plan that was developed and managed by Prudential Insurance Company, their relocation division, and in that -- in their managing that project, they communicated the issues to the property owners.

Q Prudential handled that, their employees?

A Well, they were there with -- obviously, our employees were involved too in doing that in answering questions on that, but

Prudential managed the property program, the distribution of the outline of the program, what was involved in the property purchase program. The discussion of the levels of PCB's in the sediments around that area were handled -- I mean, were handled by Solutia and, I think, the Department of Health were involved in discussing the sampling levels that had -- had the potential or the issues associated with the sampling levels.

Q Who was the head person at Prudential that was involved in this project?

A Gee, his name escapes me. He's out of Atlanta. John Mitchell.

Q What was his role?

A I think it's John Mitchell. He was the manager for the relocation division of

Prudential and he coordinated the resources out of his organization to provide people to communicate the plan and staff their organization in Anniston to communicate the plan to the people and handle logistics associated with appraisals and payments and such.

Q Now, did Prudential offer insurance coverage for this relocation or did you hire Prudential to use the relocation services?

A We hired Prudential, Prudential relocation division of their company, as you would a contractor, we hired them to manage this program for us.

Q What was the criteria for purchasing the neighbor's property?

A We had established

kind of a boundary of -- a physical boundary and properties within that were within the property purchase program, and it was based on essentially the drainage area and where we found PCB's in sediments. And it was also driven by the fact that we felt we needed to acquire sufficient property in order to construct a remedy to handle storm water. So we were accumulating properties adjacent to the properties that Solutia owned at that point in time -- or Monsanto owned.

Q Does any storm water presently exit at the Anniston property? I mean, how is storm water presently handled on the Anniston property? How is it channeled? I mean, does it go through filters, sediment ponds or what?

A As it exists today?

Q Right.

A Okay. The water coming off the south landfill area that runs over the old south landfill area that has now been capped and contained runs into a retention basin on the east property and it's collected there and it's allowed -- it's retained there and then you have an overflow from that retention basin down to a combined storm water box. Other rainfall that's collected above the landfill and such is routed around the total site, around the plant site, and goes to that collection box and it's essentially, quote, what we call clean rainwater. And other water from the plant site, rainwater from the plant site, is discharged into that collection box.

Q I want to go back to your role as the head of remediation for Solutia. Isn't that what your job is?

A That's correct.

Q Is there anyone else that shares that role with you? I mean, are you the person that oversees every remediation effort there is?

A The group that I have manages those activities. That's correct.

Q But all these people report to you?

A That's correct.

Q What is your obligation to report to Mr. Pearlie what's going on?

A I keep Mike advised of the activities through discussions on projects.

Q But do you have the

authority to make the day-to-day decisions regarding remediation efforts by Solutia?

A That's correct, yes.

Q I want to go back to Plaintiff's Exhibit 2 for a moment and discuss some of the items that are on there. Back in 1995 when this document was prepared, I assume you had a meeting where these issues were discussed, did you not?

A Yes.

Q What did you discuss about PCB sediments in Snow Creek?

A This was just the status that there had been some sampling and there were sediments in Snow Creek that had levels of PCB's.

Q What directives did you give regarding responding to that or handling that?

A Nothing. Again, this was just a status report that talked about history and current status of activities at Anniston.
Q What did you discuss about low levels of PCB's in Choccolocco Creek?
A It says here that the fact that there were -- as I understand, there were some sampling that showed there were low levels in Choccolocco Creek, so this was just a status. This is what exists at that point in time.
Q Right. But is that a concern? Is that something y'all discussed on how should we handle this?
A Well, it was an issue that said here is what we know currently about Snow Creek and Choccolocco Creek and that it will be addressed as we go through the

logical program to manage these issues at Anniston.
Q I don't understand. What is the logical program? Are you bringing up these issues in 1995?
A Right.
Q Why are you identifying them then?
A It's because this is the status of what's known at that point in time and as we work on those issues at Anniston, we'll address those.
Q Well, here we are in 1998, and you are still telling me that you haven't addressed the issues of Choccolocco Creek yet; is that right?
A What we're saying is that in 1998 we have an RFI -- off-site RFI plan that is in place that will adequately address those

issues in Choccolocco Creek, Snow Creek, and that we're following a logical progression doing the plant work first where we found materials, the sources, and potential movement of PCB's and sediments and managing all of those and as we'll move downstream in logical progression.
Q Well, what's the reason for the -- I would say the great period of time between identifying these issues and actually doing something about them?
MR. COX: Object to the form.
A Well, we're looking in 1995, and we had issues with ADEM and were logically going through a progression. You can't do -- you have to do these activities in logical progression. Since 1994,

as I mentioned previously, we have spent $30 million at the plant site doing investigations and remediation and we're following a logical progression with the regulatory authorities to address all of these issues.
Q You started with the plant site. Why?
A Because that's where we found issues of PCB's in sediments that were driven by the west end landfill project, driven by the NPDS permit and so that is where we had the materials and were needed to contain those materials before we did anything further.
Q What you're telling me is you believe that you had to clean up the PCB's that were on-site at Anniston before you would start with cleaning up downstream because the Anniston

plant was the source of the PCB's?
MR. COX: Object to the form.
A What I have stated is that in discussions with ADEM and in the analysis we had done on storm water at the plant for NPDS permits and others, ADEM wanted us to address those issues first and we have been working with ADEM on the logical progression of addressing all the issues.
Q Actually, Monsanto recommended to ADEM that it start with its own property, did it not?
A Well, we went into ADEM in, I guess, 1994 with a plan for the west end landfill and we started on that progression.
Q Well, Monsanto made the proposal to ADEM that it start by cleaning up its own property, did it not?

A Well, the west end landfill was our own property at that point in time and that's where we started.
Q Well, wasn't that your proposal to ADEM? ADEM didn't say you need to start here; you proposed it to ADEM and ADEM said, okay, start. Isn't that basically how it worked?
A We proposed the west end landfill because of the issues that we found there.
Q And you knew at least from the early 1970's that PCB's had found their way from your plant into Snow Creek and into Choccolocco Creek?
A I didn't know that.
Q Well, you know that now, though, right?
A I know that now.
Q Sure. Well, why

didn't you undertake some simultaneous effort to clean up your own property, as well as the downstream properties?
A Mainly because we are looking at doing things in a logical progression.
Q Why do you find that to be logical?
A It's just the way we manage projects. The issues were associated with the plant site and we're addressing those issues, and then under the regulatory framework we'll move out on those.
Q Was it your policy then to clean up your own property first, is that what you are telling me?
A No, I'm not saying that. I'm saying the Anniston plant -- the progression we followed there is what we felt was

the appropriate one for dealing with PCB's in sediments.
Q To try to find some logic in this, is it because you believed that the Anniston plant was the source so it was best to clean up the source before you moved downstream?
A Well, we knew based on analysis that we had PCB's in sediments leaving some of the areas, south landfill, and others, and we felt that we needed to contain those and that's why we started there.
Q You found that sediment containing PCB's was leaving the Anniston property as of what, 1993?
A 1993, yes.
Q So you decided to start with the property where you found PCB's migrating from; is that

right?
A We decided to start doing a complete investigation of the area to determine where the material was coming from and how best to manage it.
Q So it was 1993?
A '93 is when we had the first discussion with Alabama Power on the west end landfill property.
Q Also in Exhibit 2 there is a line item that states objectives, eliminate potential for exposure to PCB's. What does that mean?
MR. COX: Can you see it?
MR. LOWE: I'm sorry. I thought he could.
A This is under the heading storm water sediments, west end landfill, and it deals with the west end landfill and it says

objectives limited to potential for exposure to PCB's.
Q Well, why would you want to eliminate exposure to PCB's?
A Because of the state requirement for levels of PCB's in sediments in soils. And so we were proposing to contain those soils and eliminate it in order to meet the state's requirements.
Q Why at that point did you not undertake to try to limit exposure to PBC's downstream, that is in Choccolocco Creek and Lake Logan Martin?
A We hadn't done an analysis of those areas.
Q You knew they were there, though?
A What?
Q PCB's.
A Yeah. Being there and

knowing what the levels are and whether there is a potential for exposure are two different things. Here we had levels in soils in areas that weren't restricted and we were proceeding with the program to manage those as we logically progressed on these projects.
Q You don't think eating fish containing PCB's of more than two parts per million constitutes exposure?
MR. COX: Object to the form.
A It really depends. That's an individual decision of whether you feel comfortable eating fish with PCB's in them at two parts per million.
Q Well, that doesn't really answer my question, though. If people are eating the fish containing PCB's then they are

being exposed whether they do so willingly or not, are they not?
A That's true and it's up to them to determine whether that's an acceptable exposure or not.
Q But Monsanto knew in 1993 that there were elevated levels of PCB's in fish in Choccolocco Creek and Lake Logan Martin, did they not?
MR. COX: Object to the form.
A I don't know what the status of Lake Logan Martin was, but, I think, there was -- in '93 there was a fish advisory in Choccolocco Creek.
Q So Monsanto knew in 1993 that there were elevated levels of PCB's in fish that Monsanto had even tested for in Choccolocco Creek?

MR. COX: Not in '93.
Q Or before.
A I don't know. Again, I don't know the timing. Okay? But there was a fish advisory in Choccolocco Creek. And advisory is based on two parts per million of PCB's in the fish and it's just that, it's an advisory to advise people that this in fact exists.
Q So you are telling us you have not seen the sign that says do not eat the fish? That's one of those big universal round circles with a slash through it?
A No, I have not.
Q A fork and knife next to it?
A Okay.
Q So that's still --
A That's an advisory, right.
Q Let's go back to my

question and that is: You, Monsanto, knew when you were preparing this outline and plan for action in 1995 that PCB's existed in the sediment and fish in Choccolocco Creek, didn't you?
A That's correct.
Q And you chose to begin the clean-up on your own property?
A That's correct.
Q Rather than beginning off-site or at least simultaneously cleaning up Choccolocco Creek and Lake Logan Martin; is that right?
A We decided to proceed on with our projects that were on-site.
Q And tell me why you chose to begin with your property as opposed to simultaneously or cleaning up someone else's property.
A Well, we had an issue

on-site with PCB's that we found in sediments at the west end landfill and others and we needed to address those, and so we had a logical progression. We put the efforts toward understanding what the issues were on the plant site and managing those appropriately and then we'll do the things in a logical fashion.
Q No matter how long it takes, as long as it's a logical progression?
A Obviously, you have to manage things as best you can and we just put a significant amount of manpower and resources towards managing those issues on-site and were working under their regulatory structure to address the off-site issues.
Q Isn't taking action simultaneously to clean up your own

property as well as neighboring the downstream properties logical?
A It's logical to look at the on-site first where the materials were handled originally and do that and then progress from there.
Q Whose interest did you put first, Monsanto's or neighboring property owners or downstream owners?
MR. COX: Object to the form.
A Obviously, we looked at the issues associated with PCB's in sediments and worked with ADEM to address those issues. There was a big issue with property owners on the east side and we addressed all of their concerns as far as this first program, and we have been managing the remediation appropriately since then.

Q What were ADEM's concerns then expressed to you?
A ADEM's concerns with the east side property and others was one where they felt that they wanted levels of PCB's in soils and sediments that were potentially -- potential for exposure to people to be one part per million or less. That was kind of their cut-off level. And we addressed that the east side property work.
Q Here on Exhibit 2 we've got under the heading Snow Creek, Choccolocco Creek and it says history, draining system for plant storm water, slash, waste water. What does that mean?
A That those creeks -- that the waste water and storm water from the plant at some point was discharged into a tributary that eventually ran into Snow Creek

and Choccolocco Creek. It's a drainage area.
Q So you also knew since the next bullet point says 1987 PCB removal action, dash, Snow Creek. What was that?
A The plant had done a removal action in a small section of Snow Creek where they had found elevated levels of PCB's and that was done in '96 -- '86-87 timeframe.
Q So you knew in 1995 then that some action had been taken to remediate or remove PCB's from Snow Creek?
A That's correct.
Q And that it had been done back in the mid-1980's -- mid to late 1980's?
A That's correct.
Q Did you discuss with ADEM what its goal was for PCB

levels in soil, their one part per million standard, is that what you understood?
A That is what ADEM proposed as a -- I don't know if it was ADEM or the Department of Health. I'm not sure which.
Q Did you agree with that goal, one part per million or accept it?
A We accepted it as that's what they said it was going to be. Obviously, from a science point of view, I would disagree that it is needed at that level.
Q You have a science point of view?
A Well, I'm saying that the EPA has a regulation out that says that ten parts per million is an acceptable level in soils and that 20 parts per million in an industrial environment with

standard industrial controls is an acceptable level of PCB's in soils. So you're dealing with EPA regulations that put those out under proposals under TOSCA and ADEM picks or ADEM or the Department of Health picks one, so there is a difference between what they want and what the other regulatory authority say is acceptable.
Q How many people on Choccolocco Creek and Lake Logan Martin live in an industrial area, do you know?
A I don't know.
Q Do you think it would be fair to say none of them do?
A Well, I don't know that.
Q Is this one part per million standard from whether it's the Alabama Department of Public

Health or ADEM applicable to water as well as soil?
A This is -- it's my understanding that it's strictly in soils.
Q Looking back at Exhibit 2, there is a bullet point under current status where it says PCB property damage lawsuits, Choccolocco Creek, slash, Lake Logan Martin. Was that discussed during this meeting in 1995?
A Only to the extent that they existed.
Q So there was nothing discussed about the merits or course of action?
A No, not that I can recall.
Q Does this one part per million clean-up standard that we referred to a minute ago to your knowledge apply to PCB's in

sediment at the bottom of a lake or a stream?
A I think as the standard was proposed or at least was discussed with the Department of Health, it was related to soils on the east side, soils in people's yards, et cetera, that was on the east side.
Q So what is the difference? Are you going to apply a different standard when you make a decision whether or not to clean up Choccolocco Creek or Lake Logan Martin?
MR. COX: Object to the form.
A That standard was what the -- ADEM and the Department of Health wanted us -- wanted Solutia held to as we were doing work on the east side property. I don't know what standard that they will

propose or will be discussed as part of other remediation.
Q Were you able to meet that standard with regard to the east side property?
A We addressed the east side property and in removing the potential for exposure to soils above that, yes, by fencing the areas, capping the sediments, et cetera.
Q On the last page of Exhibit 2, we have a heading that says open issues. What does that mean?
A It means those are issues that will be addressed in the future.
Q What was the Highway 202 right-of-way issue?
A The fact that there had been sediments that were found on the south side of Highway 202

that had levels of PCB's in the sediments. That's the right-of-way that adjoins the landfill.
Q What was an open issue regarding Choccolocco Creek as of 1995?
A Just the fact that it was on the list and the others to be investigated.
Q It was on the list to be investigated in 1995?
A It was on this list and that it was a logical progression that we would get to that.
Q You still haven't gotten to it, have you?
A Yeah. We've addressed it as far as the off-site RFI plan.
Q Have you actually done any sampling yet?
A I think we have done since that point in time, some

sampling of fish in that area.
Q Was that in regard to your RFI or was that in regard to just responding to our claims in this lawsuit, the fish testing?
A That, I don't know.
Q Well, you're the head of remediation for the company. I mean, you don't know what's being done regarding Choccolocco Creek?
A I don't know what's being done in regard to the lawsuit, no. I don't get involved in that.
Q What's being done in regard to Choccolocco Creek as we sit here today then?
A We have an off-site RFI plan that's being developed to address Snow Creek and Choccolocco Creek and we'll follow that plan with RECRA corrective action.
Q So right now there is

just a plan being developed; is that fair to say?
A We have a plan being developed to address those issues, yes.
Q And what person is developing this plan?
A What did you say?
Q Who's the person that's developing the plan?
A The off-site -- the team of people.
Q Oh, it's the team? Okay. Have you told the team I want a plan by X date?
A No, I have not.
Q But you think there is some deadline within the RFI for submitting a plan?
A There is. I'm sure there is a schedule that has been developed and discussed with ADEM for that submittal. You know, it's

in part of the hazardous waste permit that was issued in '97 that has a schedule and plan for those type of activities.
Q So this team that's developing the plan to address the issues regarding the lake and Choccolocco Creek haven't actually done any sediment testing or fish tests as of this date; is that right?
A I don't know what they have done.
Q Who do these people report to?
A Allen Faust. I mean, Allen is the lead on that team and they may have planned, they may have taken some samples, I'm not familiar with all the details of the activities that are going on at the plant site.
Q We are sort of

confused since Allen said you were his boss who he reported to and had control over these matters, but I guess that's not true on a day-to-day basis, is it?
A I have overall responsibility for all remediation activities at Solutia. I don't get involved in day-to-day details and discussions of any of those projects. That's why I have good people working for me to do that.
Q What are your directives then to this team?
A To manage the program in compliance with the state and federal regulations that are applicable to these issues.
Q Is this team presently or is Solutia under any present mandate from some federal agency or state agency to perform this evaluation and come up with a plan

for remediation?
A We have a RECRA permit that details the requirements under the RECRA corrective action regulations that addresses these issues.
Q RECRA permit, I mean, that's not a directive from some administrative agency to perform anything, is it?
A RECRA permit under -- the issuance of the RECRA permit is a mandate. As part of that permit it is a mandate to comply with the corrective action regulations and under those regulations you have a logical timeframe sequence of events that you have to complete for the activities that they have identified and that's as legal as it can get.
Q Did this RECRA permit evolve from suggestions made by

Solutia, its proposal?
A The RECRA permit evolved from an investigation that the state conducted under their authority that has been given to them by the federal government under RECRA where they came in and did an investigation, and then as part of that investigation, the outgrowth of that is the corrective action part of the permit to address solid waste management units and other off-site activities.
Q As head of remediation for Solutia, I don't know whether you intend to be at trial in this case or not, so we may have to read this to the jury, but I would like for you to tell us as you sit here today what you intend to do, Solutia, to alleviate or clean up the PCB problem that presently

exists in Choccolocco Creek and Lake Logan Martin.
A Well, what we're going to do and the logical progression is to identify if there is a problem and identify the extent of the problem and how it should best be addressed. And we'll go through that with the collection of data and come up with a recommendation on the best way to address the issues that are found as part of this investigation, and then we will proceed accordingly.
Q Now, who are you going to submit your findings to?
A It's being done under the RECRA corrective action regulations and so it would be submitted to ADEM.
Q And if ADEM disagrees with your suggested resolution, then what do you intend to do?

A Well, as always, they will make comments on it and we will address those comments and then reach an agreement on what's appropriate.
Q But as you sit here today, you do not believe that there is a problem with PCB's, do you?
A I didn't say that. I said, as I sit here today we don't have enough information to determine what's the appropriate remedy that needs to be done and the extent, if any, of any problem, especially with PCB's.
Q Is it fair to say if you determine there is a problem you are willing to undertake the remedy?
A If we determine there is a problem and then we'll undertake the appropriate remedy to

address those.
Q Obviously, one remedy would be to take it out and you're not overruling that possibility, are you?
A That's one remedy. It may not be appropriate. We don't have enough information at this point in time to determine that.
MR. LOWE: I think that's all I have.
MR. COX: Okay.
AND FURTHER DEPONENT SAITH NOT

C E R T I F I C A T E

STATE OF ALABAMA
JEFFERSON COUNTY

I hereby certify that the above and foregoing deposition was taken down by me in stenotype and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the testimony given by said witness upon said hearing.
I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

TRACI WATKINS

MICHAEL FORESMAN

INSTRUCTIONS TO WITNESS

PLEASE READ YOUR DEPOSITION OVER CAREFULLY BEFORE YOU SIGN IT. YOU SHOULD MAKE ALL YOUR CHANGES ON THE ATTACHED ERRATA SHEET. PLEASE DO NOT MARK ON THE ORIGINAL DEPOSITION.
AFTER MAKING ANY CHANGES WHICH YOU HAVE NOTED ON THE ATTACHED ERRATA SHEET, SIGN YOUR NAME ON THE ERRATA SHEET AND DATE IT.
THEN SIGN YOUR DEPOSITION AT THE END OF YOUR TESTIMONY IN THE SPACE PROVIDED. YOU ARE SIGNING IT SUBJECT TO THE CHANGES YOU HAVE MADE ON THE ERRATA SHEET, WHICH WILL BE ATTACHED TO THE DEPOSITION.
RETURN THE ORIGINAL ERRATA SHEET AND TRANSCRIPT TO FOSHEE & TURNER, SUITE 220 PARK PLACE TOWER, 2001 PARK PLACE NORTH, BIRMINGHAM, ALABAMA, 35203.
ACCORDING TO RULES OF CIVIL PROCEDURE, YOU WILL HAVE THIRTY (30) DAYS FROM THE DATE YOU RECEIVE THIS DEPOSITION IN WHICH TO READ, SIGN, AND RETURN YOUR DEPOSITION TO THE ABOVE OFFICE. IF YOU FAIL TO DO SO, YOU AUTOMATICALLY WAIVE YOUR RIGHT TO MAKE ANY CORRECTIONS TO YOUR DEPOSITION.

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DEPONENT'S SIGNATURE

DATE

MICHAEL FORESMAN

SIGNATURE PAGE

OF

MICHAEL FORESMAN

I HEREBY ACKNOWLEDGE THAT I HAVE READ THE FOREGOING DEPOSITION AND THAT THE SAME IS A TRUE AND CORRECT TRANSCRIPTION OF THE ANSWERS GIVEN BY ME TO THE QUESTIONS PROPOUNDED, EXCEPT FOR THE CHANGES, IF ANY, NOTED ON THE ATTACHED ERRATA SHEET.

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