

In the United States District Court
For the Northern District of Alabama
Eastern Division

Solutia, Inc., and
Pharmacia Corp.,

Plaintiffs,

vs.

Case No. CV-03-PWG-1345-E

McWane, Inc., et al.,

Defendants.

Video Taped Deposition of
Michael A. Pierle
On behalf of Defendants
September 1, 2009

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Defendants.

Video Taped Deposition of Michael A.
Pierle, taken on behalf of the Defendants, starting at
9:03 a.m. and ending at 12:56 p.m., at the offices of
Husch Blackwell Sanders, 190 Carondelet Plaza,
Clayton, Missouri, on September 1, 2009, before Faith
A. Olliges, Missouri C.C.R. No. 807, Illinois C.C.R.
No. 084-003344, Registered Diplomate Reporter and
Certified Realtime Reporter.

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Pierle, Michael (Former Solutia/Monsanto Employee)

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1 MR. PERRY: We're on the record at 9:03.

2 Today is September 1st of the year 2009, and we are at
3 Husch Blackwell Sanders at 190 Carondelet Plaza Drive
4 in St. Louis, Missouri, here this morning for the
5 deposition of Michael Pierle to be taken in the cause
6 of Solutia, Inc., and Pharmacia Corporation versus
7 McWane, Inc., et al, Case Number CV-03-PWG-1345-E in
8 the United States District Court for the North --
9 Northern District of Alabama, Eastern Division.

10 My name is Tim Perry, Certified Legal
11 Video Specialist, here today with our Certified Court
12 Reporter, Faith Olliges. We're with Gore Perry
13 Reporting & Video, today representing Freedom Court
14 Reporting, and I'd ask counsel now to please identify
15 yourselves for the record beginning with those present
16 in the room.

17 MS. LAVEY: This is Wendy Lavey with
18 Squire Sanders and Dempsey representing defendant
19 MeadWestvaco Corporation.

20 MS. McADAM: This is Allison McAdam from
21 Hunsucker Goodstein & Nelson for defendant Southern
22 Tool.

23 MS. SMITH: Lynette Smith with Troutman
24 Sanders for Scientific Atlanta.

25 MR. NASSIF: Joseph Nassif representing

Pierle, Michael (Former Solutia/Monsanto Employee)

1 the plaintiffs. I'm with Husch Blackwell Sanders.

2 MR. PERRY: And by telephone, please.

3 MS. LEMMER: This is Julie Lemmer with
4 Alston & Bird representing U.S. Pipe and Foundry.

5 MR. WILLIAMS: This is Chris Williams with
6 Maynard, Cooper and Gale representing McWane and BAE.

7 MR. WILSON: And good morning. This is
8 Jim Wilson with Leitman, Siegel, Payne & Campbell
9 representing Phelps Dodge Industries.

10 MR. THOMPSON: This is Josh Thompson with
11 Scott, Dukes and Geisler for Huron Valley Steel.

12 MR. HEISTER: This is Michael Heister with
13 Baker Botts on behalf of DII Industries.

14 MR. PERRY: Thank you. Please swear in
15 the witness.

16 (Reporter swore in witness.)

17 MS. LAVEY: And, Joe, we usually -- we
18 have usual stipulations with the addition that if
19 anybody were to object to my questions, which I'm sure
20 is unlikely, one objection is good for all defendants.

21 MR. NASSIF: Okay.

22 MS. LAVEY: Before we get started,
23 somebody on the phone needs to put their phone on
24 mute. Thank you.

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

6 EXAMINATION

7 QUESTIONS BY MS. LAVEY:

8 Q. Mr. Pierle, again, my name is Wendy Lavey,
9 and I represent MeadWestvaco Corporation, which is one
10 of the defendants in this lawsuit, here today to ask
11 you some questions regarding the Solutia litigation.
12 Could you state your full name for the record, please?

13 A. Michael Anthony Pierle.

14 Q. And when were you born, Mr. Pierle?

15 A. October 24th, 1943.

16 Q. Same date as my daughter. Not the same year,
17 the same date. What is your current address?

18 A. 770 Gulf Shore Drive, Unit 701, Destin,
19 Florida.

20 Q. And you've previously testified in this
21 litigation; have you not?

22 A. Yes.

23 Q. You recall being a corporate representative
24 back in April of 2005 on certain topics?

25 A. Yes.

1 Q. And you understand that today you are here in
2 your individual capacity and not as the designated
3 corporate representative?

4 A. Yes.

5 Q. Okay. You were represented at that time by
6 the Husch firm. Are you represented by counsel here
7 today?

8 A. Yes.

9 Q. And who is that?

10 A. Mr. Nassif.

11 Q. Okay. Have you been deposed in any
12 litigation since the corporate representative
13 deposition in April of 2005?

14 A. I believe once.

15 Q. And what type of matter was that?

16 A. That dealt with some matters surrounding the
17 Solutia bankruptcy proceedings.

18 Q. Were you testifying in court, or was it a
19 deposition?

20 A. No, it was a deposition.

21 Q. Do you recall generally the reason you were
22 being deposed in that case?

23 A. I think, in general, it just had to do with
24 my environmental responsibilities, mainly around
25 cleanup activities and cost and accounting questions.

1 Q. Were you being deposed with regard to putting
2 a value on the liabilities that were facing --
3 environmental liabilities that were facing Solutia at
4 the time?

5 A. I don't recall the specifics on that.

6 Q. Okay. Do you recall approximately when that
7 deposition took place?

8 A. It seems to me it was probably at least a
9 couple years ago.

10 Q. Okay. Since you have been deposed in this
11 litigation, we won't have to rehash everything that
12 you've already testified to, particularly in terms of
13 your background, although I'll do a little bit of that
14 just to give us some context and to make sure we've
15 updated your information since 2005. I do still want
16 to run through general instructions for you.

17 Although you're in a casual setting, as
18 you know, you are under oath sworn to tell the whole
19 truth. I'd ask that you speak clearly so that the
20 court reporter can take down what you say, and I will
21 do my best not to speak over your answers and ask that
22 you wait for me to finish my questions before you give
23 your answer again to help the court reporter so that
24 we have a clean record. Okay?

25 A. Yes.

1 Q. I would ask that you make sure your answers
2 are audible, avoiding head shakes or head nods or
3 uh-huhs and uh-uhs which can't be taken down very well
4 by the court reporter. All right?

5 A. Yes.

6 Q. If you don't understand any question that I
7 ask, please don't hesitate to tell me that it was a
8 bad question, try again, and I'll be happy to rephrase
9 the question or give you some clarification. All
10 right?

11 A. Yes.

12 Q. I don't think we're going to go -- we're
13 certainly not going to go all day today, but if you at
14 any point want to have a break, just let any of us
15 know, and we'll otherwise be probably taking a break
16 certainly at the tape change at an hour and 20, maybe
17 a little earlier than that. But if you need a break
18 at any point, just -- just holler. All right?

19 A. Yes.

20 Q. In looking at your prior testimony, I
21 understand that you began with Monsanto in February of
22 1966 and retired as Solutia's Vice President,
23 Environment, Health and Safety, in July of 1999; is
24 that right?

25 A. I think it was January.

1 Q. The retirement?

2 A. The retirement.

3 Q. January of 1999?

4 A. Correct.

5 Q. And following your retirement, did you
6 continue to work in a consulting role for Solutia for
7 some period of time?

8 A. Yes, I did. For about two years.

9 Q. And was that consulting work done with some
10 type of a retainer?

11 A. Yes.

12 Q. Okay. And what was your retainer?

13 A. I believe at that time it was an annual
14 retainer of \$50,000 a year, and then it was for hours
15 worked over a certain number of hours there was also
16 an hourly rate, and I -- I don't remember what either
17 of those two numbers were.

18 Q. Do you recall if you ended up working in
19 either one of those couple of years over your
20 hourly -- your threshold before you reached that
21 hourly pay?

22 A. It seems to me I did. I mean, not a lot, but
23 I do recall on submitting periodic invoices at times
24 it would go over the -- or it went over that level,
25 yes.

1 Q. And what generally were you doing in terms of
2 your consulting services for Solutia following your
3 retirement in that two-year period?

4 A. I would say I was primarily held on doing
5 some support work for the CEO in industry trade groups
6 and some of the technical organizations that we were
7 also members of at that time that dealt with
8 environmental related matters.

9 Q. Do you recall any of the specific trade
10 associations?

11 A. It was primarily with the -- I think at the
12 time it was Chemical Manufacturers. They've
13 subsequently I think changed their name, and then the
14 technical committees were principally at the
15 organization that was called CIIT. It was a
16 toxicology institute that was independently run but
17 financed by the members of the chemical industry.

18 Q. And who were you reporting to at Solutia
19 during that couple year period?

20 A. That's a good question. I'm not even sure
21 that I was reporting. I mean, my principal dealings,
22 though, were with at the time the chairman and CEO,
23 Bob Potter, on those matters.

24 Q. Were any employees of Solutia reporting to
25 you while you were serving as a consultant for those

1 couple of years?

2 A. No.

3 Q. And after the couple of years that we were
4 talking about, did you continue to provide any type of
5 consulting services to Solutia or any of the law firms
6 representing Solutia?

7 A. I think for a period of time I did not, and
8 then at some point in time I was put on retainer by
9 Husch Eppenberger.

10 Q. Was that in connection with providing
11 consulting services in connection with litigation?

12 A. Yes. Principally.

13 Q. And how are you compensated for that work?

14 A. That was on a monthly retainer.

15 Q. Did that include for the provision of
16 deposition testimony in various cases?

17 A. Yes.

18 Q. Did you -- What other -- Any other type of
19 consulting services you were providing to Husch during
20 that period of time?

21 A. No.

22 Q. As of the deposition in 2005 in this lawsuit,
23 at that time you were on a monthly retainer with Husch
24 at \$5,000 a month. Is that still a relationship you
25 have with Husch today?

1 A. I think it's 4,000. It's not with Husch;
2 it's direct with Monsanto.

3 Q. And it's with Monsanto, not Solutia?

4 A. That's correct.

5 Q. And when did the \$4,000 a month retainer
6 begin with Monsanto?

7 A. I don't -- I don't recall when the transition
8 was made.

9 Q. Was there ever a point when you weren't under
10 retainer with either Husch or Monsanto?

11 A. I think I indicated initially after my
12 two-year with Solutia there was a period of time that
13 I was not, but for the past few years I've been on a
14 retainer with one of the -- one of the two.

15 Q. Okay. Yeah. And that's what I meant to ask
16 you. I didn't phrase it very well. I was thinking
17 since the 2005 deposition in this lawsuit when you
18 were at a \$5,000 a month retainer, from that point
19 forward you've been under a monthly retainer for
20 either Husch and now -- and then at some point
21 Monsanto?

22 A. Yes.

23 Q. What type of services are you providing for
24 Monsanto under that retainer?

25 A. It -- It basically is to respond at request,

1 and it's principally around deposition, when I'm
2 called for deposition work.

3 Q. So if you are providing deposition testimony,
4 you still receive the flat \$4,000 a month; is that
5 correct?

6 A. Yes.

7 Q. If you have five depositions in a given
8 month, is it still the 4,000?

9 A. I haven't had that many, so I don't know.

10 Q. If you have a month of no depositions, it's
11 still going to be the 4,000?

12 A. Yes.

13 Q. Okay. And in terms of that retainer
14 relationship, is there a time frame that that is in
15 place or is it just on a sort of month to month,
16 going-forward basis?

17 A. It's month to month. I think there are
18 cancellation provisions on both sides, myself as well
19 as them.

20 Q. Okay. Are you doing -- Are you employed or
21 doing any consulting for anyone other than your
22 retainer with Monsanto at this time?

23 A. No.

24 Q. Now, we talked several years ago, not me
25 personally, but in your prior deposition regarding

1 your education. Just so that we have the context here
2 today, let me make sure that my -- my understanding is
3 correct. You have a B.S. in civil engineering from
4 Purdue that you received in January of 1966; is that
5 right?

6 A. Yes.

7 Q. Did you have any special fields of study or
8 focus of study within that civil engineering degree
9 from Purdue?

10 A. I would say mainly in environmental
11 engineering, or I think at the time they probably
12 called it sanitary engineering.

13 Q. Does that mean that the focus was on
14 wastewater systems and water treatment aspects of
15 engineering?

16 A. It -- It would have included that, but at
17 that stage, it's all fairly general.

18 Q. Did you have courses of study at Purdue
19 relating to air emissions?

20 A. No.

21 Q. Did you have any courses in -- relating to
22 soil or groundwater contamination while you were at
23 Purdue?

24 A. No.

25 Q. And then I understand you began at Monsanto

1 upon graduation from Purdue, correct, in --

2 A. That's correct.

3 Q. -- the following month; right?

4 A. Yes.

5 Q. Approximately. Okay. While employed at
6 Monsanto, you received your Master's in engineering
7 from Washington University; correct?

8 A. That's correct.

9 Q. And that was in 1971?

10 A. I believe that's correct.

11 Q. Were there any special fields of study within
12 your Master's degree?

13 A. That was in their environmental engineering
14 program.

15 Q. Okay. And within the environmental
16 engineering program, are there any particular aspects
17 of environmental engineering that you had focused on?

18 A. No. That, again, is -- was 30 credit hours.
19 It was fairly diverse.

20 Q. It would have included water courses?

21 A. Yes.

22 Q. Did you have air permitting courses or air
23 regulation courses?

24 A. I had one course around air. I actually had
25 to take two courses at Drexel to finish up my degree,

1 and one of those had to do with general air emissions.

2 Q. And what type of water engineering courses
3 did you have while you were taking your Master's?

4 A. I think that included both drinking water
5 treatment, water chemistry, wastewater treatment.
6 These were mainly theory courses. They were not -- it
7 was not lab work or practice work. It was mainly
8 book, book work.

9 Q. So you didn't have course work in analytical
10 methods?

11 A. During some of those courses on the water and
12 the chemistry, there was -- there was a general book
13 of general methodology for -- that pertained to
14 wastewater, so I was exposed to that.

15 Q. Was that the SW-846?

16 A. I...

17 Q. Just wanted to see if I was thinking of --

18 A. I don't think so.

19 Q. -- the same thing you were?

20 A. It was standard methods book, but beyond
21 that, I'd have to go home and get it.

22 Q. That's all right. You don't have to do that.
23 I also understood from your prior testimony that you
24 had taken two executive management courses while you
25 were employed at Monsanto, one at the University of

1 Texas and one at Stanford; correct?

2 A. That's correct.

3 Q. Okay. Were there -- Did you have any other
4 formal training or education that we haven't talked
5 about?

6 A. No.

7 Q. Did -- Do you -- Did you or do you hold any
8 professional licenses, certifications, anything of
9 that nature?

10 A. No.

11 Q. Were you ever a Registered Professional
12 Engineer?

13 A. Yes.

14 Q. Okay. By what state?

15 A. New Jersey.

16 Q. Do you recall when you became a certified
17 P.E.?

18 A. I can only bracket it during the time I was
19 in New Jersey. It was sometime between '71 and 74.

20 Q. Was there a particular -- Is there a
21 particular area when you're a certified P.E. that you
22 have a specialty in? I'm not sure how that
23 certification process works.

24 A. Yes. I mean, you -- you select what area
25 that you're going to test in, and I selected in civil

1 and basically civil and environmental.

2 Q. And for how long did you retain your status
3 then as Certified Professional Engineer? Just that
4 '71 - '74 time frame?

5 A. No. I retained it after that, but I don't
6 recall how long.

7 Q. Did the Certified P.E. require that you
8 engage in continuing education in order to sustain
9 that certification?

10 A. No.

11 Q. Mr. Pierle, did you do anything today to
12 prepare for your deposition?

13 A. We, Joe and I, talked briefly about matters
14 this morning.

15 Q. And I don't want to know anything about your
16 conversation that you had with Joe, but did you do
17 anything other than your brief conversation with Joe
18 in preparation for today?

19 A. We spent some time yesterday as well.

20 Q. About how long did you spend yesterday?

21 A. I think it was about three hours. That
22 included a lot of personal catchup, chitchat about
23 people we know.

24 Q. I don't need to know about that either.

25 Again, without getting into conversations you may have

1 had with Mr. Nassif, did you review any particular
2 documents in connection with today's deposition?

3 A. There were some pieces of paper that we
4 looked at as reminders. More than a handful. I
5 don't -- you know, I don't recall the specifics on
6 those right now.

7 Q. Do you recall generally what those documents
8 related to?

9 A. Well, I would say this case, but, I mean,
10 just different -- different matters relative to
11 Anniston, and some relative to my -- my -- the prior
12 deposition that --

13 Q. Did you --

14 A. -- we did in this case.

15 Q. Did you review your transcript from your
16 prior deposition?

17 A. I did not. Joe had it, and there were a
18 couple of areas that we looked at, but I did not
19 reread that deposition.

20 Q. Did you reread any of your other deposition
21 testimony from other lawsuits?

22 A. No.

23 Q. Did any of the documents that you reviewed
24 yesterday specifically lead you to recollect the facts
25 surrounding the Anniston facility?

1 A. I really don't know how to answer that.

2 Q. Okay. Nothing jumps out at you as a document
3 that -- that really stood out coming out of
4 yesterday's meeting that causes you to recall the
5 Anniston environmental remediation activities?

6 A. No. Not -- not over what I generally
7 recollect.

8 MS. LAVEY: Joe, can you represent that
9 any document he was shown is something that's been
10 produced to us in this lawsuit?

11 MR. NASSIF: Yeah.

12 MS. LAVEY: Okay.

13 MR. NASSIF: I think they're exhibits, at
14 least to the extent that I know, I think they are
15 exhibits already in the case.

16 Q. (By Ms. Lavey) Mr. Pierle, do you keep any
17 personal files of documents relating to your
18 employment with Monsanto and Solutia at your home?

19 A. I keep my -- my contract, now with Monsanto,
20 and I think the only other documents I have are some
21 of the prior depositions where I've been required to
22 review and sign off. I tend to keep those.

23 Q. You don't have anything like personal diaries
24 of appointments and notes from meetings, et cetera?

25 A. No.

1 Q. Other than your conversations with
2 Mr. Nassif, did you discuss this lawsuit or your
3 testimony today with anyone else prior to coming here
4 today?

5 A. No.

6 Q. Mr. Pierle, what is your understanding of
7 what this lawsuit is all about? If you have an
8 understanding.

9 A. I think in -- in real general terms, it's
10 about some costs or cost recovery from, as I remember
11 the terminology, potentially, you know, other parties,
12 PRPs I think was the term that was used, that Solutia
13 was pursuing relative to cleanup projects in and
14 around the Anniston Plant.

15 Q. So you have a general understanding that
16 Solutia and Pharmacia are suing other entities;
17 correct?

18 A. Yes.

19 Q. Do you have a general understanding of who
20 those other entities are?

21 A. Not until you all said who you were
22 representing today.

23 Q. Fair enough. Aside from the corporate
24 representative -- representative deposition that you
25 provided in this lawsuit, you have been deposed a

1 number of times in other litigation relating to the
2 Anniston facility; correct?

3 A. Yes.

4 Q. And I'm aware of three lawsuits, PCB
5 litigation against Solutia or Monsanto that you've
6 deposed in. Mars Hill, Dyre, and Tolbert. Do you have
7 a general recollection of providing deposition
8 testimony in those cases?

9 A. We did, you know, briefly -- Joe asked me how
10 many times have you been deposed, and I said five --
11 more than five, but probably less than 10, and I don't
12 remember the specific names, but I do remember the
13 Dyre. We did look at that. Now that you mentioned
14 Tolbert, I remember that, the third one was --

15 Q. Mars Hill?

16 A. Yes. Yes. I remember -- I now remember
17 that --

18 Q. Okay.

19 A. -- subject.

20 Q. Other than Dyre and Mars Hill, which were
21 both in '98, Tolbert, that was in 2003, do you have
22 any recollection of being deposed in any other lawsuit
23 brought by plaintiffs relating to -- against Solutia
24 or Monsanto relating to PCB litigation?

25 A. Not without trying to go back and look at

1 documents.

2 Q. I'm not trying to trick you. It's not that
3 I'm sitting on a transcript I'm about to wave in front
4 of you or anything.

5 A. Sure. Yeah.

6 Q. Do you recall what the Dyre case is about,
7 was about?

8 A. You know, in general, I just recall they
9 all -- they seemed to me they all dealt with primarily
10 PCB contamination around the site, and in most of the
11 cases I recall it dealt with residents, both cleanup
12 and also I think also other damages. I don't remember
13 the specifics of the Tolbert or the Mars Hill or the
14 Dyre as to who was where and what --

15 Q. Do you have --

16 A. -- the particulars of those were.

17 Q. Do you have any awareness of how those three
18 lawsuits were ultimately resolved, whether through
19 trial or settlement?

20 A. Not really. I know that some of them were,
21 and I know there was a big settlement somewhere along
22 the line, but I don't attach any specifics to any of
23 the three.

24 Q. You don't have a specific -- You don't have
25 specific knowledge regarding a class action settlement

1 in the Dyre litigation that included the establishment
2 of a \$21 million remediation fund. Is that --

3 A. I recall that that was done by reading it in
4 the newspaper, but I was not privy to the settlement
5 and the details and how that was done or who did it,
6 but I did -- I do recall the one that sort of
7 precursed, I guess, the -- the...

8 Q. Big one?

9 A. Yeah. The Solutia bankruptcy that -- that
10 were -- that some of that had an effect on that.

11 Q. And as a matter of timing, that would be the
12 Tolbert and Abernathy cases, wouldn't it, that you're
13 just referring to now? You don't recall?

14 A. I don't recall.

15 Q. Do you have any specific recollection or even
16 general recollection of a remediation fund established
17 under the Dyre case back in more of the '98/'99 time
18 frame, so well before the bankruptcy, from which
19 funding was to be provided on offsite remediation
20 activities?

21 A. I don't recall that.

22 Q. Do you have any understanding as you sit here
23 today who within Solutia would have had a job
24 responsibility that caused them to have some
25 involvement in that remediation fund?

1 A. Not -- Not really. I mean, I'm puzzled a
2 little bit here by the time frame because '98 and '99
3 I would have -- since I was still there, I would have
4 thought I would have been part of that, so I'm a
5 little quizzical about the timing. I thought that all
6 happened after I had left.

7 Q. And I could be -- Your deposition was in
8 1998. I don't --

9 A. Yeah.

10 Q. I don't know when the settlement was.

11 A. Right. Okay.

12 Q. It could have been a couple years later --

13 A. Yeah.

14 Q. -- and you might have been gone.

15 A. Right.

16 Q. So you don't recall anything specific about
17 that --

18 A. No.

19 Q. -- type of fund. Okay. Now, in addition to
20 the what I'll call toxic tort litigation that we just
21 discussed, you also testified multiple times in the
22 Aetna Insurance coverage litigation; correct?

23 A. Yes.

24 Q. So when you said you had more than five, less
25 than 10, and I only identified three, is there any

1 other cases you recall other than insurance, the
2 insurance litigation, that you may have testified in?

3 A. There were a couple of issues, but they were
4 well before any of this. One dealt with I think an
5 environmental group suit against our plant up in New
6 Jersey. That was -- I think that suit was back in the
7 '70s, I believe, and then I was involved with a suit
8 relative to the Krummrich Plant back in -- I'm
9 thinking that was in the '70s as well.

10 Q. Do you recall what the Krummrich Plant
11 litigation related to?

12 A. That was the Belleville case. I don't recall
13 the citation on it. I think it was the Sturgeon
14 maybe, the Sturgeon case, Sturgeon, Missouri. I think
15 it was a railcar case.

16 Q. Had there been a release of material from a
17 railcar? Is that what that litigation was?

18 A. Yes. I believe so. Relative -- That had
19 originated, I think, at the Krummrich Plant.

20 Q. And you mentioned also some lawsuit relating
21 to a facility in New Jersey. Was that relating to the
22 Kearney plant or a different New Jersey facility?

23 A. It was the Delaware River Plant.

24 Q. And do you recall generally what that lawsuit
25 was about?

1 A. I think that was a -- It basically dealt with
2 penalties under the Clean Water Act or for alleged
3 violations, permit -- water discharge permit
4 violations.

5 Q. And at that time, what was your -- what roles
6 and responsibilities did you have for the Delaware
7 River Plant?

8 A. At the time of the lawsuit?

9 Q. Well, let's start with that. At the time of
10 the lawsuit, did you have any roles and
11 responsibilities?

12 A. I believe I was in an environmental manager's
13 role in St. Louis, and that was one of the plants that
14 I had some responsibilities for.

15 Q. You had not physically been located at that
16 plant earlier?

17 A. Yes, I had been.

18 Q. You had. Okay. When you were an
19 environmental engineer?

20 A. Yes.

21 Q. Okay. And that was when you had your -- the
22 P.E., the professional engineering that we talked
23 about from '71 to '74?

24 A. That's correct.

25 Q. Is that the correct time frame? Now, in the

1 multiple depositions that you suffered through in the
2 insurance coverage litigation, four or five days'
3 worth, I noticed that one of those it appeared you had
4 either had already provided or were going to be
5 provided -- providing an expert report. Do you recall
6 that in connection with the insurance litigation?

7 A. No, I don't.

8 Q. You don't recall being tasked to develop
9 expert opinions relating to Monsanto's compliance
10 performance and level of remedial activities and that
11 sort of thing?

12 A. As a result of that litigation?

13 Q. In that litigation.

14 A. I don't recall that.

15 Q. Have you ever provided expert opinions in
16 litigation other than the one that you don't recall?
17 Do you recall ever providing expert opinion?

18 A. What -- Define that. What's the
19 classification for that?

20 Q. It may be a very special lawyer term, I
21 suppose. If you were asked to provide an expert
22 report, you would set forth your qualifications, you
23 would recite a series of opinions and then provide
24 generally a narrative backup for those opinions,
25 citing to whatever documents you may have relied upon

1 that what I'll describe then as an expert report is
2 provided to the other side and a deposition would be
3 taken on the basis of that report.

4 A. I don't --

5 Q. Does that ring any bells?

6 A. No.

7 Q. Okay.

8 A. I don't ever remember doing that.

9 Q. What was your role, if any, regarding the
10 insurance coverage litigation in the '90s?

11 A. We had a -- We basically had a team that I
12 was on that was responsible for trying to put together
13 the basis for a case against the insurers and then it
14 stayed involved in subsequent discussions with the
15 insurers. Most of this, I think, though, was
16 pre-litigation, and then once the litigation was
17 underway, it was -- it was basically more internal
18 discussions with the group of people that had
19 knowledge about the substance of the litigation.

20 Q. Do you have a recollection of the outcome of
21 that insurance coverage litigation?

22 A. I think there were several settlements, but
23 there were several insurers that were -- that were
24 sued, and I think there were multiple settlements, and
25 I forget the -- the amount of money. I know it was

1 much less than we had spent, but -- And I do know that
2 they were settled.

3 Q. They never went to trial; correct?

4 A. I don't believe so.

5 Q. Do you recall the Anniston Plant
6 environmental liabilities were within the scope of
7 those settlements?

8 A. I don't recall that specifically.

9 Q. Do you recall if the settlements were limited
10 to onsite liabilities or offsite contamination
11 liabilities?

12 A. They were inclusive of both from a cleanup
13 standpoint, and they were -- they would have only been
14 inclusive of the information that we would have known
15 at the time we filed the litigation.

16 Q. Which was in the early '90s, correct, if
17 your -- I know you have depositions in '93, so I'm
18 assuming the lawsuit was filed sometime prior to that
19 clearly?

20 A. That would sound reasonable.

21 Q. Okay. Were you involved in any other
22 coverage litigation on behalf of Monsanto or Solutia
23 other than that, that lawsuit?

24 A. I don't believe so.

25 Q. Did you provide -- have you ever provided

1 testimony in trial in any lawsuit?

2 A. Yes.

3 Q. And when did you provide trial testimony?

4 A. The two early suits that I mentioned in New
5 Jersey and the one around the Krummrich Plant both did
6 go to trial. I think those are the only two.

7 Q. You don't -- you did not -- you don't recall
8 providing any trial testimony in the -- in any of the
9 lawsuits that relate to the Anniston Plant?

10 A. I don't believe so.

11 Q. Mr. Pierle, do you have any family members
12 who have ever worked at Monsanto or Solutia,
13 Pharmacia?

14 A. No.

15 Q. Okay. Any family members that ever worked at
16 any of the foundry operations in Calhoun County?

17 A. No, not that I know of.

18 Q. Let me turn to your employment with Monsanto
19 when you began in February of 1966. You've previously
20 testified your first position title was as
21 Environmental Engineer 1 in the Technical Services
22 Department; is that right?

23 A. Yes.

24 Q. Okay. And where were you physically located
25 as Environmental Engineer 1?

1 A. At the W. G. Krummrich Plant in Sauget,
2 Illinois.

3 Q. And were your duties and responsibilities
4 limited to Krummrich, or did you provide a corporate
5 engineering role?

6 A. No. They were limited to the plant.

7 Q. I believe you testified, if I understood it
8 correctly before, that you were reporting at that time
9 to Paul Hodges, is that right, when you first started?

10 A. Yes.

11 Q. And was Paul Hodges located at corporate?

12 A. No. At the time of that reporting, he was at
13 the plant.

14 Q. And do you recall who he was reporting to?

15 A. It would have been whoever was the head of
16 Technical Services, but I don't recall who that was at
17 the time.

18 Q. And Technical Services Department, is that --
19 is that a corporate department function, or is that an
20 entity within the Krummrich Plant?

21 A. The latter.

22 Q. Okay. Describe for me generally what your
23 duties and responsibilities were as an Environmental
24 Engineer 1 in the Krummrich Technical Services
25 Department when you first started.

1 A. I would say basically the role of that
2 department was monitoring and surveillance of both
3 water and air discharges, and the plant was part of
4 the Village of Sauget that was constructing a primary
5 wastewater treatment plant, and I became involved in
6 the technical -- the completion of construction and
7 the beginning of operation of that principally for the
8 Industrial Group that was sort of a -- it was a
9 quasi-city industry group that was set up to run the
10 facility.

11 Q. And did that quasi-industry city group
12 involve more than just Monsanto's Krummrich Plant?

13 A. Yes, it did.

14 Q. How much of your time was spent devoted to
15 the work for the wastewater treatment plant
16 development for Sauget when you were Environmental
17 Engineer 1?

18 A. I'd say at the outset, it was a low amount,
19 and by the time I left in '70, 1970, it probably
20 constituted 30 to 40 percent.

21 Q. And you indicated that you generally
22 described the roles and responsibilities as monitoring
23 and surveillance of air and water discharges.

24 A. Correct.

25 Q. And give me some examples of what you would

1 specifically be doing in order to monitor or conduct
2 surveillance of air and water discharges.

3 A. We had a discharge -- It was either a permit
4 or some sort of legal document with the State of
5 Illinois that covered three or four indicators as well
6 as one specific -- So we had to take various samples
7 of the total plant, and then we would take samples
8 within the plant to try to look at the configuration
9 to make sure that we were preparing then the right
10 reports for submission to the state.

11 On the air side, it was primarily
12 monitoring relative to the power plant both
13 particulate and sulfur dioxide emissions, and those
14 became on the particulate side more important as we
15 began to put in control measures on controlling those
16 emissions, and the SO2 was primarily what I would call
17 ambient monitoring, trying to understand our part--
18 our contribution to the local SO2 levels because there
19 was also a large utility power plant using smelter
20 emitted, so there were multiple sources, so we were
21 doing ambient monitoring stations trying to understand
22 our contribution to those levels.

23 Q. And the power plant you referred to was the
24 Monsanto power plant on site at Krummrich?

25 A. Well, we did have that, but my reference to

1 that, there was a municipal power plant that was part
2 of I think Union Electric at the time. It was in
3 operation near the plant.

4 Q. And you were conducting monitoring, ambient
5 air -- ambient air quality monitoring for SO2 relative
6 to that municipal power plant as well as your own
7 power plant?

8 A. Well, when you do ambient, which is general
9 out in the general area, you're going to pick up
10 whatever comes from wherever. So part of what we were
11 trying to understand was our piece of that
12 contribution versus other sources in the area.

13 Q. Okay. And on the wastewater discharge side,
14 what type of pollutants were you monitoring for? Were
15 those conventional pollutants like a COD, suspended
16 solid? Do you recall what you were monitoring --

17 A. There were those --

18 Q. -- for?

19 A. The only specific pollutant that I recall was
20 a phenol that was -- we had a limit on that we had to
21 make reports to the state relative to that.

22 Q. And do you recall what process was taking
23 place at Krummrich that was generating phenol in your
24 wastewater discharge?

25 A. I think there were -- There was more than

1 one. We had a phenol unit, which was one. There were
2 a couple of other units there that used the material
3 that I think were also potential dischargers that we
4 would internally monitor within the plant.

5 Q. And at that time at Krummrich, that plant was
6 also manufacturing Aroclors; correct?

7 A. Yes.

8 Q. Did the Aroclor production lead to any PCB
9 sampling in either air or water while you were an
10 environmental engineer at Krummrich?

11 A. I think later on, in the later maybe '68
12 when -- and I think I testified to this before, when
13 the general discussion about PCBs came up, we had --
14 we began specific sampling at the unit to determine
15 principally in water were there any PCBs, and then
16 about the time I was leaving, I think we had just put
17 in some collection and separation facilities to try to
18 reduce the -- reduce the amounts at the department.

19 Q. And amounts of Aroclor releases? Is that
20 what you're talking about?

21 A. Are we using Aroclor generically?

22 Q. PCBs, I could say.

23 A. Yeah. Yes.

24 Q. Okay. "At the department" means the Aroclor
25 Production Department?

1 A. Yes.

2 Q. And what type of collection separation
3 equipment was being installed as you were nearing the
4 end of your time there?

5 A. It was pretty simple because the PCBs were
6 heavy and relatively not solvent in the water, so they
7 were -- it was a physical separation, more dams in
8 sort of surface drains, as I recall, and dams to
9 collect the material behind, and then they had some
10 mechanism for removing those and taking those off. I
11 don't recall. As I say, that's about the time I left,
12 and I don't -- I don't remember the specifics of that
13 operation.

14 Q. Do you recall at that time that there was
15 also Aroclor production taking place at the Anniston
16 Plant in addition to Krummrich?

17 A. I'm not sure I even knew that at that time.
18 We didn't have much interplant, not at my level
19 anyway, interplant actions or exchange of information.
20 They may have had at the production unit, but not at
21 my level in the Environmental Group.

22 Q. Were you involved in the engineering and
23 planning for the physical separation collection
24 equipment at Krummrich?

25 A. That -- That was done by another part of the

1 Technical Services Department. It would have been
2 engineers more associated with the production unit.

3 Q. Were the members of the Technical Services
4 Department generally assigned to different production
5 operations within the plant while you were there?

6 A. I think that's a fair statement.

7 Q. What production facilities were you
8 associated with?

9 A. Well, okay. Then maybe that's not a fair
10 statement.

11 Q. Sorry.

12 A. There were a series of engineers that were
13 mainly chemical engineers that had assignments, and
14 they may rotate or change within the plant, the units,
15 but the Environmental Group had basically -- our
16 coverage was across the entire plant, not in any
17 specific unit.

18 Q. Do you recall the names of any of the
19 chemical engineers that were in the Technical Services
20 Department involved in the Aroclor production process
21 and specifically the physical separation equipment
22 that you were describing?

23 A. I do not.

24 Q. Did you have any tasks or jobs relating to
25 the Aroclor production or discharges, releases of PCBs

1 at Krummrich while you were an environmental engineer
2 there?

3 A. No.

4 Q. And I gather you didn't have any tasks or
5 responsibilities that related to the Anniston Plant
6 while you were an environmental engineer at Krummrich?

7 A. That's correct.

8 Q. At some point in time, you previously
9 testified that your next position was the
10 Environmental Engineer 2. Is that just an elevated
11 status, but you're still at Krummrich; is that right?

12 A. I believe that did happen right before I left
13 Krummrich, that's correct.

14 Q. Do you have any recollection of any changes
15 to your duties or responsibilities upon becoming an
16 Environmental Engineer 2?

17 A. No.

18 Q. And you said -- I think you said you -- I
19 think you said you left Krummrich in 1970; is that
20 right?

21 A. Yes.

22 Q. Okay. Is that when you became a Senior
23 Engineer?

24 A. At -- Yeah. At Delaware River.

25 Q. Okay. That's when you went to Delaware

1 River?

2 A. Correct.

3 (Defendant's Exhibit Pierle 1 was marked
4 for identification.)

5 Q. Mr. Pierle, I've handed you what we have
6 marked as Pierle Exhibit 1 to your deposition today,
7 and for the record, I'll just draw a quick distinction
8 so we don't have any confusion. When you were a
9 corporate representative we marked those Solutia
10 Pierle 1, 2, 3, et cetera, so these will be marked
11 just Pierle 1, 2, 3, et cetera. I'll give you a
12 moment to read that over, and then I'll ask you a few
13 questions. Let me know when you've had a chance to
14 look at it.

15 (Witness perused document.)

16 A. I've read the document.

17 Q. Okay. Is this a document that -- that you
18 authored, Mr. Pierle?

19 A. It appears to be.

20 Q. And for the record, Pierle 1 is Bates
21 labelled DSW 386757. The time -- The date on this
22 document is February 5th, 1969. That's a point in
23 time when you would have been located at the Krummrich
24 Plant as an environmental engineer; correct?

25 A. That's correct.

1 Q. Before I ask you some questions about this,
2 do you have any recollection at all regarding
3 preparing this memo and the subject matter that it is
4 discussing?

5 A. Not really, other than what's right here.

6 Q. As you read this, let me ask you a couple of
7 questions. The P. B. Hodges that is referenced as
8 having prepared some memo dated January 23rd, 1969, is
9 that Paul Hodges?

10 A. Yes.

11 Q. And at that time, he was your direct
12 supervisor; correct?

13 A. I don't believe so at this time. I think by
14 this time Paul had moved to a different role in -- in
15 the St. Louis offices.

16 Q. Would that be, the "GO" that's indicated
17 after his name, is that General Offices? Would that
18 be the right --

19 A. Yes.

20 Q. -- designation?

21 A. Yes.

22 Q. That would suggest he's moved to
23 headquarters?

24 A. Yes.

25 Q. Okay. And the memo that you're writing here

1 to E. G. Wright, is that Eugene or Bunky Wright? If
2 you recall.

3 A. I don't recall, but, again, that's what the
4 note would indicate.

5 Q. Okay. I'm sorry. I'm going to keep asking
6 you about names, and I know it's a long time ago. W.
7 C. Cole, do you recall who that is?

8 A. I believe he was a -- He was in the product
9 business that included PCBs.

10 Q. Do you recall if he's at Krummrich or at
11 corporate?

12 A. He would not have been at Krummrich.

13 Q. Do you recall his first name?

14 A. No, I do not. Now that I think of that, I'm
15 not sure of that either. I'm really kind of...

16 Q. Okay. How about the next name on the CC
17 list, F. B. Matthews. Do you recall that individual?

18 A. He was a -- He was at the plant, and I'm not
19 exactly recalling what his role was.

20 Q. Do you know what the F. B. stands for?

21 A. I believe his first name was Fred. The B, I
22 don't know.

23 Q. And C. F. Buckley, do you recall him?

24 A. He was -- I believe -- And that's Clarence.
25 I believe he was my boss at the time.

1 Q. So he was located at Krummrich?

2 A. Yes.

3 Q. As part of the Technical Services Department?

4 A. Yes.

5 Q. Do you know if Mr. Buckley is still living?

6 A. I do not.

7 Q. Do you know anything about his employment
8 history subsequent to being your supervisor at
9 Krummrich?

10 A. Only that he was I think originally employed
11 at one of our plants in England and had moved to the
12 States and had worked at Krummrich, but I don't -- I
13 don't know his work history. He was -- He was an
14 Englishman, so that's why I know that.

15 Q. Do you know if he worked at the New South
16 Wales Plant?

17 A. I've never heard --

18 Q. Okay.

19 A. -- New South Wales.

20 Q. I could be wrong.

21 A. That's not familiar.

22 Q. I could be wrong about the name of the plant,
23 too. Now, this -- the document we've marked as Pierle
24 1 has some handwriting regarding a telephone
25 conversation with Bunky. Do you recognize that

1 handwriting?

2 A. I do.

3 Q. And whose is it?

4 A. Mine.

5 Q. Do you have any recollection of the telephone
6 conversation that you're making notes on here?

7 A. Not really.

8 Q. When you read both the memo itself and your
9 handwritten notes, can you tell me what the -- what is
10 meant by the handling of spent Aroclor from P2S5
11 production in the text of the memo?

12 A. I don't really recall the specifics on this.

13 Q. Do you recall anything generally?

14 A. Not -- No, I don't.

15 Q. P2S5, which I'm not going to remember exactly
16 what that stands for, but I know it was being produced
17 at Anniston. Do you know if P2S5 was being produced at
18 Krummrich at this time?

19 A. I do recall that.

20 Q. Do you know if the process at -- Do you know
21 if there are any differences between the P2S5
22 production process at Krummrich versus that at
23 Anniston?

24 A. I do not.

25 Q. Do you have any understanding either from

1 reading this memo or from your years at Monsanto
2 thereafter as to why spent Aroclor would be handled as
3 part of P2S5 production?

4 A. I believe that P2S5 and other departments were
5 using that as a heat transfer fluid, which meant it
6 was in a furnace that was sep-- it was heating the
7 process, but it was not integral with the materials in
8 the process. I think that was a standard use of the
9 materials at that time.

10 Q. Would that have -- that heat transfer fluid
11 have been called Therminol, if you recall?

12 A. Probably.

13 Q. You're not sure?

14 A. I'm not sure.

15 Q. And you described the heat transfer fluid
16 being in a furnace. Do you think that's the reference
17 to furnace in your handwritten note?

18 A. Yeah. That's what makes me sort of
19 understand that a furnace or a heater, it was used
20 in -- in the -- in the department.

21 Q. Do you know what was being heated in the P2S5
22 production process?

23 A. No. I mean, it would have been part of the
24 process, but I don't know -- I don't know the
25 specifics of the process itself.

1 Q. Do you recall while you were an environmental
2 engineer at Krummrich there being any issues regarding
3 Aroclor being released from the P2S5 production
4 process?

5 A. I don't.

6 Q. Do you recall there being any issues about
7 drumming the spent heat transfer fluid and hauling it
8 away anywhere?

9 A. No.

10 Q. Okay. You can set that one aside.

11 (Defendant's Exhibit Pierle 2 was marked
12 for identification.)

13 MR. NASSIF: Thank you.

14 Q. I'll give you a moment to look this over,
15 Mr. Pierle. I do recognize that I did not find your
16 name anywhere on here, so if you're looking for it, I
17 didn't find it.

18 A. I'll await your question.

19 Q. Okay. Actually, the first thing I want to
20 ask you about is more people identification. The memo
21 that I've handed you that we have marked as Pierle
22 Exhibit 2, and we'll just need to ignore the earlier
23 stamps from prior testimony, is dated May 12, 1969,
24 from P. B. Hodges, which would be Paul Hodges;
25 correct?

1 A. Correct.

2 Q. Okay. And it is being addressed to
3 W. A. Kuhn (pronouncing Koon) or Kuhn (pronouncing
4 Kune), K-U-H-N?

5 A. I believe it was Kuhn (pronouncing Kune).

6 Q. Kuhn. Okay. And do you recall his full
7 name?

8 A. I know it was Bill, but I'm not certain
9 beyond that.

10 Q. And what was Bill Kuhn's position, if you
11 know, in May of 1969?

12 A. I do not.

13 Q. The list of CCs, is there anyone on that list
14 as you look at that list that you know sitting here
15 today is still living? I'll make the question easier
16 rather than one by one.

17 A. Bill Papageorge.

18 Q. Okay.

19 A. Beyond that, I do not know.

20 Q. If I direct your -- I want to direct your
21 attention to the opening paragraph, which states, "At
22 your request (and for your transmittal to appropriate
23 members of the Business Group) I have summarized
24 information on actions, plans and problems at Anniston
25 and at W. G. Krummrich to avoid sewerage Aroclors into

1 natural waters."

2 Regarding the reference to sewerage
3 Aroclors into natural waters at the Krummrich Plant,
4 while you were an environmental engineer at Krummrich,
5 did you have any involvement in what's being
6 referenced here?

7 A. I think we've just discussed some of this in
8 that at this time we were trying to understand what
9 discharges there may be of PCBs in the plant or from
10 the plant, and I was involved in some of that
11 activity.

12 Q. Do you recall ever receiving or seeing this
13 memo in particular? I know your name's not on it.

14 A. I do not.

15 Q. What -- Tell me what you were doing in
16 connection with identifying any losses or releases of
17 Aroclors in the water. You've told me generally, but
18 can you tell me more specifically?

19 A. I just recall that we were taking -- we
20 already had a network of sampling for other purposes
21 that we've described, and I believe we were trying to
22 use those, that sampling system to try to collect
23 samples, and I think in all cases we were giving these
24 to somebody someplace else because of the difficulties
25 with the analytical methods and development and that,

1 so there were some samples that were taken in addition
2 to in the department, but I don't -- I don't recall,
3 you know, how many and where, but we were basically
4 trying to understand as best we could, given the
5 technologies of sampling and analysis there, did we
6 have PCBs in the water; and, if so, where were they,
7 and then would that help us understand how to put in
8 control systems to -- to reduce those levels.

9 Q. And in that work that you were describing, to
10 your knowledge, was there information sharing or
11 communications going on with the Anniston Plant
12 together with the Krummrich Plant? In other words,
13 were they working together on these type of problems?

14 A. I don't recall doing much of that. Now that
15 I see this, I see we obviously had one exchange, but I
16 don't recall that that was part of our role at the
17 plant to do the interplant communication. This memo
18 obviously indicates they had activities at Anniston
19 that I could only assume probably tried to parallel
20 what we were doing --

21 Q. And do you --

22 A. -- or --

23 Q. But that wasn't hap -- that communication was
24 not happening at your level?

25 A. No.

1 Q. Maybe not at anyone's level within Krummrich,
2 but more at the corporate level with Mr. Hodges?

3 A. I don't know.

4 Q. Okay. That opening paragraph indicates that
5 information was obtained from Mr. Taffee at Anniston,
6 and I'm familiar with Mr. Taffy, and C. F. Buckley.
7 Do you recall C. F. Buckley?

8 MR. NASSIF: You just asked him about
9 C. F. Buckley.

10 Q. Did we do that one?

11 A. Yes.

12 Q. Did we just do that one?

13 A. We did.

14 Q. I'm sorry.

15 MR. NASSIF: The New Wales Plant.

16 Q. Yes, we did. New Wales, yes. The mystery
17 New Wales Plant. Under the heading A, "General,"
18 Mr. Hodges states, "We have generally taken the
19 position that, before any expensive projects are
20 undertaken to halt sewerage of Aroclors, we should
21 know what levels exist in the receiving waters." Do
22 you see where I am?

23 A. Yes.

24 Q. Do you recall that position ever being
25 articulated to you while you were an environmental

1 engineer at Krummrich?

2 A. No.

3 Q. Do you recall there being an instruction or
4 directive to halt sewerage of Aroclors specifically?
5 I know you said there was a project underway to try to
6 reduce that. Do you recall there being any type of
7 directive to stop sewerage of Aroclors?

8 A. I don't -- I don't recall that.

9 Q. This paragraph goes on to talk about the need
10 to develop analytical techniques, and then the second
11 paragraph references or states, "General status of
12 this work is that Dr. Tucker has developed the
13 necessary techniques (ahead of schedule)," and it goes
14 on. Do you recall that work by Dr. Tucker taking
15 place in the late '60s?

16 A. I remember that name and his involvement in
17 the analytical methods development that went on during
18 that time, and I think for quite a while because of
19 the difficulties with it.

20 Q. You mentioned earlier that sometimes you had
21 to send analysis offsite because there wasn't onsite
22 capability, is that right, at Krummrich?

23 A. And this is what I would have meant by
24 offsite. It would have been to Dr. Tucker.

25 Q. And Dr. Tucker had his own analytical lab

1 someplace within the Monsanto family?

2 A. It would have been at the general offices
3 area.

4 Q. And do you know Dr. Tucker's not still
5 living; correct?

6 A. You know, I don't know that for a fact.

7 Q. Reading this, that paragraph, would you agree
8 with me that as of May 1969 Monsanto had developed
9 analytical techniques capable of analyzing Aroclor and
10 PCBs in wastewater?

11 MR. NASSIF: Objection, lack of
12 foundation.

13 Q. You could still answer.

14 A. I mean, this says based upon what he knew how
15 to do at that time he was sending it to the plants to
16 put in effect. I -- I do recall that there were
17 considerable difficulties that continued on with being
18 labeled to identify PCBs and which PCB and other
19 interferences of other materials, and I know that the
20 first attempt was not perfect.

21 Q. Do you recall that attempt taking place
22 specifically at the Krummrich Plant before you left?

23 A. I do not.

24 Q. Do you recall what type of problems they were
25 having regarding the analytical capabilities following

1 Dr. Tucker's work?

2 A. I think I've just mentioned some of them in
3 terms of the various isomers that -- you know, PCB
4 wasn't just one thing, and there were more
5 difficulties with that, and then I -- and I do know
6 that each sample would have its own what they used to
7 call cleanup preparation step to that, and for
8 different samples that required different activities,
9 and all of that was -- this was real early in the
10 learning process, so there was improvements being made
11 in the techniques as the work progressed.

12 Q. This paragraph on the first page of Pierle
13 Exhibit 2 also states that "However, problems of
14 manpower priority exist at both plants..." Do you
15 recall there being a manpower priority problem with
16 respect to the analytical development at Krummrich and
17 Anniston?

18 A. I wouldn't have been in-- wouldn't have been
19 involved in that aspect of it.

20 Q. Do you know who would have been involved in
21 that aspect of it at the Krummrich Plant?

22 A. I don't recall, but the laboratory was run
23 sort of as a -- as a separate unit. There was a head
24 of laboratory, but I don't recall who that was.

25 Q. I'm going to ask you to turn to the second

1 page, and this is a two-sided copy. I'm saving trees.

2 A. Good for you. I've got a story about that
3 I'll tell you at the break.

4 MR. NASSIF: No, you won't.

5 Q. Under Roman Numeral II, "Work to Minimize
6 Losses at W. G. Krummrich," again, this is May of
7 1969, a time frame when you were still environmental
8 engineer at the Krummrich facility. There's a
9 reference in this opening sentence to a qualitative
10 study of loss sources. Is that a reference to what
11 you were describing to me as a project that you recall
12 in the '60s? Do you know?

13 A. Where in Roman II are you?

14 Q. The very first sentence.

15 A. "In the absence of" --

16 Q. Uh-huh.

17 A. -- "analytical techniques"?

18 Q. And then it goes on to say "a qualitative
19 study of loss sources has been made." Do you know
20 what that qualitative study references to? Or is
21 that -- Or do you believe that's a reference to what
22 you've been describing to me as something that was
23 underway that you had some involvement in?

24 A. Yeah. I don't know what -- how inclusive
25 that was. It would have included the work we were

1 doing in the Environmental Group, but we may not have
2 been doing all the work. I don't know.

3 Q. Do you recall the names of any other
4 individuals that were involved in the work that you
5 were doing with regard to studying losses of Aroclor
6 to the water?

7 A. The only other fellow that I worked with or
8 who did a lot of the sampling-related work was Julio
9 Munoz, who was a technician in the group who really
10 had prime responsibility for running the wastewater
11 sampling network, and I know he is deceased.

12 Q. How did you know that was my next question?

13 A. Because I went to his wake.

14 Q. You'll see in that sentence, that opening
15 paragraph, the second sentence reads, "The only
16 substantial source," and then in parens, "(that of
17 occasional sewerage of the Therminol from P2S5
18 production) was immediately stopped and instructions
19 have been issued throughout the plant that no Aroclor
20 is to be sewerage intentionally."

21 Correct me if I'm wrong, but that -- that
22 Therminol reference then would be that heat transfer
23 fluid that you were describing earlier after reading
24 Exhibit 1?

25 A. I believe so.

1 Q. And do you recall there being an instruction
2 to immediately stop sewerage Aroclor intentionally at
3 the Krummrich Plant in this time frame?

4 A. I do not.

5 Q. Under letter A, number one, it states, "With
6 the recent years improvements in chlorinator off-gas
7 cooling" -- I guess I can't read this -- "plus Brink
8 mist eliminators, there is no longer any free Aroclor
9 in the HCL off-gas which comes out in catch pots (at
10 one time this was considerable)."

11 Did you have any involvement with regard
12 to improvements in chlorinator off-gas?

13 A. No.

14 Q. Did you have any involvement in the
15 installation of the mist eliminators?

16 A. No.

17 Q. Under number three, the bottom of the page,
18 it states, "The only discharge to atmosphere is from
19 packaging, T/C," which I read as tank car? Do you
20 know what T/C references?

21 A. I think that's probably correct.

22 Q. "...loading and spillage (particularly on to
23 steam traced lines)." Did you have any involvement in
24 identifying discharge to atmosphere from packaging,
25 loading, and spilling?

1 A. No.

2 Q. On the next page, page three, under Roman
3 numeral III, which is a reference to the Anniston
4 Plant, A-1 refers to "free" globules of Aroclors that
5 can be seen in Snow Creek. Did -- Did you have any
6 awareness at this time in 1969 of "free" globules of
7 Aroclor being present in wastewater streams emanating
8 from the Krummrich facility?

9 A. Could you repeat that?

10 Q. In 1969 -- Maybe I should rephrase it. Do
11 you recall seeing what might be described as "free"
12 globules of Aroclors in any of the ditches or streams
13 at Krummrich? I know this sentence is referring to
14 Snow Creek in Anniston, but have you seen "free"
15 globules of Aroclors in wastewater streams at
16 Krummrich?

17 A. Leaving the plant?

18 Q. Yes.

19 A. No.

20 Q. Did you see "free" globules within the plant
21 at Krummrich?

22 A. I think this -- this refers to the discussion
23 of the in-department placement of catch basins or dams
24 and that to stop those materials.

25 Q. That you were describing earlier?

1 A. Yes.

2 Q. Okay. So that "free" globules is what is the
3 nonsoluable Aroclor that you were referencing?

4 A. Yes.

5 Q. If you know.

6 A. I mean, it would be in my terms. I'm not
7 sure what -- if that's exactly what they mean here.

8 Q. Could you, just from your knowledge of
9 working for Monsanto back in the '60s, when there's a
10 reference to EDC, as there is on this page in the next
11 paragraph, is that estimated date of completion? Do
12 you know?

13 A. That's how I would have read it, but --

14 Q. You can't be sure because you didn't write
15 it, but --

16 A. Yeah. Yeah. I mean, that's the way I would
17 read it.

18 Q. Okay.

19 MR. PERRY: Excuse me. Five minutes on
20 the tape.

21 Q. On the back page, the last page four, under
22 B, and, again, I know this language is -- this section
23 of Mr. Hodge's memo is talking about the Anniston
24 facility, but I want to direct you to number two.
25 It's talking about the Therminol systems. "Spent

1 Aroclor from the P2S5 operations has been drummed for
2 hauling to landfill for at least the past several
3 years."

4 Do you have any knowledge as to how spent
5 Aroclor from P2S5 operations at the Krummrich Plant was
6 handled while you were at the Krummrich facility?

7 A. No.

8 MS. LAVEY: Okay. We can go off the
9 record.

10 MR. PERRY: Off the record at 10:19.

11 (Whereupon, there was a brief recess.)

12 MR. PERRY: We're back on the record at
13 10:29. This is video tape number two.

14 Q. (By Ms. Lavey) Mr. Pierle, I'm going to
15 continue chronologically. I think this is my -- might
16 be my last document from your days as an environmental
17 engineer.

18 (Defendant's Exhibit Pierle 3 was marked
19 for identification.)

20 Q. And I may not have much to ask you about at
21 all. Let's see. I'm handing you what we've marked as
22 Pierle Exhibit 3, which is dated October 2nd, 1969,
23 Bates number starting DSW 014612, and as you look at
24 this document, do you have any recollection of there
25 being an Aroclor "Ad Hoc" Committee in the 1969 time

1 frame?

2 A. No.

3 Q. Do you know who Mr. Springate is that's on
4 this first page?

5 A. I know that he was one of the business group
6 leaders, but that's about all. I didn't know him
7 personally at the time.

8 Q. How about Mr. Howard Bergen (pronouncing
9 Burg-in) or Bergen (pronouncing Burj-in)? Do you
10 recall him?

11 A. I do, but the same characterization would
12 apply.

13 Q. Do you know if either of those individuals
14 are living?

15 A. I do not.

16 Q. Under "From," there are a number of folks,
17 including Mr. Hodges. I know he's deceased. Do you
18 recognize the name M. N. Farrar?

19 A. I believe that's Martin Farrar.

20 Q. And do you know what position he had with
21 Monsanto in October of 1969?

22 A. He was in the Research Department, but that's
23 all I recall.

24 Q. Was the Research Department at the corporate
25 offices in St. Louis?

1 A. Yes. It was on -- on the site of the -- You
2 know, the corporate offices included some research
3 facilities.

4 Q. Okay. How about E. V. John? Do you recall
5 that individual?

6 A. I recall an Ed John, but I do not recall his
7 position or function.

8 Q. All right. How about W. R. Richard?

9 A. I believe that's Bill Richard, and he was in
10 the Research Department as well. I believe he's
11 deceased.

12 Q. Okay. And E. P. Wheeler?

13 A. I believe that's Elmer Wheeler, who was in
14 the sort of the Medical and Health Department at
15 corporate, and he's -- I believe he's deceased.

16 Q. All right. And since you had no -- you don't
17 have any knowledge of the Aroclor "Ad Hoc" Committee,
18 you can set that one aside. I won't ask you anything
19 about it.

20 Subsequent to your environmental engineer
21 position at Krummrich, you next went to the Delaware
22 River Plant sometime in 1970; correct?

23 A. Yes.

24 Q. Do you recall what month you went to the
25 Delaware River Plant?

1 A. I believe I transferred in August.

2 Q. And at that time you had the title Senior
3 Engineer; is that right?

4 A. I think I got that right as I was leaving, so
5 it was either right before August or right upon the
6 move. I forget which.

7 Q. Why did you relocate to the New Jersey
8 facility, I'm sorry, yeah, the Delaware River Plant?

9 A. They were looking for a plant environmental
10 engineer, and I was asked if I would take the job, and
11 I did.

12 Q. Okay. And what --

13 A. And this promotion, if you will, I think was
14 part of the incentive to go.

15 Q. And what were your general duties and
16 responsibilities at the Delaware River Plant?

17 A. They were -- They were similar to Krummrich
18 in the plant-wide, monitoring air, water, whatever
19 environmental issues would come up with respect to
20 permitting, because I was the only professional person
21 there dealing with those matters, and more
22 specifically, the plant was in the process of making a
23 decision on additional wastewater treatment, whether
24 it would be done at the plant site or in a large
25 industry consortium up and down the Delaware River,

1 and I was responsible for participating in those
2 activities and recommending decisions on that.

3 Q. What was the recommendation?

4 A. We ended up building our own waste treatment
5 plant.

6 Q. During your time at the Delaware River Plant,
7 did you have any duties or tasks that related to the
8 Anniston Plant?

9 A. No.

10 Q. Did you have any tasks or duties that related
11 to PCBs while you were at the Delaware River Plant?

12 A. They were -- They were fairly minor. We had,
13 and I forget the exact number, but just one or two of
14 these Therminol units, and I think we were, during
15 that time period, both checking for the integrity of
16 those systems, making sure they weren't leaking, and,
17 as I recall, arranging for the disposal of those
18 materials out of those systems, and then ultimately
19 the material was replaced consistent with Monsanto's
20 overall programs to get out of PCB use in those open
21 systems.

22 Q. Did you have any ongoing responsibilities
23 relative to the Krummrich Plant when you moved over to
24 the Delaware River Plant?

25 A. No.

1 Q. Mr. Pierle, do you recall a Ricky Ramsey in
2 the early 1970s?

3 A. No.

4 Q. Okay.

5 (Defendant's Exhibit Pierle 4 was marked
6 for identification.)

7 Q. Mr. Pierle, I've handed you what we have
8 marked as Pierle Exhibit 4, which purports to be a
9 memo from M. R. Foresman at the Krummrich facility to
10 a W. C. Engman. I'm going to direct your attention to
11 the first sentence. "The following air sampling
12 program is an addition to the total Aroclor sampling
13 program as established in a memo from M. Pierle to
14 W. Engman dated August 5th, 1970." Do you know what
15 this is referring to?

16 A. I don't recall.

17 Q. And if you're writing a memo on August 5th,
18 1970, relating to Aroclor sampling program, would you
19 still be -- still have been at the Krummrich facility
20 at that point in time?

21 A. Yes. I believe so.

22 Q. Okay. There would be no reason for you to be
23 writing that kind of memo while at the Delaware
24 River --

25 A. No.

1 Q. -- Plant.

2 A. No.

3 Q. Who's W. Engman?

4 A. That was Bill Engman. He was a -- I think a
5 group leader in the Technical Services Department that
6 was supporting some of the manufacturing units.

7 Q. And do you have any recollection, as you look
8 at Pierle Exhibit 4, of an air sampling program for
9 total Aroclors established in a memo authored by you?

10 A. No.

11 Q. Do you know if the M. R. Forseman referred to
12 here is Michael Foresman?

13 A. I believe so.

14 Q. Following your period of time at the Delaware
15 River Plant, as I understand it, you next went to the
16 U.S. Department of Commerce in 1974; correct?

17 A. Yes.

18 Q. And that was a one-year position?

19 A. Yes.

20 Q. And while you were there, you were employed
21 by the Commerce Department, but still maintained
22 benefits through Monsanto; is that right?

23 A. Yes.

24 Q. And what were your general duties and
25 responsibilities at the Department of Commerce?

1 A. The small group that I worked with was
2 responsible for helping develop and represent
3 industry's position on regulations that were
4 developed, principally at EPA, which was fairly new at
5 that time, and so our interface was with industry
6 groups. I was specifically not allowed to work on
7 anything relative to the chemical industry as part of
8 that activity. Most of the work, as I recall, dealt
9 with what was called effluent guideline development
10 work for industry sectors that was going on at EPA.

11 Q. Do you recall any particular industry sectors
12 for which you were looking at effluent guideline rule
13 development?

14 A. No. I think it was iron and steel,
15 nonferrous metals. There were more than that, but
16 those are two I kind of recall.

17 Q. Were you working on effluent guidelines
18 relating to iron foundries?

19 A. I don't recall. It seems to me it was more
20 the -- larger mills as opposed to foundries, but I'm
21 -- I'm not certain.

22 Q. And what was your role with regard to the
23 effluent guideline development on behalf of industry?
24 Were you reviewing, commenting on drafts? What was
25 your input?

1 A. Yeah. There was a process that had been
2 instituted within the government called a Quality of
3 Life Review where I don't think it was just -- it
4 didn't pertain just to EPA, but when they were
5 preparing regulations, they would circulate those to a
6 variety of potentially-affected departments in the
7 government, and so we were participating as one entity
8 in that review. So we'd review documents and provide
9 both technical comments as well as business-related
10 comments into that process.

11 Q. Do you recall an individual at EPA named Gary
12 Amendola while you were working on iron and steel
13 effluent guidelines?

14 A. No.

15 Q. Okay. And when did you leave the Department
16 of Commerce?

17 A. That was, I believe, July of '75.

18 Q. At that point you returned to Monsanto?

19 A. I did.

20 Q. And what position did you hold when you
21 returned?

22 A. I was actually rehired into the company as a
23 Manager of Environmental Protection or something
24 similar to that title.

25 Q. And that was located at -- at the general

1 offices at this point or into a plant?

2 A. General offices.

3 Q. And I think you testified earlier that at
4 that point you were reporting to Des Hosmer? Does
5 that sound right?

6 A. Correct.

7 Q. And what were your general duties and
8 responsibilities as Manager of Environmental
9 Protection when you returned to Monsanto in July of
10 1975?

11 A. It kind of fell into two categories. One was
12 assisting the plants that I had contact and
13 responsibility with relative to their environmental
14 matters at the site, permitting and matters of that --
15 that sort, and then we were also working with industry
16 groups on various EPA regulations that were
17 developing, so I was putting in Monsanto's viewpoints
18 on -- on regulations that were evolving, principally
19 out of the federal government, not really the state
20 level. The plants handled that.

21 Q. And would that that you just described, did
22 that apply just to the plants for which you had
23 responsibility, or that was a company-wide
24 involvement?

25 A. Just the plants I had responsibility for.

1 Q. And which plants did you have
2 responsibilities for when you first started as Manager
3 of Environmental Protection?

4 A. There were four or five. I know it included
5 Krummrich and Queeny Plant. It did include Anniston,
6 and it seems to me there were a couple other, maybe
7 the Seattle plant at that time, and the Avon, Avon,
8 California plant, I believe, as well.

9 Q. Was there anybody else in your group who
10 similarly was providing support services to the
11 Anniston facility?

12 A. No.

13 Q. What type of things would you be doing with
14 respect to the Anniston facility as one of your plants
15 for which you had responsibility?

16 A. During that time, I really -- I never visited
17 the plant. I had it for about it seems to me less
18 than two years, and I would generally describe things
19 as quiet and no active permit issues, so there was
20 really not much interface with them relative to plant
21 environmental or regulatory matters.

22 Q. You weren't involved in any early NPDES
23 permitting at Anniston during that time frame?

24 A. I think that was already in place for them at
25 the time. I believe they had a wastewater treatment

1 plant that was already established within the state
2 regulatory system.

3 Q. And do you recall whether you had any
4 involvement in your early days as a Manager of
5 Environmental Protection in air pollution control
6 installations at the Anniston facility?

7 A. No.

8 Q. You indicated that that responsibility
9 continued for something less than two years. Was
10 there an individual who succeeded you having
11 responsibility with respect to the Anniston facility
12 from the general offices?

13 A. As I recall the -- Due to sort of internal
14 company reorganizations, I think the Anniston Plant
15 became part of the agricultural sector, and I forget
16 what it was called or what division it was called, and
17 I'm not sure at that point whether they had a manager
18 doing similar work in St. Louis or not. I tend to
19 think they didn't.

20 Q. Okay. Maybe you can help me with some
21 acronyms. If I see references to MCC, is that
22 Monsanto Chemical Company as an operating division of
23 Monsanto?

24 A. Well --

25 Q. In that time period.

1 A. It might depend on what -- what time period
2 specifically, but I would say, in general, MCC would
3 be -- would be Monsanto Chemical Company.

4 Q. And then if I'm seeing in the 1970s
5 references to MAC, is that going to be the
6 Agricultural Group? Do you know?

7 A. I'm really kind of debating because I'm not
8 sure you'd see those references in that time frame.

9 Q. Okay. Maybe I saw it later.

10 A. Yeah. Yeah.

11 Q. Now, throughout the time that you were a
12 Manager of Environmental Protection, you were located
13 at the general offices; correct?

14 A. Yes.

15 Q. Physically. And did you have individuals who
16 were reporting to you?

17 A. No.

18 Q. Did you report to anyone other than
19 Mr. Hosmer while you were a Manager of Environmental
20 Protection?

21 A. At some point in time, Mr. Hosmer retired,
22 and he was replaced, and I cannot offhand -- I can see
23 him. I can't think of his name right now.

24 Q. Would it be Mr. Throdahl?

25 A. No. That came later.

1 Q. Okay.

2 A. That's not comforting to know.

3 Q. While you were the Manager of Environmental
4 Protection, we talked a little bit about your Anniston
5 Plant involvement. Did you have any -- any projects
6 or tasks that related to investigating PCB
7 contamination either onsite or offsite at the Anniston
8 facility in this latter part of the '70s when you were
9 Manager of Environmental Protection?

10 A. I don't believe so.

11 Q. Do you recall Congressman Eckhardt's
12 questionnaire being circulated to industry in the late
13 '70s?

14 A. Yes.

15 Q. Did you have an involvement or any role in
16 responding to that questionnaire?

17 A. It seems to me that I helped coordinate the
18 responses back from the plants that were under me at
19 that time, and that -- that I'm placing later in the
20 '70s. Maybe even later. I'm not sure.

21 Q. Well, I was going to skip this exhibit, but
22 maybe it will help get the timing down.

23 (Defendant's Exhibit Pierle 5 was marked
24 for identification.)

25 Q. What I've handed you, Mr. Pierle, is marked

1 as Pierle Exhibit 5, which is a memo from you dated
2 May 23rd, 1979; correct?

3 A. Correct.

4 Q. To a G. L. Jessee, which I'm assuming is Gene
5 Jessee?

6 A. Yes.

7 Q. Okay. I don't really have any questions
8 about the content because it's not a very substantive
9 memo, but the purpose was the timing in 1979. Would
10 you have had any involvement, at this point in time,
11 with regard to the Anniston Plant and whether or not
12 that facility provided a response to the Eckhardt
13 questionnaire?

14 A. No, I would not have.

15 Q. And do you recall whether, even though it's
16 not within your responsibility, whether the Anniston
17 Plant responded to the Eckhardt questionnaire?

18 A. I do not know.

19 Q. In the text of this memo, there's a reference
20 to MCI. Do you know what that stands for?

21 A. Monsanto Chemical Intermediates.

22 Q. And that's a group within Monsanto within
23 which are the plants that you had responsibility at
24 this time. Is that --

25 A. Yes.

1 Q. -- correct? And at that time Anniston is not
2 part of MCI?

3 A. That's correct.

4 Q. On that CC list, are any of those individuals
5 people you would associate with the Anniston Plant in
6 the 1979/1980 time frame?

7 A. Um, yeah. I think Will Carpenter was the --
8 this is a list of DEOs, and I think Will was the DEO
9 for the ag company.

10 Q. What is a DEO?

11 A. It was a -- It was the senior position,
12 Director of Environmental Operations, the senior
13 position at each of the operating companies that
14 existed at that time who was responsible for
15 environmental matters within that operating unit.

16 Q. And I'm sorry. You said you thought
17 Mr. Carpenter had whatever group Anniston was within
18 at that time?

19 A. I think he was the point person for the
20 Agricultural Division or Unit.

21 Q. So if the Anniston Plant was part of
22 Agricultural at that point, Mr. Carpenter may have had
23 some responsibilities relative to Anniston?

24 A. Probably someone working for him. Will's
25 background was really in the registration activities

1 of pesticides and that, and that's where his knowledge
2 and background was, so he would have had somebody
3 doing plant environmental stuff. He wouldn't have
4 done that himself.

5 Q. Was he located in the general offices in
6 St. Louis?

7 A. Yes.

8 Q. Next, in your previous deposition in this
9 case, you indicated your -- your next position was as
10 Director of Regulatory Affairs starting in 1980; is
11 that correct?

12 A. I believe that's correct.

13 Q. Do you recall when in 1980?

14 A. I do not.

15 Q. And how did your duties and responsibilities
16 change from Manager of Environmental Protection to
17 Director of Regulatory Affairs?

18 A. I -- I got fairly specialized in the water
19 area, and most of that activity was related to, again,
20 for the company at this point in time, so it wasn't
21 just for the operating unit, but dealing with evolving
22 legislation and regulations that might affect the
23 company in the area of water, and most of that was,
24 again, EPA, water discharges, NPDES permitting rules
25 and regulations, and a lot of that work was done in

1 conjunction with the trade industry group, CMA, MCA at
2 the time I think.

3 Q. And where were you physically located as
4 Director of Regulatory Affairs?

5 A. At the general offices.

6 Q. At this point in time, I think you testified
7 earlier that you were reporting to Monte Throdahl; is
8 that right?

9 A. I believe when I took the position initially,
10 yes, I was reporting to Monte.

11 Q. Did that change at some point while you were
12 still Director of Regulatory Affairs?

13 A. It changed at some point. I believe it was
14 after Monte retired they jiggled things around, and
15 I -- I think Will Carpenter came in for a while, not
16 in Monte's job, but in a different position, to head
17 up all the regulatory affairs areas.

18 Q. Did you have individuals reporting to you as
19 Director of Regulatory Affairs?

20 A. No.

21 Q. Do you recall any specific projects or tasks
22 that related to the Anniston Plant while you were
23 Director of Regulatory Affairs?

24 A. No. I really wasn't dealing with
25 plant-specific issues at that point in time. They

1 were more general than that.

2 Q. And do you recall any particular regulations
3 or rule developments that had a specific impact that
4 folks at the Anniston Plant were concerned about and
5 elevated those concerns to you?

6 A. No.

7 Q. Do you recall any projects or tasks that you
8 may have had as Director of Regulatory Affairs that
9 related to the handling of PCB discharges or PCB
10 contamination?

11 A. No.

12 Q. Are you familiar with something called the
13 Environmental Control Committee in the 19 -- early
14 1980s time frame?

15 A. Yes.

16 Q. What is the Environment Control Committee?

17 A. Well, it was a -- It kind of changed its form
18 and participation over time, but it basically was a
19 communicating group, coordinating group that met, I
20 believe, monthly, members from the different operating
21 units as well as when there became a corporate staff,
22 corporate staff, and the purpose of that was just to
23 exchange information on what was evolving and
24 developing both -- primarily outside the company with
25 respect to regulations and how they were being

1 developed and to some extent how they would then
2 impact the plants, but most of that was left
3 individually to the members of the committee to deal
4 with their own operating units. That's a long answer.
5 Basically, it was a coordinating and communicating
6 committee.

7 Q. And were you a participant or a member of
8 that committee?

9 A. At times I was, and times I wasn't. Prior to
10 my job at the -- in the corporate group, I would say I
11 was not a member of the group generally, would have
12 been Des Hosmer, for example, or whoever replaced him,
13 and then I did become -- I think we were -- we were
14 either members or we were able to participate in those
15 sessions after the creation of the corporate staff
16 structure and the corporate job that I went to in
17 1980.

18 Q. And do you know when the Environmental
19 Control Committee was created?

20 A. Actually, I think the early origins of that
21 went back to the late '60s.

22 Q. Did it have another name in the early days?
23 Do you know?

24 A. I don't -- I think that was pretty much that
25 group's title.

1 Q. Who chaired that committee in the - in the
2 1980 time frame when you've went into the corporate
3 staff position as Director of Regulatory Affairs?

4 A. Oh, boy! As I recall, I think it was -- At
5 times, it was a rotating chairmanship. At times
6 earlier than that, I think the -- there was an
7 engineering group in corporate that I think sort of
8 was the chair and secretary of that. So it -- it --
9 it changed over time. At times the manufacturing
10 people were on it and the directors, the general
11 managers of manufacturing. Then they rotated the
12 chair.

13 Q. And so that we can bracket this time frame as
14 Director of Regulatory Affairs, you had testified
15 earlier that your next position was as Director of
16 Environmental Operations in the 1985 or '86 time
17 frame; is that correct?

18 A. I had -- I was Director of Regulatory Affairs
19 for water and then for water and air for a while, and
20 then for solid waste for a while, and then I became
21 the supervisor of that group for a period of time, and
22 then when the company reorganized in '85, late -- I
23 think it was later in '85, I became the Director of
24 Environmental Operations for the chemical company.

25 Q. So during the time frame 1980 to 1985, if I

1 understand you correctly, you start out with a focus
2 on water, but you then evolved over time to water and
3 air. You also picked up or switched over to waste --

4 A. Switched.

5 Q. -- topics?

6 A. Yes.

7 Q. And then toward the end you had air, water
8 and waste generally as supervising that whole group;
9 is that right?

10 A. Yeah. And I think that included toxic
11 substance at that time. There were four or five
12 individuals that reported to me then.

13 Q. When you were -- Prior to when you became a
14 supervisor, you did not have people reporting to you;
15 correct?

16 A. That's correct.

17 Q. Okay.

18 (Defendant's Exhibit Pierle 6 was marked
19 for identification.)

20 Q. Mr. Pierle, I've handed you what we have
21 marked as Pierle 6, which purports to be an agenda for
22 one of the Environmental Control Committee meetings
23 that you described that I believe you said they took
24 place monthly or thereabouts in this time frame?

25 A. I believe that's correct.

1 Q. And who -- Who is M. L. Mullins?

2 A. Mort. Mort Mullins, and at this time, as I
3 had indicated, he was in the Engineering Department.
4 He was the supervisor of the -- the engineering group
5 we had there, and he was at least a secretary of this
6 group at the time. I don't know whether he was more
7 than that.

8 Q. In August of 1982, would the folks who are
9 listed on the left-hand side be the members of the
10 committee versus the right-hand side, which is the CC
11 list? Or am I --

12 A. Yes.

13 Q. So you're listed as a CC.

14 A. Yes.

15 Q. So my interpretation of that is you were not
16 then a member.

17 A. That's correct.

18 Q. And on this particular exhibit, in the
19 proposed agenda items, number five has a reference to
20 you for two projects. I wanted to ask you about those
21 two. The first is Ex-USA Environmental Audit Program
22 and the second is EPC Groundwater Program. Can you
23 tell me what the Ex-USA Environmental Audit Program
24 refers to?

25 A. We had begun before that a U.S. audit

1 program, I guess, to use that term, that I was
2 instrumental in establishing I think in the 80s, and
3 this was the attempt to basically extend that program
4 to our operations, our overseas operations.

5 Q. All right. You referenced the U.S. program
6 as something you were instrumental in setting up.

7 A. Yes.

8 Q. Was that something you did while you were a
9 Director of Regulatory Affairs?

10 A. Yes.

11 Q. Was that audit program limited to water or
12 air or waste or any other particular --

13 A. No. It was -- Basically covered the -- any
14 environmental governmental requirement areas as well
15 as any internal guideline, worldwide guideline areas.

16 Q. And this is a program that is corporate-wide,
17 not limited to a particular business unit?

18 A. Yes.

19 Q. And what did you do to set up this program?
20 You described yourself as having been instrumental.
21 How did you go about setting it up?

22 A. I think I was tasked to try to figure out,
23 you know, how this might be done, and I worked
24 primarily with some of our people in our financial
25 accounting and audit function area, and we developed a

1 program I would say based on their sort of principles
2 and processes for conducting environmental audits,
3 which were then at this time then delegated to the
4 operating units to implement. So we developed the
5 audit process, the audit manuals, the how-tos and the
6 details of it, and it was up to the units themselves
7 to basically self-audit and report results of -- of
8 the audits.

9 Q. And who did they report the results of the
10 audits to?

11 A. I think they were primarily to their
12 management, but copies also went to people on the
13 corporate staff and Law Department.

14 Q. Including you?

15 A. It seems to me at some point in time I did
16 get audit reports, or sat in on audit reviews is
17 probably a better -- better description of the role,
18 yeah.

19 Q. What period of time do you recall sitting in
20 on environmental reviews?

21 A. Well, I mean, in -- in the jobs that I had
22 subsequent to sort of this time frame, I would have
23 been sitting in on those reviews all the way up till
24 my appointment as Vice President in '91, and I was
25 certainly aware of, but not participating in those

1 reviews after that.

2 Q. Okay. During the time that you were
3 participating in the reviews, do you recall any
4 involvement in implementation of an audit relative to
5 the Anniston Plant?

6 A. I don't recall the specifics.

7 Q. And how was the -- How was the program set up
8 in terms of who would actually conduct the audits?
9 Were they done at the plant level, or was there a
10 corporate level auditing team that went around --

11 A. You know, I think it changed over time. I
12 think it -- it included both members within the unit
13 and members outside the unit. That was fairly typical
14 for the way both -- Well, the financial audits got
15 done by a central group. We did not set up a central
16 group to do that. Safety audits inside the plant at
17 that point in time were pretty much done by a
18 collection of people outside and in the plant, and, as
19 I recall, that's pretty much the way these
20 environmental audits were conducted as well.

21 There were people that were familiar with
22 environmental matters, permits, so they were expert
23 enough in what they were looking at and reviewing to
24 make judgments and to conduct an audit, and the audit
25 results were then communicated, and there were

1 implementation or improvement plans that were
2 associated with those as well.

3 Q. Were the audit results memorialized into a
4 written report?

5 A. I believe so.

6 Q. Is that a standard form that was developed as
7 part of the program?

8 A. I don't recall the specifics on that.

9 Q. To your knowledge, did that audit program,
10 environmental audit program, change in any way from
11 the time that you first initiated it until your
12 retirement? Well, let's say until you became the vice
13 president and when you no longer sat in on audit
14 reviews?

15 A. I think it stayed pretty much -- pretty much
16 the same. The participation's changed. In -- When I
17 was DEO in chemicals in the late '80s, I think we had
18 a more specific -- because I had all of the people
19 that were working in the various chemical units
20 working for me. I think we had a targeted group
21 focused on audits at -- at that time.

22 Q. Okay. When you were DEC of the Chemicals
23 Group, at that point in time is Anniston within the
24 Chemicals Group?

25 A. Not initially.

1 Q. At some point they moved into the Chemicals
2 Group?

3 A. Yes.

4 Q. Do you remember when that took place?

5 A. It was I think somewhere in the '87 time
6 period.

7 Q. It was prior to when you assumed the duties
8 as vice president?

9 A. Yes.

10 Q. Do you recall any particular individuals that
11 were involved in the environmental audit teams
12 relative to the Anniston Plant?

13 A. No.

14 Q. You also mentioned that the audit program was
15 looking not just at regulatory programs but at
16 worldwide guidelines. What do you mean by world--
17 worldwide guidelines?

18 A. There was a series of guidelines that were
19 developed. There were six of them, I think, in the
20 mid '70s with the formation of the sort of corporate
21 structure in environmental health and safety, and they
22 dealt with various topics, and there was a set of sort
23 of general guidelines that then became over time more
24 specific.

25 Q. Are they like environmental policy

1 statements? Or can you --

2 A. There's always --

3 Q. -- give me an example?

4 A. Yeah. I mean, that was a question. Are they
5 policy, are they guidelines, or, you know, from a
6 legal standpoint, but they were basically around the
7 areas of water and waste, you know, know what's in
8 your effluence, be in compliance with permits, those
9 sorts of things. There was some in the waste area
10 that got us around the Super Fund evolution that
11 became collection of inventories and management and
12 waste reduction programs. We operated some deep wells
13 during that time for disposal, and there were some
14 guidelines around those activities.

15 So they -- And then there were others in
16 the health and safety area as well, and I believe in
17 the product area. So they were -- they tended to
18 cover all of the areas of performance, if you will,
19 and behavior relative to environmental health and
20 safety matters.

21 Q. Did you have any -- any role in the
22 development of these worldwide guidelines?

23 A. They were initially developed and sort of lit
24 on us, so no. Subsequent to that, because of my
25 position and that in the area, as we would review

1 those at least biannually and provide status reports
2 and updates, I had a role that varied from a
3 collector, an inputter, to one that was sort of the
4 champion of getting the reviews done and the updates
5 done.

6 Q. Is that something that was taking place when
7 you became the vice president?

8 A. Pretty much, yes.

9 Q. Okay. What we've marked -- The document
10 we've marked as Pierle 6 also makes reference to EPC
11 Groundwater Program. Can you tell me what that is a
12 reference to?

13 A. Yes. Somewhere in, again, in the early '80s,
14 and I don't recall exactly when, I think it was the
15 early '80s, the subject of groundwater as an external
16 issue became more topical. The question became -- And
17 this was post I think the adoption of Super Fund. The
18 question became, okay, we're already looking at a lot
19 of groundwater at waste sites and offsites and that.
20 Do we -- how much do we know? What do we know? Do we
21 know what we ought to know relative to groundwater
22 around operations?

23 And so a program was developed with the
24 help of this engineering department, and we created I
25 think a six-step process for trying to systematically

1 understand and decide what -- if there were things we
2 thought we needed to know that we didn't know that
3 plans would be put in place to proceed to improve our
4 information base.

5 Q. You say "with the assistance of this
6 engineering department". Are you referring to the
7 corporate Environmental Engineering Department with
8 Mr. Mullins when you said "this department"?

9 A. Yes. It was that department. At some point
10 in time, Mort moved over to work for me in a different
11 area, and I don't know exactly what that sequence or
12 who was involved in leading that group's effort. But
13 they were -- I know they were helpful in evolving the
14 groundwater program within the company.

15 Q. What does "EPC" refer to and "EPC Groundwater
16 Program"?

17 A. EPC was in a -- at that time was the
18 Environmental Policy Committee, and it was constructed
19 of I still think in this time frame the -- at this
20 time they were the senior heads of the businesses,
21 with Monte Throdahl as the basically the chair, and
22 then one of his people was doing the secretarial work.
23 But it was a corporate committee who had the task of
24 overseeing environmental responsibilities within the
25 company.

1 Q. And you described the members of that
2 committee as business people, not the environmental
3 professionals?

4 A. That's correct.

5 Q. Was there an interplay between the
6 Environmental Policy Committee and the Environmental
7 Control Committee for which Pierle 6 is an agenda?

8 A. Certainly there was -- The matters that would
9 get to the Environmental Policy Committee would
10 typically be reviewed and discussed and may evolve out
11 of the Environmental Control Committee. There was
12 also the DEO, Director of Environmental Operations,
13 had a group, and they represented the head
14 environmental guy in each of the business units, and
15 so that was part of the process, as well.

16 Q. Is there --

17 A. But the guys making the decisions on policy
18 were the Environmental Policy Committee.

19 Q. The group of DEOs that you referenced, is
20 there a committee name associated with that group?

21 A. I don't think so.

22 Q. And did you have any involvement in the
23 establishment of the groundwater program that's being
24 referenced on Pierle 6?

25 A. Yeah. I was, again, sort of I guess the

1 captain of the group that was evolving that policy.

2 Q. Was that program, in fact, implemented?

3 A. Yes.

4 Q. Was that program still in place when you
5 retired?

6 A. I think it had been pretty much consumed into
7 the -- the overall aspects of the cleanup and control
8 budget processes that were ex-- that were -- that had
9 evolved inside the company.

10 Q. During this time frame, when you were
11 Director of Regulatory Affairs, did you -- Well, let
12 me ask it this way. Do you have an understanding of
13 what a CERCLA Section 103c notification is?

14 A. I did at one time.

15 Q. Do you recall whether you had any roles --
16 any role with respect to the submittal of CERCLA 103c
17 notifications?

18 A. I'd have to -- I'd have to be more recallable
19 as to specifically what those were.

20 Q. And I don't have a document to put in front
21 of you or I would, so I'm assuming you don't have any
22 specific recollection of a 103c notification with
23 regard to Anniston; correct?

24 A. I don't.

25 Q. Do you recall whether the 103c notifications

1 were handled at the corporate level or at the plant
2 level?

3 A. My guess would be they were handled both
4 places.

5 Q. Working together, the two?

6 A. Well, they would have probably been received
7 at the plant, but on notifications of any kind in the
8 environmental area like that, they would have also
9 included the Law Department.

10 (Defendant's Exhibit Pierle 7 was marked
11 for identification.)

12 MS. LAVEY: Did I give you my highlighted
13 one?

14 MR. NASSIF: Give it to me.

15 MS. LAVEY: Did I highlight yours? It
16 doesn't really matter.

17 THE WITNESS: What was the question?

18 Q. Did I give you a highlighted version?

19 A. Yes.

20 Q. I knew I would do that eventually.

21 Mr. Pierle, we've handed you what is now marked Pierle
22 7, which is purporting to be minutes of one of these
23 Environmental Control Committee meetings in 1982,
24 referencing a meeting in November of 1982. We've
25 already talked about these committee meetings, so I

1 have very limited questioning.

2 On the second page, number four, in
3 reference to steering committee reports, and you're
4 referenced under "Water" --

5 MS. LAVEY: Bryan, folks on the phone, you
6 need to be on mute. Or not Bryan. Whoever.

7 Q. I'm sorry. Back to Pierle Exhibit 7, under
8 "Water," there's a reference to you in the scheduling
9 of site-by-site groundwater reviews planned for 1983.
10 Is that a reference to the same type of the
11 groundwater program with the six or so step process
12 that we were talking about with regard to the prior
13 exhibit?

14 A. Yes.

15 Q. And were you the one scheduling the different
16 groundwater reviews in this time frame?

17 A. I think I was doing that in conjunction with
18 the people in the business, in the operating units,
19 the environmental people in the operating units.

20 Q. Do you recall if you had direct involvement
21 relative to the Anniston Plant, in a groundwater
22 evaluation or review for that location?

23 A. I don't believe we did.

24 Q. You don't believe anybody did?

25 A. No. I don't believe that -- that we had

1 actually scheduled or did a review on -- on Anniston.
2 That doesn't mean that they hadn't gone through the
3 process. It just means that there wasn't anything
4 significant for an Anniston review.

5 Q. I'm not sure I understood that. Was there a
6 requirement that all plants at least initiate the
7 groundwater six-step program, or however many steps
8 there were?

9 A. Yeah. I think they all did, but there was a,
10 as I mentioned earlier, there was a decision process
11 whereby you made a decision as to how much you needed
12 to do or what you -- what you knew, and as I recall,
13 there were several plants which Anniston fit in where
14 they felt that they pretty much based -- and according
15 to the plan was based on site history, the setting at
16 the site, whether there were groundwater sources.
17 You -- You could make a judgment that you had what you
18 needed to know. In some cases there were judgments
19 made that we needed to go find more information where
20 there would have been more groundwater at the site or
21 around the site or near the site where you would say,
22 "We probably ought to go understand this more than we
23 do now."

24 Q. All right. And would -- would that only
25 filter up to you if, in fact, those further steps

1 needed to be taken and you wouldn't really -- and
2 otherwise you would rely at the plant level? If
3 they -- If they reported under this program, "We think
4 we know what's going on on groundwater. We don't
5 think we need to do anymore," is that the end of the
6 program for those -- for that particular plant?

7 A. I think at this stage, and at this stage of
8 the process that would have been sufficient because
9 the plant would have looked at it as well as their
10 people at the company level within, in that particular
11 case, the ag unit would have made a collective
12 judgment that they knew what they needed or they had
13 what they needed at the time.

14 Q. And you didn't have a responsibility at that
15 point in time to agree or disagree or review what
16 those conclusions were?

17 A. Not on each and every -- not on each and
18 every site. I think we were focused on those that --
19 that had more information, more questions, were more
20 complex at the time.

21 Q. Okay. And Anniston just wasn't one of those?

22 A. Not -- I don't recall that it was.

23 (Defendant's Exhibit Pierle 8 was marked
24 for identification.)

25 Q. Mr. Pierle, I'm handing you what we've marked

1 as Pierle 8, which is another set of minutes from an
2 Environmental Control Committee meeting, dated October
3 17th, 1983. I have a few questions regarding this
4 document. I guess -- I should have asked you this
5 before. Do you recall generally receiving the minutes
6 of these monthly meetings in this time period,
7 1982/1983?

8 A. Yes.

9 Q. For this particular meeting that took place
10 on October 6th, 1983, item one is referring to a Jerry
11 McGuire. Is that a Monsanto employee, do you know?

12 A. Yes.

13 Q. Was he in the engineering group?

14 A. Yes.

15 Q. And this is stating that he published CED
16 Environmental Technology Department (sic.) Report on
17 "Leaking Sewers". Partly, I just want to understand
18 the nomenclature. Is CED Corporate Engineering
19 Department, or what does that stand for?

20 A. I think it was Central Engineering
21 Department.

22 Q. So if I see references to a CED report,
23 that's an internal Monsanto document?

24 A. Yes.

25 Q. Do you have any recollection from this time

1 period, whether from attending -- well, maybe not
2 attending, but whether from this particular meeting or
3 otherwise, do you have a recollection regarding his,
4 Mr. McGuire's leaking sewers report as a topic of
5 discussion?

6 A. Vaguely.

7 Q. Why -- Do you know why Mr. McGuire was tasked
8 with preparing a report on leaking sewers?

9 A. Only, in general, that as a part of the whole
10 groundwater subject, you know, plants have sewers, and
11 the question was are they -- should we worry or not
12 about sewers being potential sources of leaks that
13 could get into -- into the ground, and I think this
14 report was intended to look at and address that
15 question.

16 Q. Did it reach a conclusion or an answer to the
17 question should we care or not care?

18 A. I believe it did in that it, as it indicated,
19 it precipitated some questions about how can we
20 understand the integrity of sewers at the locations.
21 I think what it -- I recall one of the things it said
22 was that the vitrified clay kind of sewer, which is
23 just pipe together, inherent -- inherently will have
24 some leakage. They're almost designed to leak. And
25 whereas other sewer pipe systems that would be more

1 continuous pipe, and that would not. So there were --
2 depending upon what you had would be a potential
3 question to look further into, and I think we -- we
4 then took some actions, as it says here, at the
5 Manufacturing Group to try to understand this better.

6 Q. Do you recall whether there were any
7 discussions in connection with this issue regarding
8 sewers that may have carried acid waters versus
9 non-acidic waters?

10 A. I don't recall that.

11 Q. Do you recall whether or not there was any
12 implementation of a study relative to sewer integrity
13 at the Anniston Plant as a response to this -- this
14 work?

15 A. I do not.

16 Q. Do you have a general understanding as to
17 whether all plants were tasked with looking at this
18 question as a result of the work by the Engineering
19 Department Environmental Control Committee?

20 A. I think the general sense was that they
21 should all consider this as they were developing their
22 groundwater program. I don't know that they were
23 individually tasked to go out and do a list of things.
24 I don't recall that ever being the case.

25 Q. Do you recall whether there was any

1 recommendation to close older sewers, replacing them
2 with modern sewers that perhaps didn't have the same
3 level of leaking?

4 A. No, I don't.

5 Q. Number three refers to yourself and a
6 gentleman named Earl Brasfield regarding Hazardous
7 Waste Site Cleanup Procedures. Do you know what
8 that's a reference to?

9 A. Yes.

10 Q. What is that? Is that a document or --

11 A. Yes.

12 Q. -- a set of procedures in a written form?

13 A. Yes.

14 Q. Is that something that you prepared?

15 A. Initially, I did -- I did not prepare the
16 original document, but I was involved in subsequent
17 reviews and updates of it.

18 Q. What was its intended scope and purpose, this
19 Hazardous Waste Site Cleanup Procedures document?

20 A. It -- It set -- It was developed primarily,
21 as I recall, out of the accounting function, and it
22 was intended to set forth how hazardous waste sites --
23 where financial responsibility would lie for such
24 projects and how -- and how that would be determined
25 and who be involved in those determinations.

1 Q. Was this a set of procedures that was
2 intended to apply across the company at all
3 facilities, at all plants?

4 A. Yes.

5 Q. Do you have any recollections of any specific
6 implementation of actions pursuant to these procedures
7 at the Anniston Plant in this time frame?

8 A. No.

9 Q. If you turn to the next page, Mr. Pierle,
10 before you get to number four, there's a paragraph
11 that starts, "Also Jerry McGuire, Mike Pierle, George
12 Kupchinski," and so forth have been appointed to
13 something called Hazardous Waste Operations Committee.
14 Do you recall that committee?

15 A. Oh, sort of.

16 Q. What do you recall about the committee in
17 terms of its purpose or scope?

18 A. Well, at this time, again, in '83, I think I
19 had moved over to the regulatory management role for
20 solid hazardous waste, and this was, again, I think
21 primarily an effort by this group to sort of monitor
22 and communicate and coordinate what we were doing
23 across the company relative to hazardous waste
24 activities.

25 Q. Do you recall any of the responsibilities or

1 projects relating specifically to the Anniston Plant
2 or its hazardous waste management activities?

3 A. No.

4 Q. And who is Lloyd Boesch, B-O-E-S-C-H?

5 A. Lloyd was a General Manager of Manufacturing
6 in, again, one of the units at that time.

7 Q. Would this committee -- I'm sorry. I
8 apologize if you explained this to me already. But
9 for this particular committee, was this within one
10 particular operating group, or would this have been
11 company-wide?

12 A. The operations committee?

13 Q. Yes.

14 A. That would have been -- Well, since it was
15 first ap-- or just appointed, you know, it's hard to
16 tell what its charter was at that point in time
17 without reading it.

18 Q. If you turn a couple of pages, I want to ask
19 you, when you get -- there's a page called "Background
20 Overview of Groundwater Investigations," and I'm
21 wondering if this seven-part program here is what you
22 were describing earlier as the EPC Groundwater Program
23 you spoke of?

24 A. Yeah. I was thinking six, but seven could be
25 the correct, yes.

1 Q. Okay. So this is the same program that we
2 talked about?

3 A. Those are the elements of the program, that's
4 correct.

5 Q. Okay. And if you go two more pages, you'll
6 see a Groundwater Program Progress Chart, and if
7 you're able I wanted you to explain to me what it
8 means relative to Anniston, which is under MAP, which
9 I'm assuming is Monsanto Agricultural Products --

10 A. I believe so.

11 Q. -- at this time? And Anniston carries with
12 it a dotted line all the way over to "long-term
13 monitoring". Does that mean that Anniston, under this
14 program, has made its way through each of these seven
15 already or that the plan is to go through all seven,
16 if you know?

17 A. Well, I think that -- that would say that
18 their determination was that they were already in a
19 long-term monitoring program.

20 Q. Okay. And these headings, these seven
21 headings here, match up with the seven...

22 A. Steps.

23 Q. Steps; correct?

24 A. Yes.

25 Q. Okay. All right. That's all I had on that.

1 I just wanted you to help me explain that page.

2 A. Uh-huh.

3 MS. LAVEY: How are we doing on tape?

4 MR. PERRY: 11 minutes.

5 (Defendant's Exhibits Pierle 9 and 10 were
6 marked for identification.)

7 Q. Mr. Pierle, I'm marking -- I'm handing you
8 what has been marked Exhibits 9 and 10, and the reason
9 there are two is because in searching through
10 documents that were produced to us, I'm -- the cover
11 page comes in out of order with a different Bates
12 number, but I'll ask you, first of all, whether a
13 document from 1984 titled "History of Monsanto's
14 Medical/Industrial Hygiene Function" is a document
15 that you have had occasion to see before.

16 A. I believe I have.

17 Q. Do you know in what context you saw it
18 previously?

19 A. I think it was shown to me in one of the
20 depositions.

21 Q. Do you recall reviewing it prior to a
22 deposition?

23 A. No.

24 Q. If you look at the first page of Pierle 10
25 and compare it to Pierle 9, would you agree with me,

1 if you can, that what's marked as Pierle 9 is, in
2 fact, the cover page of what's marked as Pierle 10?

3 MR. NASSIF: Objection, lack of
4 foundation.

5 Q. If you know.

6 A. I don't know.

7 Q. If you look at the footer on Pierle 9 that
8 says "JLM/5-15-84," that matches up, does it not, with
9 what's on Pierle 10?

10 A. Well, you said JLM.

11 Q. JLH, I'm sorry.

12 A. It does.

13 Q. Do you -- Who is John Henshaw?

14 A. John was a Certified Industrial Hygienist
15 and -- in the Department of Medicine & Environmental
16 Health at the company.

17 Q. Did you know Mr. Henshaw?

18 A. Yes.

19 Q. Do you have any understanding or knowledge as
20 to why Mr. Henshaw was putting together this, we'll
21 just talk about Pierle 10, putting together Pierle 10?

22 A. No, I do not.

23 Q. Do you believe Mr. Henshaw was a qualified
24 individual in his job as a Certified Industrial
25 Hygienist at Monsanto?

1 MR. NASSIF: Objection, lack of
2 foundation, calls for speculation on the part of the
3 witness.

4 MS. LAVEY: He has to speculate as to
5 whether -- what he thought about Mr. Henshaw?

6 MR. NASSIF: He has to speculate about
7 whether he was a qualified industrial hygienist. He
8 doesn't have any background to know what a qualified
9 industrial hygienist constitutes.

10 Q. (By Ms. Lavey) Did you personally believe,
11 Mr. Pierle, that Mr. Henshaw did a good job for
12 Monsanto in his -- in his role?

13 A. Yes.

14 Q. As you look at this document, I will
15 represent to you that when you provided a deposition
16 during the Aetna litigation as a -- as an expert, and
17 I recognize you don't recall that, your expert
18 information specifically referred to this document as
19 something you were relying upon. Does that refresh
20 your recollections at all as to whether, A, you did
21 provide an expert report, or, B, had occasion to
22 review this document in the past?

23 A. It does not.

24 Q. Okay. You can set that aside.

25 MR. PERRY: Five minutes.

1 MS. LAVEY: Why don't we take a break?

2 MR. PERRY: Off the record at 11:45.

3 (Whereupon, there was a brief recess.)

4 MR. PERRY: We're back on the record at
5 11:52. This is video tape number three.

6 (Defendant's Exhibit Pierle 11 was marked
7 for identification.)

8 Q. Mr. Pierle, I'm going to hand you what I've
9 marked as Exhibit 11, which is a letter on Monsanto
10 letterhead 1985 from a Georgene Grimm to an Adam Ross,
11 and you were BCC'd I believe, at the bottom of this
12 letter; correct?

13 A. Correct.

14 Q. Do you recall, in this time frame, working on
15 notifications under the EIL insurance policy?

16 A. I was aware that we had a process for -- for
17 doing those notifications.

18 Q. Did you have any involvement in that process,
19 or is it just something you're generally aware of?

20 A. I think it was -- it was more of the latter.

21 Q. And in 1985, you were -- did you become
22 Director of Environmental Operations at that point for
23 the chemical company?

24 A. I don't believe so yet. I think that
25 happened later in the fall. I think at this time I

1 was still the Director of Regulatory Management for
2 all of the regulatory functional areas.

3 Q. When you had picked up air, water, waste and
4 toxic substances?

5 A. Yes.

6 Q. Do you know under the BCC if the note there
7 is addressed to -- to you asking for you to review and
8 advise?

9 A. Yes. I believe that was the intent of that.

10 Q. Did you routinely review these types of
11 updates that are attached here to the June 14th, 1985,
12 letter?

13 A. I don't specifically recall whether I did
14 these or whether I, you know, then had someone working
15 for me do those. I just don't recall.

16 Q. And that was going to be my next question.
17 How would you go about compiling or having the
18 information in hand in order to review information on
19 all these different facilities? You don't have a
20 specific recollection?

21 A. No.

22 Q. -- today?

23 A. No.

24 Q. Who is P. S. Park, the other BCC individual?

25 A. He was the -- our environmental attorney.

1 Q. In-house?

2 A. Yes.

3 Q. On the first page of the attachment, so
4 that's page two of what is marked as Exhibit 11, the
5 Anniston Plant is listed again under MAP, which I'm
6 interpreting to mean that means at that time Anniston
7 is part of the Agricultural Products Group; correct?

8 A. Yes.

9 Q. Or Agricultural Products Company?

10 A. Yes.

11 Q. For Anniston, Alabama, the statement is,
12 "Leakage into groundwater from closed landfill
13 operations." Do you have any recollection today as to
14 what that is referring to?

15 A. No.

16 Q. Do you have an understanding as to the
17 landfill or landfills present in the 1980s in
18 Anniston?

19 A. Yeah. I knew there was a landfill, and I
20 think the status at this time was it was closed. I'm
21 not a hundred percent certain of that. I'm thinking
22 that it was. And -- Yeah. I don't remember.

23 Q. Do you remember with respect to the Anniston
24 Plant something called the West End Landfill versus
25 the South End or the South Landfill?

1 A. I -- I remember some designations. I'm
2 not -- I'm not that familiar with which is which.

3 Q. I probably should have asked you this
4 earlier, but have you ever visited the Anniston Plant
5 during your -- either during or after your employment
6 with Monsanto?

7 A. During.

8 Q. During. About how many occasions did you
9 visit the Anniston Plant?

10 A. Oh, I would say less than a handful.

11 Q. And do you recall when that took place or
12 under which job description, job position you held
13 that you made those visits?

14 A. Yeah. I -- It seems to me they -- they were
15 during the time period, which would have been in the
16 late '80s, when I was the Director of Environmental
17 Operations, and then some time later when I was the VP
18 at Solutia, I believe.

19 Q. Do you remember the circumstances of any of
20 those less than handful number of visits?

21 A. The one I recall, we were -- it was to
22 basically familiarize myself with the area and the
23 offsite areas that had come under some of our
24 investigation in the home areas and communities, and
25 at one of the times we were also in the process of

1 constructing the stormwater retention basin, and I
2 remember that construction being pretty far along. I
3 for get the exact time frame of that.

4 Q. Would that be the stormwater construction
5 project to the east of the plant, the so-called East
6 Side projects? You don't know?

7 A. I'm not familiar with direction down there.

8 Q. Do you know if it was in more of a
9 residential area or associated with diverting
10 stormwater around the South Landfill?

11 A. I think it was pretty contiguous with the
12 plant site, as I recall, on plant properties where
13 some of the construction was being done. I don't
14 recall what specifically it was intercepting or
15 bringing into -- into that.

16 Q. And what was the reason for your visit? You
17 said it was just to familiarize yourself with the
18 area; is that right?

19 A. Yes.

20 Q. Is that the first visit that you made to the
21 Anniston Plant, or is that just the one that sticks
22 out in your mind?

23 A. I just remember that physical activity
24 ongoing at that time.

25 Q. And the first time you went to the Anniston

1 facility I believe was in the late 1980s during your
2 time as a DEO for the chemical company?

3 A. I believe so, yes. Yeah.

4 Q. Do you remember the circumstances of any of
5 your other visits other than the one you just relayed?

6 A. I think I was there once later or when I was
7 the Monsanto, VP at Monsanto. I was a member of The
8 Manufacturing Council, and it would once or twice a
9 year go to a plant to just hold its meeting at a plant
10 site and visit with the plant people, and it's -- and
11 I believe we did visit, but that was, you know, very,
12 very generic.

13 Q. The purpose of that visit was not to review
14 or evaluate the environmental remediation activities?

15 A. No. No.

16 Q. In what year did you become the Vice
17 President, Environment Safety & Health for Monsanto?

18 A. 1991.

19 (Defendant's Exhibit Pierle 12 was marked
20 for identification.)

21 Q. I'm going to hand you what I've marked as
22 Pierle 12. Let me ask you if this is a document
23 you've seen before.

24 A. Yes, it is.

25 Q. Okay. And that's your -- Is that your

1 signature at the bottom as one of the authors?

2 A. Yes.

3 Q. Do you know if you actually wrote this report
4 or just signed off on it?

5 A. Well, I think we jointly wrote it. I don't
6 know who started first, but between Denny and I we
7 both wrote that document.

8 Q. And Denny, is that D. B. Redington?

9 A. Dennis Redington.

10 Q. Okay. And who is Dennis Redington?

11 A. At the time, he was the -- basically the --
12 the Environmental Manager, Manager of Environment for
13 the Ag Unit.

14 Q. Was he -- I'm sorry. Is he -- Does that make
15 him a counterpart to yours when you were the Director
16 of Environmental Ops, Operations in Chemical, he was
17 that counterpart in Ag, or did I misunderstand?

18 A. He was not the equivalent job or position to
19 what I had.

20 Q. And what is being referred to here, there is
21 a discussion of transferring management responsibility
22 for the plant from MAC to MCC. So just to make sure I
23 understand, that's moving Anniston from the
24 agricultural company over to the chemical company; is
25 that right?

1 A. Correct.

2 Q. So this would pin down that time frame into
3 the early 1987 when that occurred?

4 A. Yes.

5 Q. So essentially responsibilities are moving
6 from Redington over to either you or people in your
7 group?

8 A. That's correct.

9 Q. Do you recall the preparation of this memo in
10 particular?

11 A. Yes.

12 Q. Do you remember having a meeting to discuss
13 this transition in February of 1987?

14 A. I don't recall whether we had a meeting or
15 just exchanges of information.

16 Q. Did you have any concerns relative to the
17 environmental status at the Anniston Plant with its
18 movement from agricultural company over to chemical
19 company?

20 A. I felt that this memo adequately described
21 what was known in the work that was ongoing at the
22 plant site and represented what I think we felt was
23 the work that, you know, was in progress and needed to
24 be done at the site.

25 Q. So this --

1 A. And represented the financial accounting for
2 those projects.

3 Q. This was more of an information-sharing
4 opportunity in terms of so that you would understand
5 the status going forward?

6 A. Well, it was to understand the status and to
7 accept that this was a reasonable expectation of what
8 the financial disclo-- or the financial, not
9 disclosures, but the financial obligations would be
10 relative to the Anniston Plant.

11 Q. The third paragraph in the first sentence
12 states, "A number of future potential environmental
13 issues were identified, which will require continued
14 monitoring and sensitivity." Do you recall what the
15 future potential environmental issues were that were
16 identified?

17 A. Not -- Not probably other than what I would
18 anticipate on these -- on these pages.

19 Q. You're referring to the subsequent outline
20 bullets?

21 A. On the -- On the other pages, yeah.

22 Q. Okay. On the second page, which is the back
23 side of the first page of the exhibit, there's a
24 reference to under number three -- Well, first of all,
25 let me back up. The top of this says "Worldwide

1 Guideline Status". Would these track against those
2 worldwide guidelines you were describing earlier, the
3 number one, two, three, five?

4 A. Yes.

5 Q. And number three is referring to the first
6 bullet, the last environmental audit, April 1985.
7 What was the frequency of environmental audits under
8 the audit program?

9 A. I think they -- they varied, but they were
10 typically in the two to three year time frame. They
11 could be longer, though, if the -- you know, at the
12 smaller plants that were relatively simple, and they
13 would be shorter depending upon the results of the
14 last audit and sort of the number of outstanding
15 issues, but I would say generally it was in the two to
16 three year time frame. Some could go as long as five.

17 Q. The next part of this exhibit is a two-page
18 sheet called "Anniston Environmental Review,
19 Environmental Elements of Site Consolidation," and the
20 first item is "Dismantlement". Do you -- Did you have
21 any personal involvement in the dismantlement
22 activities that are identified here?

23 A. No.

24 Q. Would you have provided any direction on the
25 implementation of these various activities?

1 A. No.

2 Q. This is something in your view that would
3 have been done at the plant level?

4 A. Yes.

5 Q. And you're just being provided the
6 information --

7 A. Yes.

8 Q. -- as a status report? The first bullet
9 refers to four PCBs transformers as part of this
10 dismantlement item. Do you know if there was a
11 corporate-wide policy in this time frame to either
12 eliminate or retrofit PCB transformers at Monsanto's
13 facilities?

14 A. Yes, there was.

15 Q. And what level within the company did that
16 policy exist?

17 A. I'd say the senior levels.

18 Q. Company-wide or operating division?

19 A. Company-wide.

20 Q. Okay. When was that policy put into place,
21 if you know?

22 A. I don't recall.

23 Q. Was there an individual -- Were there -- Was
24 there a team of people who were charged with
25 implementing that, that instruction to retrofit or

1 remove PCB transformers?

2 A. This was, again, work that would have been
3 done at the individual locations based upon the
4 ability to -- to do that. As I recall, some of them
5 were fairly simple to do and some of them were much
6 more complex that were integral to the operations, but
7 there was a general policy said -- that said we'd work
8 our way out of PCB transformers at the manufacturing
9 sites.

10 Q. Was there any particular impetus to the
11 initiation of that policy that you recall?

12 A. I think other than recognizing that, you
13 know, it was going to be more and more difficult to
14 get PCBs and transformers and that and that it was
15 sort of a good thing to do from a business standpoint
16 to plan for these removals rather than come up against
17 some sort of date where you might be forced to do it.

18 Q. Okay. Under number two, "RCRA Closures,"
19 there are two listed here, limestone bed and landfill.
20 Did you have any personal involvement in either of
21 these RCRA closure projects?

22 A. No, not personally.

23 Q. Do you have an awareness of the limestone bed
24 RCRA closure?

25 A. I think as these projects transferred, as

1 this transferred over, these kind of go on this list
2 of future things and issues to deal with, and they
3 would have been closed sort of under the chemical
4 company's auspices, but I wouldn't have personally
5 been involved with those, but they would have been in
6 our overall budget and financial sequence.

7 Q. And who -- Did you have individuals working
8 for you at this point in time in February of 1987?

9 A. Yes.

10 Q. Okay. And how many people were working for
11 you at that time? This is as the Director of
12 Environmental Operations at Chemical.

13 A. It varied, so right at that specific time it
14 was somewhere between four and seven.

15 Q. Did any of those individuals have particular
16 responsibility relative to the Anniston Plant?

17 A. Well, as it transferred over, I think that
18 came under Mike Foresman's area.

19 Q. And at that point in time that you're
20 describing, when Anniston moved from Agricultural over
21 to Chemical, was Mr. Foresman working for you at that
22 time?

23 A. Yes.

24 Q. And so he had been within the chemical
25 company?

1 A. Yes.

2 Q. Would the folks at the -- the environmental
3 folks at the plant then report to Mr. Foresman, or did
4 he just have sort of a helper role with respect --

5 A. Yes.

6 Q. -- to plant environmental activities?

7 A. They would --

8 MR. NASSIF: Object to the form. Go
9 ahead. You can answer.

10 A. They would -- They would have reported into
11 the -- The plant people would have reported into the
12 Plant Manager, somewhere in his structure, probably
13 not directly, but somewhere into the plant structure,
14 and Mike's role would have been, again, generally as a
15 manager to help them relative to their projects and
16 other plants on what they were doing in the
17 environmental compliance area.

18 Q. Did the folks at the Anniston Plant in the
19 time frame of the late 1980s, prior to your position
20 as vice president, did the plant environmental people
21 have authorization to proceed with environmental
22 projects and spending of money to undertake those
23 projects without having to go up the chain in
24 corporate for approval?

25 A. They may have.

1 Q. Do you know if they did or if there was some
2 dollar threshold where it would rise either to
3 Mr. Foresman or to you for approval?

4 A. Some projects would have required approval
5 and some would have just been -- we would have been
6 aware of, and those rules kind of changed over time,
7 but for the most part, the projects at the plant sites
8 were executed there, and the responsibilities, so long
9 as they were part of a continuing business, were
10 pretty much theirs to pay for. If they were not part
11 of a continuing business, then we tended to bring
12 those into either a company, and at one point in time
13 a corporate budget finance structure.

14 Q. Okay. If you turn to the back side of this
15 exhibit, the last page, there's on number five a
16 reference to PCB removal, Snow Creek. Do you have any
17 recollections of PCB removal activities in snow creek
18 that are being discussed here in the 1980 -- February
19 1987 time frame?

20 A. I -- I recall kind of generally there were
21 some issues. There was an issue ongoing I think at
22 the time with the Attorney General that wasn't
23 resolved, but the reference to the ERAP basically said
24 it was being provided for or accounted for within that
25 financial program.

1 Q. That was going to be my next question, what
2 ERAP stood for and what it means. Is that an acronym
3 for something?

4 A. I think it's, and I could be wrong here, but
5 Environmental Remedial Action Plan.

6 Q. And you indicated that was a different source
7 of funding; is that right?

8 A. Well, it was a different -- not necessarily.
9 It was an attempt -- You recall back to the earlier
10 discussion about the '83 Fitzgerald hazardous waste
11 plan document. This was what evolved from that, which
12 was an accounting methodology basically to track all
13 the projects for which we had some cleanup, closure,
14 monitoring activity associated with.

15 Q. Do you know why under number three, the RCRA
16 remedial action for the limestone bed and old landfill
17 cells, why those would not have been part of what you
18 just described as ERAP?

19 A. I do not. And they may have been, too, is
20 the other part of that.

21 Q. Okay. All right. So in 1991, then that's
22 when you became Vice President, Environment, Safety
23 and Health; correct?

24 A. Correct.

25 Q. And at that time it was for Monsanto, but I

1 understand you continued in essentially the same role
2 under Solutia; is that right?

3 A. Yes.

4 Q. No changes in your duties or responsibilities
5 other than perhaps your line of report between the
6 Monsanto days and the Solutia days?

7 A. Yeah. And, of course, the businesses
8 changed.

9 Q. But you would have had Anniston within your
10 framework under Monsanto, and you still had
11 Anniston --

12 A. Yes.

13 Q. -- after the spin-off with Solutia; correct?

14 A. Yes.

15 Q. Before you became the Vice President of
16 Environment, Safety and Health at Monsanto in 1991,
17 was there -- was that a new position, or was there
18 someone, an individual in that position prior to you?

19 A. There was a prior individual.

20 Q. And who was that?

21 A. James Singer.

22 Q. Had he retired when you took on that
23 position, or did he move over to Monsanto when you
24 moved -- I'm sorry. Scratch that. Bad question. Did
25 he retire at that point when you became vice

1 president?

2 A. Yes.

3 Q. Describe for me generally what your duties
4 and responsibilities as Vice President, Environment,
5 Safety and Health were, beginning in 1991.

6 A. Well, they were to coordinate policy, both to
7 develop and evolve and get approved environmental
8 policy within the company. We were responsible for
9 oversight in the audit areas to make sure that, you
10 know, programs were being implemented, and we were
11 primarily responsible for a lot of the environmental
12 interfaces with both the federal government as well as
13 the regional EPA offices, environmental groups, and we
14 were the spokesperson in this group for Monsanto on
15 environmental health and safety issues.

16 Q. And as vice president in 1991, I assume you
17 had a group of people reporting to you; right?

18 A. Yes.

19 Q. About how many people?

20 A. Oh, again, I would say somewhere between five
21 and seven.

22 Q. Did different individuals reporting to you
23 have sort of an allocation of responsibility for
24 different business units or facilities?

25 A. They tended to be by subject matter. For

1 example, the regulatory people in air and water
2 reported to me. The head of the -- The Director of
3 Safety reported to me. The Medical Department
4 reported to me. So it tended to be functional or in
5 specialty areas.

6 Q. There was a Remediation Group or something
7 that had company-wide remediation responsibilities
8 that was reporting to you?

9 A. Not at that time.

10 Q. Did there come a point in time where
11 Remediation did report to you?

12 A. Yes.

13 Q. And when did that occur?

14 A. It was -- I think it was more towards the '96
15 time frame when the company underwent another
16 reorganization, and all of the staff departments, not
17 just Environmental Health and Safety, were put into
18 staff units where -- So for Environment Health and
19 Safety, all of the company staff were collapsed
20 into -- in and under me to service. They were
21 basically support service organizations to support all
22 of the business units.

23 Q. And prior to that reorganization, the
24 remediation responsibility that was not yet in your
25 group, was that function in somebody else's group?

1 A. It was still in each of the operating
2 companies.

3 Q. All right. So during that --

4 A. Prior to -- We were talking around 1996.

5 Q. Prior to the 1996 restructuring.

6 A. Correct.

7 Q. So from 1991 to 1996, you would not have had
8 remediation responsibility for, say, legacy
9 liabilities at different manufacturing plants?

10 A. Yeah. There -- And, again, that date is --
11 I'm not certain whether it was late '95, or '95 or
12 '96, because there was a couple of staff reiterations
13 in there that changed that. But, ultimately, before
14 the company split up, I had the responsibility for all
15 of the -- for all of the cleanup projects again that
16 were not part of any of the ongoing businesses.

17 Q. When you say "not part of an ongoing
18 business," how would the Anniston remediation
19 activities fit in what you just described?

20 A. That would have not been a continuing
21 business. It would have been under me.

22 Q. And so it's not that the plant was not
23 continuing; it's that the Aroclor manufacturing had
24 ceased?

25 A. Yes.

1 Q. And that's why it was within you?

2 A. Yes.

3 Q. Your group? At the point in time where this
4 restructuring took place sometime prior to the Solutia
5 spin-off, who within your group reported to you on the
6 remediation side?

7 A. Yeah. There was -- And that's why I was
8 cautious on the timing. There was a time after that
9 staff reorganization where it did not report to me for
10 about a year, but then when it did, Mike Foresman was
11 the -- the service leader over that group.

12 Q. Okay. Who was Bruce Yare?

13 A. Bruce was a long-time hydrogeologist in the
14 Engineering Department for a long period of time, and
15 then I think he became part of this services entity as
16 well, but did a lot of the technical -- He was our
17 in-house technical expert that interfaced quite
18 substantially with the outside hydrogeology community
19 and contractors that we had at sites.

20 Q. Was he at some point reporting to
21 Mr. Foresman?

22 A. Well, either directly or indirectly.

23 Q. Okay. Was there anybody else in your group
24 besides Mr. Foresman between 1991 and 1999 when you
25 retired who had remediation responsibilities relating

1 to the Anniston Plant?

2 A. Not as a direct report. I don't recall how
3 Mike split up his duties and responsibilities, but he
4 had a series of sort of project managers, and there
5 would have been somebody in there that was dealing
6 with that. I don't -- I don't recall what that -- who
7 that person was.

8 Q. But nobody else had direct report to you?

9 A. No.

10 Q. Were there any projects from '91 to '99
11 relative to the Anniston remediation for which you
12 took on supervisory responsibility?

13 A. Personally?

14 Q. Yes.

15 A. No.

16 Q. Did you do -- Did you take on supervisory
17 responsibility directly at any other remediation
18 projects for month and then Solutia, or is that just
19 something that in your role as VP that's not something
20 you would have done, whether it's Anniston or any
21 other facility? That's probably a bad question.

22 A. You asked two questions. The first answer
23 was no, and the second answer was I agree with what
24 you said.

25 Q. Okay.

1 A. I did not take on --

2 Q. I know what you meant.

3 A. I did not take on any direct project
4 management responsibilities.

5 Q. Now, did you have any responsibilities
6 relative to the spin-off of the chemicals business to
7 create Solutia?

8 A. I'm not sure what you mean by that.

9 Q. Were you involved in the allocation of how
10 environmental liabilities were going to be handled --

11 A. Yes.

12 Q. -- as between Monsanto and Solutia?

13 A. Yes.

14 Q. And what was your involvement in that?

15 A. I was the leader of the couple of us that
16 worked through that process and made recommendations
17 to another senior team about how that would be done.

18 Q. And what did you do in order to implement
19 that task? Did you have to evaluate each of the
20 different types of environmental liabilities that were
21 out there, make a decision? And, if so, based on what
22 factors?

23 A. Yeah. Now, you asked a compound question.
24 I'm not sure --

25 Q. Let me back it up. Let's just talk about

1 Anniston since that's the one I'm interested in.
2 Obviously, the Anniston Plant legacy environmental
3 liabilities ended up with Solutia, and I certainly
4 know that. Were you involved in the decision or the
5 process by which the Anniston Plant environmental
6 liabilities associated with PCBs were allocated to
7 Solutia versus Monsanto?

8 A. Yes.

9 Q. And how was that decision made?

10 A. Well, as I said, the -- I worked on what
11 would be sort of a generic set of decision parameters
12 that were approved by a committee that was set up to
13 deal with a whole host of separation issues. This was
14 just one of them. And we dealt with it at, again,
15 sort of a generic decision-making level, and then we
16 assigned -- based upon those decisions we assigned the
17 individual projects into either the Monsanto camp or
18 the chemical company camp, or the Solutia or the
19 Monsanto side.

20 Q. And since PCBs are no longer being
21 manufactured, why would that end up under Solutia
22 instead of Monsanto? Is it just because it was part
23 of the chemicals company at one point?

24 A. Yes.

25 Q. Did you engage in a process to quantify the

1 amount of the liabilities associated with PCB
2 investigation, contamination at Anniston as part of
3 that divvying up?

4 A. No. We had -- We had gone through annual
5 reviews of that for purposes of financial, external
6 disclosure and whatever the 10K or documents are, and
7 we felt that the information -- And those were updated
8 quarterly, so we felt that that process was
9 satisfactory, that we didn't have to go back and
10 re-examine numbers, so we took the numbers out of that
11 ERAP plan, if you will, and assigned these
12 decision-making criteria and then looked at each
13 project and put them in A or -- A or B, Solutia or
14 Monsanto.

15 Q. Now, what was your involvement, not with the
16 Solutia spin-off, but with you mentioned the quarterly
17 reviews for disclosure purposes, financial accounting,
18 and the annual reviews. What -- As the Vice President
19 of Environment, Health and Safety, what was your role
20 in putting together the environmental disclosures and
21 the associated estimated costs, if costs were
22 included?

23 A. Well, the cost came out of this ERAP process,
24 which was everybody that was involved in projects had
25 the responsibility to update and keep those current,

1 and we did review those at least once a year prior to
2 the annual report, typically in conjunction with
3 budgets and next year's financial projections, and the
4 actual and specific wording, though, typically was
5 developed by somebody in the Law Department. I think
6 they had the lead on developing the financial
7 disclosure documents, annual reports, and then I would
8 get the opportunity to review that language and
9 comment, and that language, of course, included those
10 numbers that they were able to pull out of those
11 reports.

12 Q. Okay. Who is J. G. Gndt, G-N-A-N-D-T? Do
13 you know?

14 A. He was a -- He was in the accounting
15 controllershship function, and, I mean, he at one time
16 had -- he was a business -- in the business, and at a
17 time I think he was looking over and helping us with
18 respect to remedial projects as well. So he had
19 responsibility over the environmental accounting area,
20 if you will.

21 (Defendant's Exhibits Pierle 13 and 14
22 were marked for identification.)

23 Q. I'm going to hand you what I'm marking as
24 Pierle 13 and 14.

25 MS. LAVEY: This is 13; this is 14.

1 MR. NASSIF: Thank you.

2 Q. I've handed you what's been marked as
3 Pierle 13, which is an 11 -- I'm sorry -- a November
4 13th, 1995, letter signed by you to ATSDR; correct?

5 A. Yes. Well, somebody signed it for me.

6 Q. Okay. That's not your signature?

7 A. No. I don't believe so.

8 Q. Okay. Would they have signed -- They would
9 have signed the letter with your authorization, I
10 assume?

11 A. Yes.

12 Q. And the second document, Pierle 14, is a
13 letter to you from the Department of Health & Human
14 Services, ATSDR. Looking at these two letters, do you
15 recall having discussions or meetings with ATSDR
16 regarding Anniston, the Anniston Plant and PCB issues?

17 A. I do recall visiting ATSDR. My recollection,
18 it was not so specific to Anniston, but it was, in
19 general, related to ATSDR's role in health studies at
20 Super Fund sites.

21 Q. And why were you -- Why were you having those
22 meetings or meeting, singular or plural, I'm not sure
23 how many you said?

24 A. As I said, I forget the evolution of this,
25 but ATSDR had taken on an evolving and developing role

1 with respect to health studies at sites. I think we
2 had encountered them at other site locations, and our
3 specific sort of interest there was to understand what
4 they were doing, what their role was going to be, how
5 they were preparing reports, and I recall specifically
6 the reference to Jim Collins, who was our chief of
7 epidemiology, that this was an area where he had --
8 epidemiology had significant expertise and ATSDR had I
9 think an advisory committee, and we were -- we were
10 just interested in understanding their work and also
11 seeing if per chance there was a role -- They had
12 industry people on this committee. Whether there was
13 per chance a role for Jim.

14 As it states, there had been some evolving
15 work with Alabama Health on similar studies, and we
16 were just trying, again, to understand what -- what
17 was -- what was happening, what was going to take
18 place, whether there were studies planned, whether
19 ATSDR would be part of those studies or not.

20 Q. Looking at Pierle 13, in the middle
21 paragraph, you specifically state that it would be --
22 it says, "Also, it would be useful to talk about
23 specific plans and actions surrounding our plant site
24 in Anniston, Alabama." Was there any reason that you
25 recall why you're singling out the Anniston, Alabama,

1 facility in this correspondence?

2 A. You know, my general recollection is that --
3 that there was activity at the state level that was
4 beginning in this particular area, in the health study
5 area, or some discussion, and I think we were
6 specifically interested in understanding whether or
7 not, you know, they were going to have a role or not
8 have a role or were going to be part of any study work
9 or not be part of a study work.

10 Q. They, ATSDR?

11 A. "They" being ATSDR.

12 Q. Having any role with what Alabama was doing?

13 A. Yes.

14 Q. And you were also seeking to see whether
15 there could be some role played by Monsanto; is that
16 what you said?

17 A. Well, I think the -- relative in the
18 discussion on these, yeah, we had particular views
19 that it would be best if studies such as this could be
20 conducted within the context of broad PRP
21 participation, and it was within that context that we
22 felt there would be a role. We were already involved
23 in one of our guidelines. We had community action
24 panels at plant sites where we had already developed
25 this relationship and interaction with the community,

1 and we felt that they needed to know and understand
2 that, how we went about that activity as well.

3 We had not spent much time with ATSDR
4 prior to this. It was our general way of doing
5 business that we liked to visit with agencies and
6 understand them, for them to get to know us, and to
7 know if they had issues relative to Monsanto or
8 questions that they had points of contact that they
9 could easily access as well.

10 Q. And what was the outcome of this meeting or
11 series of discussions in terms of any role Monsanto
12 could play or would play with regard to these ATSDR
13 activities?

14 A. I don't -- I don't recall much next steps
15 that came out of it.

16 Q. So you weren't --

17 A. From a particular -- from a specific agency
18 standpoint, no.

19 Q. So you weren't going into the meeting to ask
20 for a certain list of action items to be agreed upon?

21 A. No.

22 Q. It was more of an introduction, get to know
23 you?

24 A. Yes. Exactly.

25 Q. Now, there came a point in time where Alabama

1 Department of Public Health did issue a health
2 consultation with regard to PCBs in Anniston. Do you
3 recall that?

4 A. I seem to recall that -- that it was done,
5 but I'm thinking this was pretty late or close to my
6 retirement date.

7 (Defendant's Exhibit Pierle 15 was marked
8 for identification.)

9 Q. I'm going to hand you, Mr. Pierle,
10 Exhibit 15, which is marked as a Health Consultation
11 for the Monsanto Anniston facility prepared by Alabama
12 Department of Public Health. Since I could not find a
13 date on here, is this a document you recall seeing
14 prior to -- either in draft form or outline form or
15 final form prior to your retirement?

16 A. No, I do not.

17 Q. So you wouldn't know whether Monsanto had any
18 input on the development of this health consultation?
19 You don't recall there being any input?

20 A. I don't.

21 Q. And that may have been because it was taking
22 place after you had retired; right?

23 A. Yeah. I just don't know what the date on
24 this thing was.

25 Q. I don't either.

1 A. No.

2 Q. Okay. Then I won't ask you anything about it
3 then. You can set that aside.

4 (Defendant's Exhibit Pierle 16 was marked
5 for identification.)

6 Q. I'm handing you what's marked as Pierle 16,
7 which I'm not going to have very much to ask about if
8 you've never seen it before, so I'll give you a chance
9 to look at it. For the record, it's an April 13th,
10 1995, ADEM document to Robert Jones at the Anniston
11 Plant enclosing an executed consent order. Have you
12 ever seen the enclosed consent order before?

13 A. I'm not sure. I recollect that we were
14 dealing with them relative to cleanup projects, and we
15 always ended up with consent decrees.

16 Q. And I have another one I'm going to show you
17 in a minute, but this one is specifically arising
18 under the water statute. As you look over the first
19 page and the findings of fact, does that cause you to
20 remember at all the circumstances that led to this
21 consent order?

22 A. All I sort of remember is that somewhere in
23 the context of, seems to me, permitting updates we had
24 to do work relative to stormwater analysis, and
25 that -- in that process some PCBs had been identified,

1 and that precipitated a process that went forward.
2 That's kind of all I remember generically on it, and
3 that evolved then to further discussions and studies
4 and work, but...

5 Q. But you don't have a specific recollection of
6 either negotiating or approving this particular --

7 A. No.

8 Q. -- consent order in 1995?

9 A. No.

10 Q. And is that something based on what your
11 position was in 1995 as the Vice President,
12 Environment, Safety and Health, would this type of
13 agreement in the normal course come to your attention,
14 or is this something handled in your view at the plant
15 level?

16 A. Well, again, that -- that in the corporate
17 role I may have been aware of this going on, but the
18 operating company people and the plant people and Law
19 Department would have been the principal people
20 involved in negotiating with the state authorities.

21 (Defendant's Exhibit Pierle 17 was marked
22 for identification.)

23 Q. Okay. I hand you Pierle 17, which is another
24 ADEM consent order, and if you flip through to the
25 end, it would give you a date of March 8th, 1996, and

1 a signature by Michael Foresman, Director, Remedial
2 Projects at Monsanto. First of all, is this a consent
3 order that you have seen before?

4 A. I don't -- I don't recall seeing this.

5 Q. And at this point in time, March of 1996,
6 Mr. Foresman was in your group reporting to you; is
7 that right? No?

8 A. Again, I know this -- I don't know at what
9 time he came back to report to me directly, whether it
10 was within this time frame or not.

11 Q. This is that transition period of a
12 reorganization?

13 A. Yeah. The corporate staffs, and at one time
14 I didn't have all of the staff, I had a piece of it,
15 and then after a year I ended up with all of it, so --
16 but it was all through this time period here.

17 Q. You don't -- You did not personally have any
18 negotiations with the Alabama Department of
19 Environmental Management in this time frame, the late
20 1990s, regarding a consent order or remedial
21 obligations for Anniston?

22 A. No.

23 Q. See, that's what makes these exhibits go so
24 quickly. After you had retired and you were providing
25 some consulting services, did you have any involvement

1 in the negotiation of any of the administrative orders
2 on consent, consent orders with U.S. EPA regarding the
3 Anniston Plant?

4 A. No.

5 Q. Did you have any involvement with regard to
6 the issues surrounding the West End Landfill and the
7 reacquisition of that property from Alabama Power
8 Company?

9 A. I remember that, that being done. I was -- I
10 think I was the vice president for Monsanto at that
11 time, and there was a policy in place on the
12 acquisition or divestitures of property that I was
13 required to review and sign off on, but the
14 recommendation from the operating unit was that
15 they -- they purchased that property, and I saw no
16 reason to object to that.

17 Q. Who would have been the person that you're
18 referring to in the operating division that would be
19 making that recommendation?

20 A. I think it was Mike Foresman that I talked to
21 on that.

22 Q. And so you would not have been involved or
23 engaged in discussions directly with Alabama Power?

24 A. No.

25 Q. Do you have any personal knowledge or

1 familiarity with PCB contamination issues at the
2 Quintard Mall?

3 A. No.

4 Q. And I'm sorry. Quintard Mall in Oxford,
5 Alabama?

6 A. No.

7 Q. If there was an agreement being worked out on
8 cost sharing between the Quintard Mall developers and
9 Solutia, would it be your understanding that that
10 agreement -- Strike that. It's a bad question. No.
11 Let me move on.

12 Did you have any dealings with the Alabama
13 Department of Transportation regarding any PCB
14 remediation projects in Anniston?

15 A. No.

16 MS. LAVEY: Let's just go off the record
17 for a minute because I think I'm going to be done.

18 MR. PERRY: Off the record at 12:50.

19 (Whereupon, there was a brief recess.)

20 MR. PERRY: We're back on the record at
21 12:53.

22 Q. (By Ms. Lavey) Mr. Pierle, when is the last
23 time that you visited the Anniston Plant?

24 A. I don't recall the exact date, but it -- I
25 believe it would have been in the time frame that they

1 were constructing this stormwater retention --

2 Q. That --

3 A. -- basin.

4 Q. -- we were talking about earlier?

5 A. Yeah.

6 Q. So you have not been back to Anniston since
7 you retired?

8 A. Well, I'm thinking that that might have been
9 sometime right after that, when I was in this
10 consulting time frame.

11 Q. Uh-huh. But when you were doing --

12 A. Because I drove up from Florida, and I went
13 by there, and that's what causes me to kind of think
14 that that's -- that's when it was.

15 Q. But did you have any -- any projects in your
16 two-year consulting role after you had retired that
17 related specifically to Anniston?

18 A. No. I was still kind of at times reviewing
19 some environmental matters in general, and Anniston I
20 know was at times in -- in that group, but I wasn't
21 involved in the project or even the approval at that
22 point in time.

23 Q. And who replaced you as the Vice President,
24 Environment, Health and Safety at Solutia?

25 A. Actually, I'm not sure they replaced that

1 position. I don't think they did. I think they
2 turned it into a group.

3 Q. And did somebody take the position at
4 Monsanto when you moved over to Solutia?

5 A. Again, I don't know whether it was
6 equivalent, but there was a woman, Jackie Peterson, I
7 think that went into a role, whatever was left over
8 there, for a while.

9 Q. Did you have any involvement in the last
10 couple of years during the Solutia bankruptcy in
11 working out a settlement with the current Monsanto
12 company and reorganized Solutia, if those entities
13 even mean anything to you?

14 A. Well, not -- not really, but I was not
15 involved in any -- any discussions.

16 MS. LAVEY: Okay. That is all I have.

17 MR. NASSIF: Questions?

18 MS. McADAM: I have no questions.

19 MR. NASSIF: Questions.

20 MS. SMITH: I have none.

21 MR. NASSIF: Anybody on the phone have
22 questions?

23 MS. LEMMER: This is Julie Lemmer. I have
24 no questions.

25 MR. WILSON: Hey, this is Jim Wilson. No

1 questions.

2 MR. HEISTER: Michael Heister, no
3 questions.

4 MR. WILLIAMS: Chris Williams, no
5 questions.

6 MR. NASSIF: Okay.

7 MS. LAVEY: And that's all.

8 MR. NASSIF: Thank you.

9 MR. PERRY: We're off the record at 12:56.

10 MR. NASSIF: We don't waive.
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SS.

I, Faith A. Olliges, duly commissioned,
qualified and authorized to administer oaths and to
certify to depositions, do hereby certify that
pursuant to Notice in the civil cause now pending and
undetermined in the United States District Court for
the Northern District of Alabama, Eastern Division, to
be used in the trial of said cause in said court, I
was attended at the offices of Husch Blackwell
Sanders, 190 Carondelet Plaza, Clayton, Missouri, by
the aforesaid witness; and by the aforesaid attorneys,
both live and telephonically, on September 1, 2009.

That the said witness, being of sound mind
and being by me first carefully examined and duly
cautioned and sworn to testify the truth, the whole
truth, and nothing but the truth in the case
aforesaid, thereupon testified as is shown in the
foregoing transcript, said testimony being by me
reported in Stenotype and caused to be transcribed
into typewriting, and that the foregoing pages
correctly set forth the testimony of the

1 aforementioned witness, together with the questions
2 propounded by counsel and remarks and objections of
3 counsel thereto, and is in all respects a full, true,
4 correct and complete transcript of the questions
5 propounded to and the answers given by said witness;
6 that the signature of the deponent was not waived by
7 agreement of counsel.

8 I further certify that I am not of
9 counsel or attorney for either of the parties to said
10 suit, not related to nor interested in any of the
11 parties or their attorneys.

12 Witness my hand at St. Louis, Missouri,
13 this 9th day of September, 2009.

14
15
16 - - - - -

17 Certified Court Reporter for the
18 States of Missouri and Illinois

1 Gore Perry Gateway & Lipa Reporting

2

3

4 Mr. Joseph Nassif

5 Husch Blackwell Sanders

6 190 Carondelet Plaza

7 Clayton, Missouri 63105

8

9 Enclosed please find the Original Signature pages

10 and errata sheets for the deposition of:

11 Michael A. Pierle taken 9/1/2009 in the case of:

12 Solutia, Inc., et al. vs. McWane, Inc., et al.

13 Please read your copy of the transcript, noting

14 any corrections on the enclosed erratta sheets,

15 and return all pages for filing in court to:

16 Ms. Wendlene M. Lavey

17 Squire, Sanders & Dempsey, LLP

18 4900 Key Tower

19 127 Public Square

20 Cleveland, Ohio 44114-1304

21 Your prompt cooperation will be appreciated.

22 Sincerely,

23

24 Gore Perry Gateway & Lipa Reporting

25

Pierle, Michael (Former Solutia/Monsanto Employee)

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1 Comes now the witness, Michael A. Pierle,
2 and having read the the foregoing transcript
3 of the deposition taken on the 9/1/2009,
4 acknowledges by signature hereto that it is a
5 true and accurate transcript of the testimony given
6 on the date hereinabove mentioned.

7

8

9

10 _____
10 Michael A. Pierle

11

12 Subscribed and sworn to me before this

13 _____ day of _____, 2009.

14 My Commission expires

15

16

17

18 _____
18 Notary Public

19

20

21

22

23

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