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2
3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF ALABAMA
5 EASTERN DIVISION
6
7 CIVIL ACTION NO. CV-96-P-0440-E
8 WALTER OWENS, et al.,
9 Plaintiffs,
10 vs.
11 MONSANTO COMPANY,
12 Defendant.
13
14

15 DEPOSITION OF DAVID L. CAIN
16 In accordance with Rule 5(d) of
17 The Alabama Rules of Civil Procedure, as
18 Amended, effective May 15, 1988, I, DONNA
19 ARMSTRONG, am hereby delivering to GROVER
20 G. HANKINS, the original transcript of the
21 oral testimony taken on the 29th
22 day of March, 2001, along with exhibits.
23 Please be advised that this is the

0002

1 same and not retained by the Court
2 Reporter, nor filed with the Court.
3

4 DEPOSITION TESTIMONY OF:

5
6 DAVID L. CAIN

7
8 MARCH 29, 2001

9
10 2:30 p.m.
11
12

13 COURT REPORTER: Donna Armstrong
14
15

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

17 IT IS STIPULATED AND AGREED, by
18 and between the parties, through their
19 respective counsel, that the deposition of
20 DAVID L. CAIN may be taken before Donna
21 Armstrong, Commissioner, Certified
22 Professional Reporter and Notary Public,
23 State at Large;

0003

1 IT IS FURTHER STIPULATED AND
2 AGREED that the signature to and reading of
3 the deposition by the witness is not
4 waived, the deposition to have the same

5 force and effect as if full compliance had
6 been had with all laws and rules of Court
7 relating to the taking of depositions;
8 IT IS FURTHER STIPULATED AND
9 AGREED that it shall not be necessary for
10 any objections to be made by counsel to any
11 questions, except as to form or leading
12 questions, and that counsel for the parties
13 may make objections and assign grounds at
14 the time of trial, or at the time said
15 deposition is offered in evidence, or prior
16 thereto.

17 IT IS FURTHER STIPULATED AND
18 AGREED that the notice of filing of the
19 deposition by the Commissioner is waived.
20
21
22
23

0004

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7
8 E X H I B I T S

9
10 (There were no exhibits offered or attached
11 to this deposition.)
12
13
14
15
16
17
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23

0005

1 A P P E A R A N C E S

2
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10 GROVER G. HANKINS

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17 FOR THE DEFENDANT:

18 EDDIE NEWSOM
19 Smith, Helms, Mulliss & Moore
20 1355 Peachtree Street, NE
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23

0006

1 KEVIN E. CLARK
2 Lightfoot, Franklin & White, LLC
3 The Clark Building
4 400 20th Street North
5 Birmingham, AL 35203-3200
6

7 I, Donna Armstrong, a Certified
8 Professional Reporter of Birmingham,
9 Alabama, and a Notary Public for the State
10 of Alabama at Large, acting as
11 Commissioner, certify that on this date,
12 pursuant to Rule 30 of the Alabama Rules of
13 Civil Procedure and the foregoing
14 stipulation of counsel, there came before
15 me at The Clark Building, 400 20th Street
16 North, Birmingham, Alabama, on the 29th day
17 of March, 2001, commencing at 2:30 p.m.,
18 DAVID L. CAIN, witness in the above cause,
19 for oral examination, whereupon the
20 following proceedings were had:
21

22 DAVID L. CAIN,
23 being first duly sworn, was examined and
0007

1 testified as follows:
2

3 EXAMINATION BY MR. HANKINS:

4 Q. Mr. Cain, would you state your
5 name for the record, please?

6 A. David L. Cain.

7 Q. And what is your age?

8 A. Forty.

9 Q. And where do you reside?

10 A. 1202 Eagle Crest Boulevard,
11 Jacksonville, Alabama, 36265.

12 Q. And are you married?

13 A. Yes, I am.

14 Q. Do you have any children?

15 A. Yes, I do.

16 Q. What is their ages?

17 A. My son is sixteen. My daughter is
18 twelve.

19 Q. One of them is wise beyond her
20 years and the other one thinks he knows
21 everything.

22 MR. NEWSOM: And one of them is
23 real big.

0008

1 Q. (By Mr. Hankins) That's good.
2 What is your educational background? What
3 is the highest level that you have
4 achieved?

5 A. Masters degree in management.

6 Q. From where?

7 A. From Fontbonne, F-o-n-t-b-o-n-n-e,
8 College.

9 Q. Are you from St. Louis?

10 A. No, sir.

11 Q. Where are you from?

12 A. Michigan.

13 Q. Where in Michigan?

14 A. Born in Grand Rapids and spent
15 time in Detroit.

16 Q. Did you do your undergrad in
17 Michigan?

18 A. Yes, I did.

19 Q. Where?

20 A. Wayne State University.

21 Q. When did you get your
22 undergraduate degree?

23 A. When?

0009

1 Q. Yes.

2 A. 1985.

3 Q. And your graduate degree?

4 A. September of 2000.

5 Q. And that was at Fontbonne?

6 A. Yeah.

7 Q. Now, after you attained your
8 graduate degree, what was your first job?

9 A. I was already working as a
10 business team leader.

11 Q. Business team leader?

12 A. Yeah. In St. Louis prior to that.

13 Q. For what company?

14 A. Solutia.

15 Q. So you had been working for
16 Solutia for a number of years?

17 A. I have been with the company
18 sixteen years.

19 Q. Sixteen years?

20 A. Uh-huh.

21 Q. When did you start with them?

22 A. Right out of school in 1985.

23 Q. Was that out of undergraduate

0010

1 school?

2 A. Yes, sir.

3 Q. So when you graduated from Wayne

4 State, you went to St. Louis, got you a

5 job?

6 A. No, sir.

7 Q. No?

8 A. No.

9 Q. That's not what you did?

10 A. When I graduated from school, we

11 had a plant in Trenton, Michigan. I went

12 to work for Solutia, Monsanto then, in

13 Trenton, Michigan.

14 Q. Trenton, where is that?

15 A. That's down river from Detroit.

16 Q. How long did you work there?

17 A. I went there in May of '85. I

18 left the company in December of '87.

19 Q. Where did you go?

20 A. I went to work for Kellogg in

21 Battlecreek.

22 Q. How long did you stay with

23 Kellogg?

0011

1 A. I stayed with Kellogg for couldn't

2 have been more than a year, less than a

3 year.

4 Q. And you went back to Monsanto?

5 A. No, sir.

6 Q. Where did you go?

7 A. I went to Michigan Consolidated

8 Gas Company.

9 Q. And what capacity did you work

10 with -- work in while you were working with

11 Monsanto '85 to '87?

12 A. I was an electrical engineer,

13 design engineer.

14 Q. Is your undergraduate degree in

15 electrical engineering?

16 A. Electrical and computer, yes.

17 Q. And as a design engineer, what

18 were your duties and responsibilities?

19 A. Well, it varied, but when I went

20 back to Solutia I was still an electrical

21 engineer and things were different, but

22 when I started out of school --

23 Q. Yeah, when you started out.

0012

1 A. I was just designing mostly

2 computer based control systems.

3 Q. For what, for what purpose?

4 A. For the purpose of manufacturing

5 the product that we made there.

6 Q. In Trenton?

7 A. Yes, sir.

8 Q. What products did you make in
9 Trenton?

10 A. Oh, boy, we made a variety of
11 products. We made a product called DSP,
12 which is dual sodium phosphate. We made a
13 product called matga, which is used to
14 fight fires. There were a few others.

15 Q. When you went to Kellogg, you
16 worked in the same capacity as a design
17 engineer?

18 A. I was a senior design engineer at
19 Kellogg.

20 Q. Why did you leave Kellogg?

21 A. They wanted to send me to Japan.

22 Q. Why did you leave Monsanto to go
23 to Kellogg?

0013

1 A. I left Monsanto initially because
2 of the opportunity to work in a corporate
3 environment.

4 Q. What did you mean by that?

5 A. Meaning I was -- I was, you know,
6 two years out of school, and as an
7 engineer, everybody wants to work on big
8 projects.

9 Q. Right.

10 A. I mean, huge projects and I was
11 being developed working in small to medium
12 projects. Kellogg never offered me a
13 chance to work on big projects.

14 Q. Okay.

15 A. I was on the project team that
16 designed Nut and Honey cereal and Frosted
17 Mini Wheats.

18 Q. You're responsible for that?

19 A. I take full credit for it.

20 Q. That's one of the most popular
21 cereals, I understand.

22 MR. WRIGHT: I had Frosted Mini
23 Wheats this morning for the first time in

0014

1 years. Interesting.

2 MR. NEWSOM: He had six boxes of
3 them.

4 MR. WRIGHT: I did go back for
5 seconds actually.

6 Q. (By Mr. Hankins) When you left
7 Kelloggs and came back to Monsanto, what
8 was -- they wanted to send you to Japan and
9 you didn't want to go over there?

10 A. No.

11 Q. Mainly because it was so
12 expensive?

13 A. Because of family commitment. I
14 would be traveling most of the time.

15 Q. Your family couldn't go with you?

16 A. No.

17 Q. So you left and went back to
18 Monsanto; is that correct?

19 A. No, sir. I left Kellogg and I
20 went to MichCon.

21 Q. In what capacity did you work for
22 MichCon?

23 A. As a senior engineer.

0015

1 Q. Were you doing what you wanted to
2 do there?

3 A. No, not quite.

4 Q. What were you doing?

5 A. At MichCon I was responsible for
6 designing again computer based control
7 systems. I wasn't happy there because
8 there is not much engineering from sending
9 gas from point A to point B. I wasn't
10 happy with that.

11 Q. You left MichCon and went where?

12 A. Went back to Monsanto.

13 Q. And in what capacity were you
14 employed at that time?

15 A. I went back as senior electrical
16 engineer/maintenance supervisor.

17 Q. Did you get a raise?

18 A. Yeah.

19 Q. What were your duties and
20 responsibilities?

21 A. Well, I was back to designing
22 control systems and that part was the same,
23 but what was new about it was I now had the

0016

1 responsibilities of people. I had a
2 maintenance group that worked for me.

3 Q. So you were a supervisor?

4 A. Yes, sir.

5 Q. What plant?

6 A. That's the Trenton plant.

7 Q. Trenton, Michigan?

8 A. Yes.

9 Q. You went back to Trenton?

10 A. Yes, sir.

11 Q. How long did you stay at the
12 Trenton plant?

13 A. I left the plant in 1994.

14 Q. And where did you go?

15 A. To Greenwood, South Carolina.

16 Q. Greenville?

17 A. Greenwood.
18 Q. Greenwood?
19 A. South Carolina, at the plant.
20 Q. Where is that?
21 A. It is about forty-five minutes
22 east of Greenville, southeast --
23 northeast. No, southeast of Greenville.
0017

1 Q. Okay. I generally know where that
2 is. How far from Columbia?

3 A. An hour.

4 Q. An hour. What plant were you
5 employed at?

6 A. The Greenwood plant.

7 Q. For --

8 A. Solutia.

9 Q. What company, Solutia?

10 A. Monsanto. It was Monsanto at the
11 time.

12 Q. Monsanto.

13 A. Before the split.

14 Q. It didn't become Solutia until
15 '97?

16 A. Yes, sir.

17 Q. In what capacity were you employed
18 at the Greenwood plant?

19 A. I went to the plant as a
20 maintenance/traffic team leader. After
21 that job -- do you want to know my next job
22 after that?

23 Q. Sure. How long did you work in
0018

1 that capacity and what were your duties and
2 responsibilities?

3 A. Gosh. I must have done that job
4 for a year. My responsibilities were to
5 again manage a larger maintenance group
6 this time.

7 Q. And maintenance meaning
8 maintenance on the machines, maintenance on
9 what?

10 A. Maintenance for the whole plant.

11 Q. The whole plant.

12 A. Anything that broke.

13 Q. Anything that broke. How about
14 cleaning it up?

15 A. No, not that kind of maintenance.
16 This is mechanical, electrical
17 maintenance. I also had the traffic
18 department. The traffic department
19 involved handling all the logistics of
20 shipping a product both coming and
21 receiving.

22 Q. So it was inventory type --

23 A. Yes.

0019

1 Q. I used to be an industrial
2 engineer with a dairy company. What was
3 the next position?

4 A. The job after that?

5 Q. Yes.

6 A. My role kept expanding. From
7 there I went to BCF South plant,
8 manufacturing team leader.

9 Q. What did you do in that capacity?

10 A. In that capacity, I was
11 responsible now for the manufacturing of
12 carpet fiber. I had everything from raw
13 materials to finished goods but I still had
14 the traffic department and the maintenance
15 department. So now I had manufacturing,
16 traffic, and maintenance.

17 Q. How many employees did you have?

18 A. When it was all said and done
19 about three hundred.

20 Q. You had a plant by itself?

21 A. It was a plant.

22 Q. What year were you employed --
23 years were you employed?

0020

1 A. Well, I was there from 1994 to
2 '98.

3 Q. Now, you mentioned raw materials.
4 What raw materials were you in charge of?

5 A. We used adipic acids and a product
6 called HMD.

7 Q. What is that?

8 A. Hepamethadamine, kaladamine for
9 short. That's what you call it. It's used
10 to make the fiber. It's used to make the
11 nylon. It's used to make the fiber.

12 Q. What other products did you make?

13 A. At that plant all we made -- well,
14 we had two products. We had a north plant,
15 which made residential carpet fibers.

16 Q. You had two plants?

17 A. We had two plants. I had one of
18 the plants. One of the plants made the
19 residential fibers such as what you have in
20 your home and my plant made commercial or
21 contract fibers, which is probably what we
22 have in that conference room.

23 Q. And in your capacity as

0021

1 manufacturer traffic team leader --

2 A. Maintenance slash --

3 Q. Maintenance slash traffic team
4 leader for -- I can't read my own writing.

5 Did you have occasion to deal with any
6 environmental concerns?

7 A. If there were any, yes.

8 Q. Were there any?

9 A. No.

10 Q. You never had any environmental
11 problem at your plant?

12 A. Now, we had -- we had a problem
13 with -- first of all, we didn't have any
14 hazardous materials at our plant, but if
15 there was a raw material that I had
16 problems with, I would feel that the plant
17 -- I didn't have any when I was there
18 because we didn't have any hazardous
19 substances.

20 Q. Were there any emissions that came
21 from your plant that could be construed as
22 being hazardous?

23 MR. NEWSOM: Object to the form.
0022

1 Q. (By Mr. Hankins) You may answer.

2 A. Not to my knowledge.

3 Q. Did you have any investigations by
4 the EPA at your plant?

5 A. Not to my knowledge.

6 Q. So would there be anyone else who
7 would know, if you didn't?

8 MR. NEWSOM: Object to the form.

9 Q. (By Mr. Hankins) Could there be
10 to anybody else's knowledge?

11 THE WITNESS: No.

12 MR. NEWSOM: Object to the form.

13 THE WITNESS: If it happened in my
14 plant, I would have known about it during
15 that time period.

16 Q. (By Mr. Hankins) So we can safely
17 say that there weren't any environmental
18 concerns by DEHC or the EPA at your plant
19 while it was under your watch that you are
20 aware of?

21 A. Not that I'm aware of.

22 Q. You were there from '94 to '98?

23 A. Yes, sir.

0023

1 Q. And did you leave Greenwood?

2 A. Got promoted, yes.

3 Q. Promoted to where?

4 A. To the Suja plant.

5 Q. That's Illinois. Saget we used to
6 call it.

7 A. That's what I called it at first.

8 Q. When you moved to Suja what
9 capacity did you move into?

10 A. My title was P2S5 business team

11 leader.

12 Q. What exactly is P2S5, what does
13 that mean?

14 A. It is phosphorous pentasulfide.
15 It is used to make oil.

16 Q. So you were one of the people --
17 or the team leader who was over the
18 phosphorous pentasulfide manufacturing?

19 A. Yes.

20 Q. So essentially you were like the
21 plant manager for that substance?

22 A. For that unit. That unit belonged
23 to me, yes.

0024

1 Q. How many employees did you have?

2 A. In that unit, we had, gosh, I'd
3 have to say forty people probably.

4 Q. Do you know whether phosphorous
5 pentasulfide was ever manufactured at the
6 Anniston plant?

7 A. I heard that it was.

8 Q. You said that it was used for what
9 now?

10 A. It's used to make an additive for
11 oil.

12 Q. What kind of additive?

13 A. Additive called SDP.

14 Q. SDP. What is that?

15 A. I have no clue.

16 Q. You just made the additive for it?

17 A. No, sir. I made phosphorous
18 pentasulfide. Another company made SDP.

19 Q. What did phosphorous pentasulfide
20 have to do with SDP?

21 A. It was an ingredient to make it.

22 Q. Okay. I misunderstood you.

23 A. Okay.

0025

1 Q. And in the capacity as a team
2 leader for the phosphorous pentasulfide
3 group, did you have occasion to deal with
4 any environmental problems concerning the
5 plant?

6 A. Yes.

7 Q. And when was your first such
8 problem or concern?

9 A. I can't remember the exact date.

10 Q. Do you remember what it was?

11 A. Yeah, we had a -- we put P2S5 in
12 bed and we had a bucket full that spilled
13 on the ground. It was on concrete. And
14 for us, it means not a reportable quantity,
15 but for us it was the seriousness.

16 Q. When you said bucket, how big was

17 the bucket?
18 A. Five gallon bucket.
19 Q. It is not like a cauldron on an
20 overhead crane?
21 A. No.
22 Q. What was your second such concern,
23 the second concern that you had of an
0026

1 environmental nature?
2 A. I never said second.
3 Q. Well, you said you had --
4 A. What did I say?
5 Q. You said you had a number of them
6 and I'm trying to recount how many you
7 might have had.

8 MR. NEWSOM: I'm not sure he said
9 -- I don't recall him saying that.

10 Q. (By Mr. Hankins) That was the
11 impression I got.

12 A. I don't recall saying I had a
13 number.

14 Q. Did you have any others?

15 A. I had that one, that the -- the
16 bucket that fell down. I had one with a
17 customer out in Colorado that had a tote
18 bin of mine that we had the slide gate
19 valves under the tote bins. The slide gate
20 valve was stuck and it required -- we did
21 not want any customers handling the tote
22 bins because they were our piece of
23 equipment. So we thought it was a big
0027

1 enough issue we sent somebody up to there
2 to address it.

3 Q. Anything else, any other problems
4 or concerns of an environmental nature?

5 A. No, not to my knowledge.

6 Q. What raw products came in to your
7 plant?

8 A. My unit, phosphorus.

9 Q. Okay. And where would the
10 phosphorous come from?

11 A. Probably our Soda Springs
12 operation.

13 Q. Soda?

14 A. Soda Springs.

15 Q. Where is that?

16 A. It's out in Idaho.

17 Q. And are you aware of the fact that
18 phosphorous has -- normally carrying
19 radioactive material with it?

20 MR. NEWSOM: Object to the form.

21 THE WITNESS: No, sir, I don't
22 know.

23 Q. (By Mr. Hankins) You don't think
0028

1 it does or you don't know?

2 A. No. I said I don't know.

3 Q. Is there anyone who worked at your
4 facility who would know? Did you have an
5 environmental engineer?

6 A. Yes.

7 Q. Did he ever discuss with you about
8 normally occurring radioactive material?

9 A. I don't think so. I don't recall.

10 Q. So there weren't any safety
11 procedures in place at your facility to
12 deal with a possibility of radioactive
13 materials being handled by your work?

14 A. To be more specific --

15 MR. NEWSOM: Object to the form.
16 Mischaracterizes testimony.

17 MR. HANKINS: I didn't
18 mischaracterize anything.

19 MR. NEWSOM: You just did.

20 MR. HANKINS: Phosphorous, when it
21 is mined has normally occurring radioactive
22 material. When it is shipped into your
23 plant, that substance or that whatever you
0029

1 want to call it, is still with the
2 phosphorous because when it comes out of
3 the ground it has it.

4 MR. NEWSOM: Object.

5 Q. (By Mr. Hankins) My question is
6 were there any safety procedures put in
7 place to deal with a normally occurring
8 radioactive material at your plant?

9 MR. NEWSOM: Object to the form.

10 THE WITNESS: When the phosphorous
11 comes into the plant, it comes in -- first
12 of all, I believe the only solution to a
13 great extreme is to make sure that it was
14 loaded safely and used safely, never
15 exposed to any operator -- never exposed to
16 anyone. Loaded in a closed system. We do
17 have a lot of safe precautions that are in
18 place to notify, to protect people, if
19 there was such a radioactive nature.

20 Q. That's what I asked.

21 A. Yes.

22 Q. And in that regard, did you have
23 radiation signs around the plant to

0030

1 indicate spots where radiation hot spots
2 might occur?

3 A. Yes.

4 Q. Now, did you have workers who wore

5 safety suits in dealing with it?

6 A. Yes.

7 Q. And were there occasions when
8 these workers became exposed to the
9 radioactive material?

10 A. Not to my knowledge.

11 Q. And I believe you said earlier,
12 correct me if I'm wrong, that phosphorus
13 pentasulfide also is also made at the
14 Anniston plant?

15 A. My understanding it was a long
16 time ago.

17 Q. And in that situation, would there
18 have been the same safety precautions?

19 MR. NEWSOM: Object to the form.
20 If you know.

21 THE WITNESS: I don't know because
22 it was so long ago.

23 Q. (By Mr. Hankins) Who told you
0031

1 that it was manufactured there a long time
2 ago?

3 A. Retiree.

4 Q. Who was that?

5 A. I can't remember his name. I talk
6 to dozens of retirees every month.

7 Q. Where do you talk to them?

8 A. They'll come visit the plant.
9 They'll stop by and talk to me. I see them
10 in the community. I talk to people all the
11 time that come up to me and say, hey, I
12 used to work at the plant, and I can't
13 remember everybody's name.

14 Q. Did anybody ever tell you that
15 saran was manufactured at the plant?

16 A. No, sir.

17 Q. Were you aware that it was?

18 MR. NEWSOM: Object to the form.

19 Q. (By Mr. Hankins) Now, getting
20 back to the St. Louis, Suja plant. How
21 long did you work in the capacity that you
22 were employed in?

23 A. Year and a half, maybe.

0032

1 Q. A year and a half. And then were
2 you still employed?

3 A. Yes.

4 Q. By Monsanto?

5 A. By Solutia.

6 Q. I like Monsanto better but we can
7 call it whatever you want to. Were you
8 still employed by Solutia?

9 A. Yes, sir.

10 Q. And were you employed in that

11 plant at Solutia?
12 A. After a year and a half?
13 Q. Right.
14 A. No.
15 Q. You went where?
16 A. To Anniston.
17 Q. Anniston?
18 A. Uh-huh.
19 Q. Now, when you were in Suja, did
20 you have occasion to have a group of
21 regulatory commission come and inspect your
22 place?
23 A. Not to my knowledge.

0033

1 Q. What about the EPA or the Illinois
2 version of the EPA?
3 A. Not to my knowledge.
4 Q. Did you ever have any
5 environmental problems or concerns while
6 you were at that plant?
7 MR. NEWSOM: Object to the form.
8 THE WITNESS: Not to my knowledge
9 in my unit, no.
10 Q. (By Mr. Hankins) Is there anybody
11 else's knowledge that could assist you in
12 this regard?
13 A. I'm sure the people that are at
14 the plant. They were there longer than I
15 was and would have knowledge of it. But I
16 was only there for a year and a half. I'm
17 sure there was somebody there.
18 Q. What year and month did you go to
19 the Anniston facility?
20 A. September 1 of 2000.
21 Q. Did they give you a raise?
22 A. Not really.
23 Q. They just asked you to go?

0034

1 A. No. It was a promotion.
2 Q. What kind of promotion? If you
3 didn't get a raise, how could that be a
4 promotion?
5 A. It wasn't that much. There was a
6 raise included.
7 Q. There was? You said there
8 wasn't. Did you change your mind? It
9 wasn't that much is what you're saying.
10 They were squeaking with the pennies; is
11 that right?
12 A. I'm not going to say that.
13 Q. Okay.
14 A. That will come back to haunt you.
15 MR. NEWSOM: That's right.
16 Q. (By Mr. Hankins) We'll just say

17 it was a raise.
18 A. It was a raise.
19 Q. And your family was relocated?
20 A. Yes.
21 Q. And when you came to Monsanto --
22 first of all, Monsanto has a number of
23 subsidiaries including Solutia; is that
0035

1 correct?
2 A. Solutia is not --
3 MR. NEWSOM: Solutia is not a
4 subsidiary.

5 MR. WRIGHT: Object to the form.
6 It's not a subsidiary.

7 MR. HANKINS: Well, what is it?
8 Is it owned by Monsanto?

9 MR. WRIGHT: They spun it off.

10 THE WITNESS: Did say a spin off?

11 Q. (By Mr. Hankins) Are there any
12 other spin offs to Monsanto?

13 A. Not to my knowledge.

14 Q. That's the only one?

15 A. That's the only one I know of.

16 Q. When you first became plant
17 manager, you did first receive a briefing
18 on the history of the Anniston facility?

19 A. Yeah.

20 Q. From whom?

21 A. My immediate supervisors.

22 Q. Those were?

23 A. Larry Spickard.

0036

1 Q. Larry who?

2 A. Spickard, S-p-i-c-k-a-r-d.

3 Q. Anyone else?

4 A. (Witness shakes his head no).

5 Q. What did Mr. Spickard tell you?

6 A. He gave me the history of the
7 plant. I asked him.

8 Q. What is Spickard's position with
9 the facility plant or the company?

10 A. He is the director of
11 manufacturing.

12 Q. So he's --

13 MR. NEWSOM: Just so y'all are
14 clear. He's not at the plant. He
15 actually--

16 THE WITNESS: He's in St. Louis.

17 Q. (By Mr. Hankins) I didn't think
18 the director of manufacturing is going to
19 be in Anniston?

20 A. I'm sorry.

21 Q. I didn't think that at all. Did
22 Mr. Spickard start in the 1930s?

23 MR. NEWSOM: You mean start with
0037

1 the history?

2 Q. (By Mr. Hankins) With the
3 history.

4 A. I believe it may have been started
5 before then.

6 Q. What did he tell you as best as
7 you can recall?

8 A. As best I can remember, all I
9 remember -- I can't remember the guy's name
10 that started the company.

11 Q. Uh-huh.

12 A. And what was going on and how
13 Monsanto purchased the company in the
14 1930s. I didn't -- most of what was said
15 about the history, I didn't particularly
16 try to absorb much. I was more concerned
17 about current operations. Tell me what is
18 going on in the plant today, what am I
19 going to be managing, what am I going to be
20 operating, what am I going to be
21 responsible for, that was what I wanted to
22 get out of the conversation.

23 Q. But did he have concern about
0038

1 history in this situation because there was
2 a problem with PCBs?

3 MR. NEWSOM: Object to the form.

4 THE WITNESS: I wanted to know
5 about the plant in general. I knew that
6 there was some things going on about PCBs,
7 but I wanted to know more about the current
8 operation. I knew that we had people that
9 were addressing --

10 Q. (By Mr. Hankins) Did you know --

11 MR. NEWSOM: Whoa. I don't think
12 think he was finished with his answer. I'm
13 sorry.

14 THE WITNESS: I knew specifically
15 that we had some folks that were addressing
16 those issues and I specifically wanted to
17 know again, what am I going to be
18 responsible for operating today. That's
19 what I want to know. That is going to be
20 my job is managing today's plant.

21 Q. (By Mr. Hankins) I understand
22 that. But also in your ability to manage
23 the plant, wouldn't you have to be aware of
0039

1 the situation that you were coming in to?

2 A. To what extent, sir?

3 Q. To the extent that the EPA had a
4 massive investigation going on, to the

5 extent that ADEM had found some violations
6 in the past, to the extent that there were
7 a number of lawsuits that had already been
8 filed.

9 MR. NEWSOM: Object to the form of
10 the question if it is a question, which I
11 don't think it is.

12 MR. HANKINS: He was asking me a
13 question, I was answering him.

14 THE WITNESS: Now, restate your
15 question. Can you repeat?

16
17 (The court reporter reads back the
18 question.)

19
20 THE WITNESS: The bulk of my
21 concern was what is going on in the plant
22 today. I knew that we had a group of
23 people that was addressing that issue and
0040

1 my concern was what is going on in the
2 plant today that I'm going to be
3 responsible for. That was --

4 Q. (By Mr. Hankins) Weren't you
5 responsible for those situations as well?

6 A. Would you rephrase that? The
7 situation -- the remediation?

8 Q. The remediation and the ongoing
9 investigation, weren't you responsible for
10 those as well?

11 A. I support the -- those ongoing
12 issues. We have a group of people who are
13 scientists or experts in remediation and
14 they do work with me, but I'm not one
15 hundred percent responsible for
16 remediation, no, sir.

17 Q. What percent responsible are you
18 for it? You oversee it, don't you?

19 A. I oversee the operation of that
20 site.

21 Q. And you want to make sure that
22 that remediation goes on properly, don't
23 you?

0041
1 A. Yes, sir.

2 Q. You want to make sure that the EPA
3 investigation goes the way the company
4 would like for it to go, don't you?

5 MR. NEWSOM: Object to the form.

6 THE WITNESS: Could you rephrase
7 that, please?

8 Q. (By Mr. Hankins) I could, but if
9 you understand it the way I asked it, I
10 would appreciate it if you would answer

11 it.
12 A. Could you rephrase it for me,
13 please?
14 Q. What is it that you don't
15 understand?
16 MR. NEWSOM: Well, if he doesn't
17 understand it, he can't tell you what he
18 doesn't understand.
19 MR. HANKINS: Yes, he can.
20 MR. NEWSOM: If you don't
21 understand --
22 MR. HANKINS: Do the best you can.
23 MR. NEWSOM: If you understand the
0042

1 question, answer it. If you don't
2 understand it, don't answer it. It is his
3 obligation to ask you a question you
4 understand and then your obligation to
5 answer it truthfully.
6 MR. HANKINS: Objection to the
7 coaching of the witness. You may answer it
8 if you can.
9 THE WITNESS: Okay. Repeat it
10 again.
11 Q. (By Mr. Hankins) My question is
12 that you were responsible for everything
13 that went on at that facility, were you
14 not?
15 A. That went on?
16 Q. Within the --
17 A. Or that goes on?
18 Q. That goes on, went on, however you
19 want to phrase it, you're responsible for
20 it as the plant manager, the CEO of the
21 plant? I'm not trying -- this is no trick
22 question. I'm not trying to trick you.
23 A. I am responsible for everything
0043

1 that happens on that site, on the operating
2 side.
3 Q. That's all I'm getting at.
4 A. Yes.
5 Q. Okay. And so in overseeing all of
6 these responsibilities, one of them was
7 dealing with the EPA, APSDR, ADEM and the
8 other government agencies; is that correct?
9 A. Yes, that's correct.
10 Q. And who did you put in charge of
11 that? I know you oversaw it, but who was
12 in charge of those investigations at your
13 facility?
14 A. You have to remember when I got
15 there someone already was, but I didn't put
16 anybody in charge of that. There was

17 somebody already there.

18 Q. When they brought you to Anniston,
19 did they tell you that the plant was in the
20 middle of an African American community?

21 A. I had been to Anniston before so I
22 understood that.

23 Q. Did they ever lead you to believe
0044

1 that they brought you to Anniston so that
2 you could help work with the people in the
3 community?

4 A. No, sir.

5 Q. Did you ever get that feeling?

6 A. No, sir.

7 Q. Were there any production problems
8 that happened in the past that were brought
9 to your attention?

10 MR. NEWSOM: Object to the form.

11 THE WITNESS: Could you be more
12 specific? That's awful vague.

13 Q. (By Mr. Hankins) Did the facility
14 have any production problems in the past
15 that you were made aware of?

16 MR. NEWSOM: Same objection.

17 THE WITNESS: Could you be more
18 specific?

19 Q. (By Mr. Hankins) That's about as
20 specific as I can get. I mean --

21 A. That's a wide open -- continue.

22 Q. That's what it's supposed to be.

23 I'm asking you about production problems.
0045

1 When you came on, they gave you a briefing
2 about history; right?

3 A. Uh-huh.

4 Q. They gave you a briefing about
5 production?

6 A. Your question is, you know, did I
7 ever get briefed about a specific
8 production problem in the past when I was
9 briefed?

10 Q. That's it.

11 A. No.

12 Q. You didn't?

13 A. Not about a specific production
14 problem.

15 Q. About any problem?

16 MR. NEWSOM: Object to the form.

17 Q. (By Mr. Hankins) About any
18 problems at the facility? Were you briefed
19 about any problems at the facility?

20 A. Problems defined as -- you're
21 talking about equipment breakdowns or
22 what? Be more specific.

23 Q. Equipment breakdowns, batch

0046

1 mixups, product problems, production

2 problems?

3 A. No.

4 Q. Breakdowns of any kind?

5 A. I was not briefed about any

6 specific breakdowns or production problems,

7 no.

8 Q. Who were your front line

9 supervisors when you became the plant

10 manager?

11 A. A young lady by the name of Greta

12 Senn, S-e-n-n, and a young man by the name

13 of Brad Cates.

14 Q. How many years experience did they

15 have between them?

16 A. Between them?

17 Q. Yes.

18 A. I'm speculating. I can't say.

19 Ten or fifteen years.

20 Q. Did they or anyone else brief you

21 about environmental problems at the

22 facility?

23 A. During what time period?

0047

1 Q. Any time period.

2 A. Not that I can remember.

3 Q. So nobody briefed you about

4 anything, you just came on, they gave you a

5 historical briefing. They told you about

6 production problems, but nobody told you

7 anything about the environmental problems

8 that the facility was faced with; is that

9 correct?

10 MR. NEWSOM: Object to the form.

11 Ambiguous and compound.

12 MR. HANKINS: That summarizes his

13 testimony.

14 THE WITNESS: That's not what I

15 said. I said when I met with Larry

16 Spickard, he gave me the history of the

17 plant.

18 Q. (By Mr. Hankins) Did he give you

19 a history of the environmental problems as

20 well?

21 A. He did not allude to them as

22 environmental problems.

23 Q. What did he allude to them as?

0048

1 A. He alluded about there was PCBs

2 and batches and he told me about

3 remediation that is going on in the

4 facility now to remediate the PCBs.

5 Q. Did he talk to you about the
6 possibility of there being health problems
7 as a result of the PCBs getting off site?

8 A. No.

9 Q. Did he tell you how PCBs got off
10 site?

11 A. Not that I can remember.

12 Q. Did anyone tell you how the PCBs
13 got off site?

14 A. No.

15 MR. NEWSOM: That would --

16 MR. HANKINS: Objection to your
17 coaching the witness. If you want to talk,
18 you have a right to talk to your witness
19 outside the room or you can talk to your
20 witness some other time, but not on the
21 record. We don't need for you to testify.

22 MR. WRIGHT: I told you, Eddie.

23 MR. NEWSOM: Are you -- that would
0049

1 exclude any kind of --

2 MR. HANKINS: Objection to --

3 MR. NEWSOM: I think that is a
4 fair objection.

5 MR. HANKINS: That isn't fair. If
6 you would have said privilege, I would have
7 shut up.

8 Q. (By Mr. Hankins) You don't tell
9 me anything that you talked with your
10 lawyers about, but as far as a plant
11 manager or any other workers, you can
12 testify.

13 A. I remember I was briefed about --
14 not how they left the site because I don't
15 -- I don't fully know that.

16 Q. Okay.

17 A. But I do remember being briefed
18 about that may have travelers, the flood
19 plain to that extent. That's --

20 Q. Did anyone tell you that a few
21 years -- well, back in about 1975, that I
22 think it was Hurricane Hugo came through
23 and there was massive flooding in the area?
0050

1 A. No, sir.

2 Q. Nobody ever spoke to you about
3 that flood?

4 A. No.

5 Q. Possibility?

6 A. No, sir. I didn't know Hugo came
7 through.

8 MR. NEWSOM: I remember Hugo.

9 Q. (By Mr. Hankins) It was one of
10 those hurricanes that came through in 1994

11 or '95 and large amounts of PCBs were
12 discovered.

13 A. You said '74.

14 Q. Did I say '74? I apologize. I
15 meant 1994.

16 A. No, sir.

17 Q. Nobody told you about any
18 hurricane in '93, '94, '95 or '96?

19 A. No, sir. I was in Greenwood,
20 South Carolina.

21 Q. Well, no, I'm talking about during
22 the exchange about the history of the
23 plant.

0051

1 A. No, sir.

2 Q. But you are aware of Monsanto's
3 history of manufacturing PCBs?

4 A. Not a lot, but I know that
5 Monsanto did manufacture PCBs.

6 Q. How did you become aware of that?

7 A. I guess it was during the briefing
8 I had with my boss.

9 Q. And when did Monsanto cease
10 production of PCBs?

11 MR. NEWSOM: In Anniston? Because
12 --

13 Q. (By Mr. Hankins) In Anniston?

14 A. I -- my understanding is that it
15 was in the early 70s, '69, '70 time frame.

16 Q. Okay. When did the Anniston
17 facility cease manufacturing parathion?

18 A. I don't know.

19 Q. Has it?

20 A. Excuse me?

21 Q. Parathion, does it still
22 manufacture parathion?

23 A. No, sir.

0052

1 Q. What are the products manufactured
2 by your plant now?

3 A. We make a product called
4 therminol, which is a heat transfer fluid,
5 and we make a product called P&P.

6 Q. P&P?

7 A. P&P, which is an acronym for
8 paranitrolphenal used to make --

9 Q. Paranitrol -- they got some
10 problems with that now?

11 A. Paranitrol?

12 Q. With P&P?

13 A. It's not with P&P.

14 Q. What about the P2S5, is it still
15 manufactured now?

16 A. No, sir.

17 Q. When did it cease be manufactured?
18 A. I don't know.
19 Q. What about Santotar nerve gas?
20 A. It's not being manufactured.
21 Q. In your conversations with former
22 employees, did they talk about Santotor
23 being manufactured at the facility?
0053

1 A. Not that I can --
2 Q. Back in the 50s?
3 A. Not that I can recall.
4 Q. If they did talk about it -- talk
5 to you about it, you would recall it, would
6 you not?

7 MR. NEWSOM: Object to the form.
8 That calls for speculation.

9 THE WITNESS: I don't know.

10 Q. (By Mr. Hankins) You don't know
11 if you would recall it?

12 A. I don't know if it would stick
13 out, no, sir.

14 Q. Now, you told the me that -- or
15 you testified that Monsanto now
16 manufactures therminol. Is there any
17 substantial difference between therminol
18 and PCBs?

19 A. Yes, I'm sure there is.

20 Q. What is it?

21 A. I'm not qualified to tell you.

22 Q. You're an engineer?

23 A. I'm an electrical engineer.
0054

1 Q. But you learned chemistry?

2 A. Well, I can tell you -- I can tell
3 you there is a substantial difference
4 between the two.

5 Q. You can tell me there is a
6 substantial difference, but you can't tell
7 me what that difference is?

8 A. Well --

9 Q. They're both --

10 MR. NEWSOM: Let him finish.
11 Whoa. I think he gets to finish his answer
12 and then we won't let him interrupt
13 either. That is fair.

14 THE WITNESS: Well, I can tell you
15 that I know the molecular structure is
16 different.

17 Q. (By Mr. Hankins) In what way?

18 A. I'm trying to recall. I can't
19 recall the exact chemistry of --

20 Q. Can you draw up a molecular
21 structure?

22 A. I'm not even going to try. My

23 chemistry 101 is not that strong.

0055

1 Q. I thought I would have some fun.

2 I used to have chemistry, too. How is the
3 molecular structure different?

4 A. I can't recall the exact specifics
5 of what is different, what is unique about
6 the two structures.

7 Q. Is there a phenal molecule?

8 A. In which one?

9 Q. In therminol.

10 A. I'm not going to even guess.

11 Q. It's a heat transfer agent; right?

12 A. Heat transfer agent.

13 Q. PCBs were, too?

14 A. PCBs were dialectic.

15 Q. But they were heat transfers too,
16 as well?

17 A. As an electrical engineer, I know
18 PCBs --

19 Q. I asked you another question. Can
20 you answer that one?

21 A. I don't know all the purposes of
22 PCBs. I can't recall. I don't know.

23 Q. You don't know whether or not they
0056

1 were heat transfer either?

2 A. No, I don't know. I really don't.

3 Q. Can you describe the process for
4 mass manufacturing therminol, starting with
5 the raw product, going to the finished
6 product?

7 A. No, sir.

8 Q. And you're the plant manager?

9 A. I have been there six months.

10 Q. You can read about it.

11 A. No.

12 Q. Do you have a rough idea of how it
13 goes? What are the raw products that come
14 into your plant?

15 A. We use benzine. We take benzine
16 and we send it to a paralytic furnace.

17 Q. A what?

18 A. Paralytic furnace, which is
19 nothing but a furnace. We inject xylene
20 into that furnace. It goes to a
21 distillation column. A distillation column
22 gives off products and the bottom plates
23 and top plates goes to the compressor.

0057

1 Q. What waste products come from the
2 distillation process?

3 A. My understanding is Santotar.

4 Q. Santotar?

5 A. Uh-huh.
6 Q. What is that?
7 A. You know, I can't describe to you
8 what it is. I know it is a by-product of
9 that distillation column.
10 Q. What is it? It's a waste product,
11 right?
12 A. It's a waste product that's used
13 as an oil feed for the furnace.
14 Q. An oil feed for the furnace. Do
15 you know what its chemical makeup is?
16 A. No, I don't know.
17 Q. What is the other products of the
18 distillation column?
19 A. That I don't know, sir.
20 Q. Could you find that out?
21 A. Sure.
22 Q. Could you provide those to your
23 attorney so that we may have them?
0058
1 A. Sure.
2 Q. Also, could you find out what the
3 chemical makeup of Santotar is?
4 A. Sure.
5 Q. Can you describe the process for
6 the manufacture of PCBs?
7 A. No. I don't have knowledge of
8 it.
9 Q. Solutia you said manufactures
10 parnitrolphenal; is that correct?
11 A. Uh-huh.
12 Q. And that is a feed stock? Are you
13 aware of some physiological problems with
14 that?
15 A. No, sir.
16 Q. What is VPI or VP1?
17 A. It is a grade of therminol.
18 Q. What is DPO?
19 A. DPO is a product that is used in
20 the manufacturing of the therminol process.
21 Q. Of therminol. What is it?
22 A. I tried to remember. I can't
23 remember what its purpose is but --

0059
1 Q. Could you also find out about VP1
2 and DPO and what their chemical makeups are
3 and what they're used for, please?
4 MR. NEWSOM: Well, and I will say,
5 Grover, because I mean, I don't know if
6 these are matters that have been covered
7 otherwise, but if they are -- if they have
8 been covered otherwise, we're not going to
9 burden him with them. You can certainly
10 ask him what he knows about it, but if it

11 is something that hasn't been covered --

12 MR. HANKINS: I think there's

13 several --

14 MR. NEWSOM: You may be right.

15 MR. HANKINS: There were
16 responses, but nobody asked any questions
17 about them.

18 MR. NEWSOM: And you may be
19 right. I'm not suggesting you're not, but
20 a lot of people -- I know you have been to
21 some. None of us have been to all of them,
22 but we'll endeavor to find that out if it
23 has not been inquired about.

0060

1 THE WITNESS: For clarification,
2 do you want chemical makeup of VP1 and
3 DPO?

4 Q. (By Mr. Hankins) And what their
5 purposes are, what they're used for.

6 A. VP1 is a heat transfer.

7 MR. NEWSOM: And let me just say
8 --

9 Q. (By Mr. Hankins) It is a grade of
10 therminol?

11 A. Yes.

12 MR. NEWSOM: I don't know what of
13 this information may be deemed
14 proprietary. I don't know. I certainly am
15 not agreeing --

16 MR. HANKINS: I'm not asking for
17 the patented formula now. I just want to
18 know the chemical makeup.

19 MR. NEWSOM: I'm just saying we're
20 not providing anything that's proprietary
21 regardless and I'm not suggesting it is or
22 not, but I don't agree to do it blindly
23 without knowing that and find out later on

0061

1 that it is.

2 MR. HANKINS: I agree it is.

3 THE WITNESS: Now, let me clarify
4 again. You understand that VP1 is a
5 different grade of DPO.

6 Q. (By Mr. Hankins) Is it a lower or
7 higher grade?

8 A. It's a lower grade.

9 Q. Is it closer to biphenyl?

10 A. I don't know, sir.

11 Q. Does the Anniston facility
12 manufacture either of those two?

13 A. We make the VP1.

14 Q. Do you manufacture biphenyl?

15 A. Biphenyl, yes.

16 Q. And do biphenyls have any chlorine

17 in them?

18 A. Not to my knowledge.

19 Q. Does therminol?

20 A. Therminol is the end result.

21 Biphenyl is used to make therminol.

22 Q. My question that I have is does

23 chlorine come into your plant by rail,

0062

1 trucks or otherwise, period, as a feed

2 stock?

3 A. Not to my knowledge.

4 Q. And do you know when, if ever,

5 chlorine, as a feed stock, was discontinued

6 at the plant?

7 A. Not to my knowledge. I wanted to

8 clarify that I think we are using chlorine

9 because I think I was briefed that we had

10 some chlorine in it. I think we do use

11 some of it.

12 Q. Do you know what it is used in and

13 for?

14 A. P&P.

15 Q. P&P. Do you have any grandfather

16 equipment at your facility?

17 A. Could you define grandfather

18 equipment, please? I'm serious.

19 Q. Grandfather means that you are

20 allowed to use it even though it is against

21 the law now because it was started so long

22 ago and the legislature has allowed you to

23 go on using the equipment, a method, or

0063

1 whatever.

2 A. Not to my knowledge.

3 Q. Just like in Texas, they have

4 grandfather facilities, referring -- which

5 means they can use equipment that was

6 manufactured back in 1938. Some of it has

7 German sausages on it that they brought

8 from Germany and they are still using it

9 because the state has allowed them to be

10 grandfathered and they pollute at a higher

11 rate.

12 A. (Witness shakes head.)

13 Q. Well, does -- is there an

14 injection well on site at your facility?

15 A. We have an interceptor well.

16 Q. What's that?

17 A. I guess that's like -- it is just

18 a collection point for water.

19 Q. And what happens to the water?

20 A. It goes to the water treatment

21 plant from there.

22 Q. I'm talking about something that

23 goes down in the ground.

0064

1 A. Not to my knowledge.

2 Q. The long distance. In other

3 words, it is injected into the ground to

4 get rid of the waste?

5 A. Not to my knowledge.

6 Q. Do you have emissions coming from

7 your plant?

8 A. Yes, we do.

9 Q. What are those emissions?

10 A. We have a permit for -- I know we

11 have a permit for benzene emissions,

12 xylene. There are others I don't know.

13 Q. Is there anyone else who would

14 know?

15 A. Yes.

16 Q. Who is that?

17 A. My environmental manager.

18 Q. Who is that?

19 A. Robert Jones.

20 Q. Are any of those emissions

21 recaptured?

22 A. Not to my knowledge.

23 Q. Do you have waste product as a

0065

1 result of the manufacturing process other

2 than the ones that you have already

3 mentioned?

4 A. No.

5 Q. I would like to direct your

6 attention to the landfills and repositories

7 developed by Monsanto. Will you name those

8 locations for me? Is there a map?

9 MR. NEWSOM: Larry had one

10 somewhere or other. He had one earlier

11 because -- well, he couldn't have gone

12 far.

13 Q. (By Mr. Hankins) Can you name

14 them for me? Are you familiar with this

15 (indicating)?

16 A. Let me get my orientation.

17 Q. This is a mountain. That's the

18 plant?

19 A. Yeah, that's supposed to be the

20 plant. I know there is the landfill here

21 (indicating.) There is a south landfill

22 (indicating) over here somewhere.

23 MR. CLARK: Isn't that the South

0066

1 landfill there (indicating)?

2 MR. NEWSOM: North is actually

3 this way (indicating).

4 THE WITNESS: There you go.

5 Q. (By Mr. Hankins) And when you
6 became plant manager, were you taken on a
7 tour?

8 A. Of the landfills?

9 Q. Of this total area?

10 A. Yes.

11 Q. And at that time was a catchment
12 under construction or was it finished for
13 catching the landfill?

14 A. Seven months ago?

15 Q. I don't know.

16 A. That's when I came here. I'm
17 assuming it was done. There was no work.

18 Q. Well, what was -- when you came
19 seven months ago, what was in place?

20 A. Seven months ago, the landfills
21 were in place and everything that is there
22 now was there when I came seven months ago.

23 Q. Okay. What about the catchment
0067

1 area?

2 A. That was there too.

3 Q. Okay. So you came -- you hadn't
4 been here long?

5 A. That's what I have been --

6 Q. Okay. You mentioned before that
7 you were given a briefing. Did anyone
8 brief you on these two landfills?

9 MR. NEWSOM: Other than the tour?

10 Q. (By Mr. Hankins) Other than the
11 tour?

12 A. To what extent? I mean, I was
13 briefed. I was taken up and said these are
14 the landfills. This is the retention pond.

15 Q. That's all they said?

16 A. Yes.

17 Q. They didn't tell you what purpose
18 any of this was for like this?

19 A. Well, yes, I was explained that
20 this is the -- this is the a retention pond
21 to catch the water runoff on the mountain.

22 Q. Okay. Why? Did they tell you
23 why?

0068

1 A. Well, the purpose of a retention
2 pond is to act as a surge capacity for
3 water.

4 Q. I want to put that on the record,
5 okay? Now, do you have a road map for a
6 worse case scenario at your plant? You
7 know, all facilities are supposed to have
8 those.

9 MR. NEWSOM: Object to the form.
10 If you understand it, have at it.

11 Q. (By Mr. Hankins) You know what a
12 worse case scenario is, don't you?

13 A. Uh-huh.

14 Q. Do you have some kind of plan for
15 that at your facility?

16 MR. NEWSOM: Same objection.

17 THE WITNESS: Are you asking me if
18 when the government came out and said that
19 every site will have an R&P plan by last
20 year --

21 Q. (By Mr. Hankins) Uh-huh?

22 A. This site is in compliance.

23 Q. And you have that?

0069

1 A. Yes, sir.

2 Q. What is the area, under worse case
3 scenario conditions, that would be affected
4 by a worse case situation going on at the
5 Solutia plant?

6 MR. NEWSOM: Well, just object to
7 the form. Y'all are using different
8 terminology, but if you understand what
9 he's saying.

10 THE WITNESS: I don't know off the
11 top of my head. I don't know.

12 Q. (By Mr. Hankins) Do you have a
13 copy of that plan somewhere?

14 A. Yes.

15 Q. Can we have a copy of it, please?

16 A. If I can --

17 Q. You understand what worse case
18 scenario means?

19 A. Uh-huh.

20 Q. What does it mean to you?

21 A. It means to me last year when the
22 government or the EPA or whoever, which
23 regulatory agency, mandated that each site

0070

1 would identify what their hazardous
2 chemical was and whatever their chemical
3 was, in a worse case scenario which sector
4 of the population would be affected. I do
5 understand that. Okay.

6 Q. Now, that was for the facility or
7 was it what the government required?

8 A. For the facility.

9 Q. Was it for any kind of hazard
10 though that might affect the population?

11 A. Be more specific.

12 Q. Was the worse case scenario a
13 requirement, did it compel manufacturers to
14 do a worse case scenario for everything it
15 had as possibilities?

16 MR. NEWSOM: Object to the form.

17 MR. HANKINS: I'm sorry.

18 MR. NEWSOM: Object to the form.

19 Go ahead. I'm sorry.

20 THE WITNESS: I can't remember
21 what our area -- it wasn't for every kind
22 of hazard. There were chemical substances,
23 hazardous substances, that were identified
0071

1 by the government. If you had these
2 substances, then you developed an R&P for
3 it. Is that what --

4 Q. Yes. Now, did that include PCBs?

5 A. I was not at the site when they
6 developed their R&P.

7 Q. I understand that. But would it
8 include PCBs?

9 A. You would have to assume that PCBs
10 were still being manufactured.

11 Q. Now, I assume that they're still
12 being retained in landfills. So therefore,
13 my question is would there be an R&P for
14 landfilled PCBs?

15 A. I would only be speculating. You
16 would have to look at the list. I don't
17 know if they're on the list.

18 Q. You don't know if they're on the
19 list?

20 A. I don't know if they're on that
21 government list of developing R&Ps for.

22 Q. If they are on the list, would
23 there need to be an R&P for that?
0072

1 MR. NEWSOM: Object to the form.

2 Q. (By Mr. Hankins) I mean, it's
3 easy if they're on the list.

4 A. I mean, if the government put them
5 on the list and said that you have to have
6 an R&P for this then, yes. If the
7 government put them on the list.

8 Q. That would require the need to
9 have an R&P for this retention pond and
10 these landfills as well, wouldn't it?

11 A. That's not true.

12 Q. Why isn't it? What's wrong with
13 it?

14 A. Again, I don't -- my assumption is
15 -- or my understanding is that the R&P
16 were for products that were being
17 manufactured.

18 Q. My question is these are already
19 manufactured. Are you telling me that the
20 community should not be protected from a
21 worse case scenario from some things that
22 are landfilled, that these landfills burst

23 and that retention pond burst?

0073

1 MR. NEWSOM: Object to the form.

2 That's a different question. He's not

3 talking about -- he's talking about

4 something different now.

5 MR. HANKINS: No, I'm not. He

6 knows what I'm talking about.

7 THE WITNESS: I really don't.

8 Q. (By Mr. Hankins) PCBs are on the

9 R&P list.

10 A. Okay.

11 Q. Then wouldn't it be incumbent on

12 your facility, your company, to have a

13 worse case scenario for landfilled PCBs if

14 they escape from the landfill and from the

15 retention pond?

16 MR. NEWSOM: Objection. Asked and

17 answered.

18 THE WITNESS: I don't know,

19 honestly.

20 Q. (By Mr. Hankins) Logically, would

21 that follow?

22 MR. NEWSOM: Objection. Asked and

23 answered.

0074

1 THE WITNESS: I don't know.

2 Q. (By Mr. Hankins) You don't know

3 whether or not it would follow, as an

4 engineer?

5 A. If it's already on the list?

6 Q. Assuming it is on the list,

7 wouldn't it follow that you would need to

8 have some kind of plan if this stuff

9 escaped?

10 A. I don't know.

11 MR. NEWSOM: Objection. Asked and

12 answered. If you have answered, tell him.

13 If not --

14 THE WITNESS: I don't know.

15 Q. (By Mr. Hankins) Do you know

16 whether or not this landfill is lined?

17 A. I think that one of them is. I

18 don't know which one.

19 Q. Which one?

20 A. I don't know.

21 Q. Do you know what kind of lining

22 they have?

23 A. I don't know.

0075

1 Q. Is it possible for you to check

2 and find out?

3 A. Sure. I can ask, sure.

4 MR. NEWSOM: No. You can ask him

5 what he knows and doesn't know, but we're
6 not going to agree -- he has got to show up
7 at a trial on Monday. He has got a lot to
8 do. We're not going to do all these
9 things. You can ask him what he knows and
10 doesn't know.

11 MR. CLARK: Some of this
12 information has already come out in other
13 depositions.

14 MR. NEWSOM: If it's clearly
15 something that somebody else has not had
16 the opportunity to address, we will get to
17 that. In fairness, I think you're entitled
18 to that. We're not just going to go --

19 MR. HANKINS: Nobody has asked
20 about the R&P and worse case scenario.

21 MR. CLARK: The stuff about the
22 cap is in deposition testimony.

23 MR. HANKINS: Has anybody
0076

1 testified about what would happen if these
2 things burst?

3 MR. CLARK: I don't recall that.

4 THE WITNESS: I don't know.

5 Q. (By Mr. Hankins) Is there a plan
6 in place for that?

7 A. I don't know.

8 Q. Do you think there should be one?

9 MR. NEWSOM: Object to the form.

10 THE WITNESS: I'm not a
11 geologist.

12 Q. (By Mr. Hankins) But you're the
13 plant manager?

14 A. Yes, sir.

15 Q. You're the plant manager?

16 MR. NEWSOM: Yes, he is. He just
17 said he was.

18 Q. (By Mr. Hankins) You're
19 responsible for the failure of any of these
20 landfills and for that catchment?

21 A. That landfill, like I said, was
22 put in place before I came here.

23 Q. I understand that.

0077

1 A. And we have people that have
2 worked on developing that landfill and I
3 believe that when the company put the
4 landfill in effect that they didn't use a
5 liner, thinking they didn't need to have a
6 plan if it failed.

7 Q. So then there should be a plan; is
8 that correct?

9 A. I don't know.

10 Q. You would think that there would

11 be according to what you were just
12 testifying?

13 MR. NEWSOM: Object to the form.

14 THE WITNESS: I don't know.

15 Q. (By Mr. Hankins) Do you know
16 whether or not these landfills have been
17 capped?

18 A. Again, I'm not a geologist. I
19 would only be speculating.

20 Q. So you don't know, that's your
21 answer?

22 A. No.

23 Q. You don't know whether they're
0078

1 capped or not?

2 A. I don't know.

3 Q. Did there come a time at which the
4 leachate from the landfills became
5 problematic to the Anniston facility?

6 A. Repeat that.

7 Q. Did there ever come a time that
8 the leachate from the landfill, both
9 landfills, became a problem at the Anniston
10 facility?

11 MR. NEWSOM: Object to the form.

12 MR. HANKINS: He asked me to
13 repeat it, that's what I'm doing.

14 MR. NEWSOM: Object to the form.
15 You're being vague and hopelessly ambiguous
16 and going back twenty years.

17 MR. HANKINS: Purposely? I know
18 you're crazy.

19 MR. NEWSOM: Hopelessly, not
20 purposely.

21
22 (The last question is read back by
23 the court reporter.)
0079

1
2 Q. (By Mr. Hankins) Do you know what
3 leachate is?

4 A. No, sir.

5 Q. You haven't been schooled on
6 landfills?

7 A. No, sir.

8 Q. Are you aware that at one time the
9 leachate in the ditch next to Mars Hill
10 Baptist Church was as high as twenty-two
11 thousand parts per million?

12 MR. NEWSOM: Object to the form.

13 THE WITNESS: I just told you I
14 don't know what leachate is.

15 Q. (By Mr. Hankins) Or PCBs were at
16 that number?

17 A. I don't know.

18 Q. When you came on board at the
19 Anniston facility, what problems existed
20 with PCB contamination?

21 A. When I came on board? When I
22 started in September?

23 Q. Yes.

0080

1 MR. NEWSOM: Object to the form.

2 THE WITNESS: I think what you are
3 asking me is is when I took the job what
4 was going on in the community with PCBs.
5 Is that --

6 Q. (By Mr. Hankins) Yes.

7 A. When I came on board, when I took
8 the job, when I got in the plant, I knew
9 that we were remediating PCBs out in the
10 community.

11 Q. And did you attend meetings with
12 the EPA?

13 A. No, sir.

14 Q. Have you had any meetings with
15 anyone from the EPA?

16 A. Yes, sir.

17 Q. Who?

18 A. I can't recall their names, but I
19 know there was four people from the EPA
20 knocked on our door three or four months
21 ago wanting to do an audit.

22 Q. And did they do that?

23 A. Yes, they did.

0081

1 Q. In conducting the audit, what did
2 they do? Was it a paper audit or did they
3 tour the plant or what did they do?

4 A. They did both. Did a field
5 inspection and paper audit.

6 Q. Was Brian Hoseclaw one of those
7 people?

8 A. No, sir.

9 Q. Did they take any samples on site
10 or off site?

11 A. They took pictures. I can't
12 remember if they took samples or not. They
13 may have. I can't remember.

14 Q. Did they have any containers with
15 them for sampling?

16 A. I honestly can't remember. They
17 may have. I can't remember.

18 Q. Could you tell us for the record
19 what they took pictures of?

20 A. They took pictures of basically
21 some of the outfalls that we have on the
22 sites.

23 Q. What are outfalls?

0082

1 A. It is just a monitoring place
2 where you take a water sample. They took a
3 picture of maybe one or two of them. They
4 walked around and inspected other sites.

5 Q. You don't know whether they took
6 any samples from those outfalls?

7 A. I honestly can't remember. I
8 don't think so.

9 Q. Can you describe in essence what
10 is the purpose of the remediation plan and
11 what are the different facets of it?

12 MR. NEWSOM: I'm going to object
13 to the form. I mean, he can do it. This
14 is going beyond his expertise and seems
15 like a total waste of time to me. You can
16 give your --

17 MR. HANKINS: He is the plant
18 manager. He is like a general in the
19 battlefield. He is the one who is right on
20 the line. I have been there so I know what
21 the plant is responsible for.

22 MR. NEWSOM: He can't be the
23 general and the man on the line. He's the
0083

1 general.

2 MR. HANKINS: He's both just like
3 Grant.

4 MR. NEWSOM: Just tell him your
5 understanding of it.

6 THE WITNESS: I am not going to
7 attempt to pretend to be a geologist.

8 Q. (By Mr. Hankins) I don't mean for
9 you to.

10 A. My understanding -- my
11 understanding is remediation, the gist of
12 it in a nutshell, is where we have issues
13 and we remove the soil and replace the
14 soil.

15 Q. You removed four hundred thousand
16 tons of soil, didn't you?

17 MR. NEWSOM: If you know.

18 THE WITNESS: I wouldn't know,
19 sir.

20 Q. (By Mr. Hankins) Do you know
21 whether or not a lot of soil was removed
22 and sent to Emile, Alabama?

23 A. I do know that some soil was sent
0084

1 there.

2 Q. Some?

3 A. I do not know the amount, sir.

4 Q. Would you be surprised if it was

5 seven percent of the landfill?

6 MR. NEWSOM: Object to the form.

7 There is no testimony.

8 Q. (By Mr. Hankins) Twenty percent?

9 A. I don't know on what basis. I

10 would be surprised.

11 Q. Would you be surprised if Mr.

12 Mayausky testified in his other deposition

13 that it was ten percent to twenty percent

14 of the landfill?

15 MR. NEWSOM: Wasn't what he said

16 possibly twenty thousand pounds -- or

17 tons?

18 Q. (By Mr. Hankins) Well, based on

19 your -- have you had any dealings

20 whatsoever with the landfills?

21 A. No, sir.

22 Q. Not at any plant or facility that

23 you work with?

0085

1 A. No, sir.

2 Q. Why did they put you in this hot

3 spot?

4 A. I think I'm qualified for it, sir.

5 Q. But you haven't dealt with

6 landfills. You don't know about leachate.

7 You don't know what the cooking nature of

8 landfills can be. You don't know how many

9 tons of soil has been removed. You don't

10 know anything about landfills, but they put

11 you in the middle of this hot spot. Why

12 would they do that?

13 A. Well --

14 MR. NEWSOM: Objection. Object to
15 the form.

16 THE WITNESS: Well, he knows

17 nothing about electrical.

18 Q. (By Mr. Hankins) Who?

19 A. Jack Wallace.

20 Q. Who's Jack Wallace?

21 A. The guy who runs GE, General

22 Electric. He knows nothing about

23 electricity.

0086

1 Q. He's the CEO though?

2 A. He's not an electrical engineer.

3 Q. He's the CEO, but I bet you he is

4 learning about PCBs right now in the Hudson

5 River. I guarantee you that.

6 A. Uh-huh.

7 Q. And you should be learning about

8 them, too?

9 MR. NEWSOM: Let's don't lecture

10 the witness.

11 MR. HANKINS: I'm examining the
12 witness.
13 MR. NEWSOM: No, that was
14 lecturing the witness.
15 MR. HANKINS: He was lecturing me.
16 MR. NEWSOM: You're not going to
17 insult the witness. Listen to me. You're
18 not going to insult this witness.
19 MR. HANKINS: You listen to me. I
20 didn't insult anybody. Do you understand
21 me?
22 MR. NEWSOM: Well, you better make
23 sure you don't.

0087

1 MR. HANKINS: And you better make
2 sure you --
3 MR. NEWSOM: Treat him with
4 respect, you understand that?
5 MR. HANKINS: You treat me with
6 respect, young man.
7 MR. NEWSOM: You do the same. You
8 do it to him and I'll do it to you.
9 MR. HANKINS: That's exactly what
10 I'm doing. And you're not telling me what
11 to do. Don't even think you will. You
12 won't. You will not.
13 MR. NEWSOM: I'm doing that. I
14 just did it. You treat him with respect.
15 MR. HANKINS: I've been treating
16 him with respect and I think he knows
17 that. You stay out of it.
18 MR. NEWSOM: You want to ask him
19 that?
20 MR. HANKINS: You stay out of it.
21 MR. NEWSOM: I'm not going to stay
22 out of it.
23 MR. HANKINS: Stay out of it. I'm

0088

1 asking this man questions. You stay out of
2 it.
3 MR. NEWSOM: No. I'm here as his
4 lawyer.
5 MR. HANKINS: And all you can do
6 is object. That's all you need to do and
7 shut up.
8 MR. NEWSOM: I will object and I
9 will make sure that you don't insult him.
10 MR. HANKINS: Object and shut up.
11 MR. HANKINS: No, sir. Don't tell
12 me to shut up.
13 MR. HANKINS: I'm telling you to
14 shut up.
15 MR. NEWSOM: I object and protect
16 the witness.

17 MR. HANKINS: Protect him all you
18 want to, but stay out of it.

19 MR. NEWSOM: Well, then treat him
20 with respect.

21 MR. HANKINS: Let him testify. I
22 did. Did I disrespect you?

23 THE WITNESS: I'm fine.

0089

1 MR. HANKINS: Okay. Stay out of
2 it.

3 MR. NEWSOM: No, sir.

4 MR. HANKINS: Don't insinuate that
5 I disrespected somebody that I feel empathy
6 for in any way. Don't even try to do it.

7 MR. NEWSOM: I'm not insinuating

8 --

9 MR. HANKINS: You were
10 insinuating. I did not do it.

11 MR. NEWSOM: Your tone is
12 indicative of it.

13 MR. HANKINS: It's indicative of
14 it to you, not to him. I did not talk to
15 him this way. I will not talk to him this
16 way because he has acted like a gentleman.

17 MR. NEWSOM: Well, good.

18 MR. HANKINS: And you haven't.

19 MR. NEWSOM: Then ask him
20 questions.

21 MR. HANKINS: I shall.

22 MR. NEWSOM: In my judgment, you
23 did and --

0090

1 MR. HANKINS: I don't care what
2 your judgment is. Your judgment is flawed.

3 MR. NEWSOM: Well, that's your
4 view of it.

5 MR. HANKINS: You're damn right it
6 is.

7 I'm sorry, Mr. Cain. Now, we
8 talked a little bit before about liners and
9 you didn't know about liners.

10 THE WITNESS: Right.

11 Q. (By Mr. Hankins) And when I
12 talked to you about landfills and you
13 didn't know about landfills, that is just a
14 fact; is that correct?

15 A. That's a fact.

16 Q. And I'm not trying to malign you
17 when I say that you don't have awareness of
18 landfills. My question is why did they put
19 you in this mess? That was my question.

20 MR. NEWSOM: Object to the form.

21 Q. And that's what he objected. And
22 he thought I was trying to malign you. I

23 wasn't and I want you to you know that.

0091

1 Okay?

2 A. (Witness nods head.)

3 MR. NEWSOM: Thank you. I

4 appreciate your saying that to him.

5 MR. HANKINS: I wasn't saying that

6 for your benefit. I guarantee you that.

7 MR. NEWSOM: I'm just saying I

8 appreciate you saying it.

9 MR. HANKINS: I don't want you to

10 appreciate it. I don't care if you do or

11 don't.

12 MR. NEWSOM: Well, I do. Thank

13 you. You can move ahead.

14 MR. HANKINS: I'll move ahead at

15 my own pace and when I feel like it. You

16 do not tell me when to move ahead.

17 MR. NEWSOM: Well, we can go

18 backwards if you want to but I --

19 MR. HANKINS: You can go

20 backwards.

21 Q. (By Mr. Hankins) With regard to

22 remediation contractors, do you know

23 whether or not the remediation contractor

0092

1 who did the remediation did any testing on

2 the site?

3 A. No, I don't know.

4 Q. I'm going to skip over all this

5 stuff because it goes to what you -- okay.

6 Are you familiar -- the property purchase

7 plan was already out of sight by the time

8 you got there, wasn't it?

9 A. Yes, sir.

10 Q. Okay. Do you know whether or not

11 the Pensacola plant ever manufactured PCBs?

12 A. Not to my knowledge.

13 Q. The Huntsville plant?

14 A. Not to my knowledge.

15 Q. Have you since you became plant

16 manager made any contacts with the

17 residents in the neighborhood?

18 A. I have not initiated any contacts

19 with residents, but I have spoken to the

20 residents in all of Anniston on a regular

21 basis probably.

22 MR. WRIGHT: Residents of what?

23 THE WITNESS: Anniston.

0093

1 Q. (By Mr. Hankins) But you haven't

2 attended any group meetings with residents

3 to discuss with them the remediation

4 process or any other process?

5 A. No, I have not.
6 Q. Are you familiar with the Bill
7 Moyer special that was on TV last week or
8 this week?
9 A. I heard of it, but I was at the
10 basketball game.
11 Q. Who was playing?
12 A. Tennessee and --
13 MR. NEWSOM: It was the women's,
14 the women's.
15 Q. (By Mr. Hankins) Okay. So you
16 didn't see the special?
17 A. No, I did not, sir.
18 Q. Have you been apprised of it or
19 made aware of it?
20 A. I saw what I read in the
21 newspaper.
22 Q. And you're aware that Monsanto was
23 included in the special?

0094

1 A. No, I was not made aware of that.
2 Q. Are you aware that the area below
3 this landfill was prone to flooding?
4 MR. NEWSOM: Object to the form.
5 THE WITNESS: I don't know that
6 per se, no.
7 Q. (By Mr. Hankins) Has anyone told
8 you that?
9 A. Not that it was prone to flooding,
10 no.
11 Q. What did they tell you?
12 A. I know that there is a flood plain
13 there, but I don't -- I didn't --
14 Q. Do you know what flood plain
15 means?
16 MR. NEWSOM: Did you finish with
17 the answer?
18 THE WITNESS: I don't know.
19 Q. (By Mr. Hankins) Do you know what
20 flood plain means?
21 A. I did not interpret flood plain.
22 I knew that it was prone to flooding.
23 Q. Now, Mr. Mayausky testified that

0095

1 you have plants in Alabama, Florida and
2 South Carolina; is that correct?
3 A. Yes, sir.
4 Q. Are there other plants in Alabama
5 other than Huntsville and Anniston?
6 A. Excuse me. We have a plant in
7 Foley, Alabama.
8 Q. Where?
9 A. Foley.
10 Q. Where is that?

11 A. It is right across the bay from
12 Pensacola.

13 MR. NEWSOM: There is one --
14 isn't there one in Decatur?

15 THE WITNESS: Huntsville is
16 Decatur, I'm assuming.

17 Q. (By Mr. Hankins) And Florida?

18 A. Excuse me?

19 Q. Where are the facilities in
20 Florida?

21 A. In Pensacola, Florida.

22 Q. Is there more than one in South
23 Carolina?

0096

1 A. Just Greenwood.

2 Q. Are you familiar with RCRA,
3 Research Conservation Recovery Act? Are
4 you familiar with that?

5 A. Yes.

6 Q. Do you know whether or not the
7 Anniston plant complies with RCRA
8 requirements?

9 MR. NEWSOM: Object to the form.

10 THE WITNESS: I can tell you that
11 during the seven months that I have been
12 there --

13 Q. (By Mr. Hankins) They have?

14 A. They have been complying with
15 RCRA. I can't speak to --

16 Q. What about CERCLA?

17 A. Again, the seven months that I've
18 been there --

19 Q. That's C-E-R-C-L-A. What about
20 the Solid Waste Disposal Act?

21 A. Your question is have we complied
22 with it?

23 Q. Yes.

0097

1 A. For the seven months that I have
2 been there.

3 Q. And that deals with landfills;
4 right?

5 MR. NEWSOM: Object to the form.

6 THE WITNESS: I don't know.

7 Q. (By Mr. Hankins) Are you aware of
8 the fact that PCB has volatilized?

9 A. I don't know.

10 Q. You don't know if you're aware?

11 MR. NEWSOM: Object to the form.

12 THE WITNESS: I'm not aware. I
13 don't know.

14 Q. (By Mr. Hankins) Do you know
15 whether they can or not?

16 A. Yeah.

17 Q. Are you familiar with the
18 phenomenon of volatilization?

19 MR. NEWSOM: As a general
20 principle or with respect to PCBs?

21 MR. HANKINS: As a general
22 principle right now.

23 THE WITNESS: No.

0098

1 Q. (By Mr. Hankins) You didn't learn
2 anything about that in engineering school?

3 A. Yes, sir. I took chemistry
4 courses. Doesn't mean I remember
5 everything now. I'm an electrical
6 engineer. I can tell you -- do you
7 remember everything you took in --

8 Q. No, I don't.

9 A. Okay. That's why I started
10 laughing.

11 MR. NEWSOM: Let's take a break.

12

13 (Whereupon, a short recess was
14 taken.)

15

16 Q. (By Mr. Hankins) Now, if you are
17 called as a witness during the course of
18 the trial, are you familiar with what you
19 would be called to testify to?

20 A. No.

21 Q. You don't know what they would
22 call you for?

23 MR. NEWSOM: My guess is for the

0099

1 last seven months.

2 THE WITNESS: That's all I can
3 speak to.

4 Q. (Mr. Hankins) The last seven
5 months. What has happened during the last
6 seven months of significance?

7 A. Remediation was ongoing when I
8 walked in the door.

9 Q. Okay.

10 A. I mean, that could be the only
11 thing that I could think of that was
12 significant that I could be called to
13 testify to.

14 Q. Can you testify extensively about
15 the remediation process?

16 A. No, I could not, sir.

17 Q. You could say it was going on?

18 A. Yes, sir.

19 Q. Thank you.

20 MR. WRIGHT: No.

21 Q. (By Mr. Hankins) Do you know Dr.
22 Jacobson at Wayne State?

23 A. No, sir. Was he in the electrical
0100

1 engineering department?

2 Q. No.

3 A. No.

4 MR. WRIGHT: That is a husband and
5 wife team that do neurological research
6 relating to PCBs.

7 THE WITNESS: Unless they were in
8 electrical engineering I would not.

9
10 EXAMINATION BY MR. NEWSOM:

11 Q. Mr. Cain, would you very briefly
12 give us the organization at the plant in
13 terms of who reports to you and how often
14 you meet with them on production issues and
15 remediation issues?

16 A. Well, I have a staff of -- gosh, I
17 have got a human resources manager --

18 MR. HANKINS: Objection as to
19 form, but you may answer.

20 THE WITNESS: I have a human
21 resources manager. I have an operation's
22 superintendent. I have an environmental
23 manager. I have a maintenance manager. I
0101

1 have an engineering manager, and reporting
2 to my staff is a remediation manager. And
3 we meet on -- some of that group meets on a
4 daily basis. Some of that group meets on a
5 weekly basis.

6 Q. (By Mr. Newsom) Who is the
7 remediation manager?

8 A. The remediation manager is Craig
9 Branchfield.

10 Q. How often do you meet with Mr.
11 Branchfield?

12 A. Every Monday.

13 Q. About remediation?

14 A. Yeah. He gives me an update every
15 Monday.

16 Q. How about your production people,
17 how often do you meet with them?

18 A. Daily.

19 Q. Do you let Mr. Branchfield do his
20 job under your supervision?

21 A. Yeah. I'm in close proximity to
22 what he's doing.

23 Q. Do you let your production people
0102

1 do their job under your supervision?

2 A. Yes.

3 Q. How many people did you supervise
4 at Greenwood?

5 A. Three hundred people.
6 Q. How many people at Anniston?
7 A. Eighty-five people.
8 Q. What about the capital --
9 MR. HANKINS: I want to make one
10 objection to this whole line of
11 questioning, that it is leading, but go
12 ahead anyway.

13 Q. (By Mr. Newsom) How would you
14 compare the production operation at
15 Anniston to the production operation at
16 that plant in Greenwood, South Carolina?

17 A. Small.

18 Q. Which one is smaller?

19 A. Anniston is smaller than
20 Greenwood.

21 Q. Are you learning chemicals as you
22 go along?

23 A. Yes.

0103

1 MR. NEWSOM: Nothing further.

2

3 EXAMINATION BY MR. HANKINS:

4 Q. When you were interviewed for the
5 position of plant manager --

6 A. Uh-huh.

7 Q. -- were there any other
8 candidates?

9 A. I wouldn't have knowledge of that,
10 sir.

11 Q. Why wouldn't you?

12 MR. NEWSOM: Object to form.

13 THE WITNESS: Excuse me? I don't
14 know why I would have knowledge if there
15 was other candidates.

16 Q. (By Mr. Hankins) When you were in
17 your other positions, were there other
18 candidates for the position that you were
19 applying for in Greenwood?

20 A. I don't have knowledge of it, but
21 I don't -- I don't know. What we do --
22 what we do is we have development plans for
23 people and those development plans are

0104

1 based on a time. My development plan three
2 years ago said that I would be a plant
3 manager at a small plant at that --

4 Q. But you're --

5 MR. NEWSOM: Whoa. He's not
6 finished, I don't think.

7 THE WITNESS: At that time, I was
8 told -- I reviewed my development plan and
9 I was scaled at Illinois or Greenwood or
10 wherever I was, that I would be a small

11 plant manager at some plant within three
12 years. Three years later I was selected
13 and offered the Anniston plant.
14 Q. (By Mr. Hankins) A friend of mine
15 who worked in Monsanto was in a similar
16 kind of development plan, but he was
17 superceded by someone else when they were
18 both interviewed for the same job.

19 MR. NEWSOM: Who is your friend?
20 Object to the form as to the friend.
21 Object to the form.

22 THE WITNESS: I can't answer to
23 your friend, but I can tell you as a
0105

1 manager that I also am responsible for
2 development plans of the people that work
3 for me and reviewing what they're doing.

4 Q. (By Mr. Hankins) But what I'm
5 asking you is aren't there simultaneous
6 development plans going on all over the
7 Solutia network?

8 A. Sure, there are development plans.

9 Q. So they could (inaudible) at
10 Anniston, could they not?

11 MR. NEWSOM: Object to the form.

12 THE WITNESS: I mean, I suppose
13 that. I mean, everybody is going to have a
14 development plan and I'm sure that there
15 could be other people that have them on
16 their development plan at the same time
17 that they're going to be a small plant
18 manager and that's what you're asking.
19 Yeah, it's possible.

20 Q. (By Mr. Hankins) Mr. Mayausky
21 testified -- all you know is that you were
22 asked to come to Anniston and you accepted;
23 is that correct?

0106

1 A. Excuse me?

2 Q. You were asked --

3 MR. NEWSOM: Object to the form.

4 Q. (By Mr. Hankins) -- to become a
5 plant manager at Anniston and you accepted;
6 is that correct?

7 A. No, that's not correct.

8 Q. Well, what is the circumstance?

9 MR. NEWSOM: Object to the form.

10 THE WITNESS: The circumstances
11 that brought me to Anniston, I was
12 interviewed and I was selected to be a
13 plant manager initially at the Foley plant
14 which is in Alabama. That's where I was
15 going first. I was going to be a plant
16 manager whether I came to Anniston or

17 Foley. I was selected initially to go to
18 Foley. The plant manager at Decatur,
19 Alabama unexpectedly said I'm retiring in
20 two weeks. That left a gap. They looked
21 around the company and selected the next
22 person who was designated to move per his
23 development plant, which was Blake
0107

1 Hamilton. Blake Hamilton moved to Decatur,
2 Alabama the --

3 Q. Where is the Foley plant?

4 A. The Foley plant is in Pensacola.

5 It's right across the bay. I said that
6 earlier.

7 Q. Yeah.

8 A. The plant manager at Foley, who
9 was going to retire, I was going to replace
10 him. He said I'm not in a hurry to leave,
11 I'm paraphrasing, I can stick around a
12 while. That left the Anniston plant open
13 for me then.

14 MR. NEWSOM: You go ahead and
15 finish up your answer.

16 THE WITNESS: Which was right up
17 where I wanted to be because three years
18 ago when I talked about wanting to be a
19 plant manager, I knew it had to start at a
20 small plant and Anniston was the plant that
21 I had in mind.

22 Q. (By Mr. Hankins) Were there any
23 other plants that you had in mind?

0108

1 A. I had larger plants in mind,
2 but --

3 Q. Which ones?

4 A. Larger plants?

5 MR. NEWSOM: He got a but in
6 there.

7 MR. HANKINS: He answered the
8 question.

9 MR. NEWSOM: He's not going to
10 answer it --

11 MR. HANKINS: He's not going to
12 answer it?

13 MR. NEWSOM: You're interrupting
14 both of us now. He's not going to answer a
15 question until he finishes his answer to
16 the previous question.

17 MR. HANKINS: He already answered
18 this question.

19 MR. NEWSOM: He had a but in there
20 and was going to say something else.

21 MR. HANKINS: And I was going to
22 let him. You jumped in. I didn't.

23 THE WITNESS: Where did I leave
0109

1 off?

2

3 (The last question was read back
4 by the Court Reporter.)
5

6 MR. NEWSOM: He had larger plants
7 in mind, but -- and finish that answer. And
8 then he can ask you anything he wants.

9 THE WITNESS: My but was going to
10 say that I understand that you have to go
11 -- it is a progression. You start with a
12 small plant. You work your way up to a
13 larger plant. That was the but. Just
14 because I wanted to go to a large plant
15 didn't mean I was going to go there. I
16 knew I had to start at a small plant and
17 work my way up to a large plant.

18 Q. (By Mr. Hankins) Are there any
19 African Americans in the larger plants?

20 A. In the larger plants?

21 Q. As plant manager?

22 MR. NEWSOM: Object to the form.
23 That's -- object to the form.

0110

1 THE WITNESS: Not to my knowledge
2 in the larger plants, no.

3 Q. (By Mr. Hankins) And the only
4 plant you were asked to manage was the
5 Anniston, Alabama plant?

6 MR. CLARK: Object to the form.

7 MR. NEWSOM: Are you listening to
8 him? He just testified about Foley.

9 MR. HANKINS: Look, don't talk to
10 me like that.

11 MR. NEWSOM: Don't argue with me.
12 Well, just listen to the answer and then --
13 either you're not listening or --

14 MR. HANKINS: Either you keep your
15 voice down or we're going to be arguing for
16 a long time, buddy, because you ain't
17 talking to me like that.

18 MR. NEWSOM: I'm here.

19 MR. HANKINS: I don't give a damn
20 where you are.

21 MR. NEWSOM: If you want to argue,
22 we'll argue as long as we need to.

23 MR. HANKINS: You got that right

0111

1 because that's my forte.

2 MR. NEWSOM: I believe you.

3 Please either listen to him --

4 MR. WRIGHT: Can he just answer

5 the question?
6 MR. NEWSOM: Well, you know, maybe
7 we misheard. Can he just answer the
8 question?

9 THE WITNESS: And the question was
10 was Anniston the only plant?

11 Q. (By Mr. Hankins) Yes.

12 A. And then I said the answer was
13 no.

14 Q. And the other plant was Foley?

15 A. Foley.

16 Q. Were there any larger plants that
17 you could have been plant manager at?

18 A. And again I just said you have to
19 start at a small plant before you go to a
20 larger plant.

21 Q. I understand that. But was there
22 any larger plant that you could have gone
23 to?

0112

1 MR. NEWSOM: Objection. Asked and
2 answered.

3 THE WITNESS: No.

4 Q. (By Mr. Hankins) Has anybody ever
5 jumped from a small plant to a larger?

6 MR. NEWSOM: Whoa. I'm sorry.
7 You're getting confused. Small to large
8 they do go from. You first start at a
9 small plant.

10 Q. (By Mr. Hankins) You couldn't go
11 to Foley, right, because the guy decided he
12 didn't want to retire; is that correct?

13 A. Right. The guy at Foley.

14 Q. So the only plant that was
15 available was Anniston?

16 A. Was the Anniston plant.

17 Q. So you came in time for the
18 trial?

19 MR. CLARK: Object to the form.

20 THE WITNESS: My arrival did not
21 come here for the trial.

22 Q. (By Mr. Hankins) Are you sure?

23 A. I'm positive of that.

0113

1 MR. CLARK: Object to the form.

2 Q. (By Mr. Hankins) The only plant
3 that you were offered that you could accept
4 was Anniston, Alabama; is that correct?

5 A. No, that's not correct. They
6 offered me Foley and when they said -- when
7 I was offered, if I did not want to go to
8 Anniston, then I could say no and still
9 hold out for Foley.

10 Q. But you wouldn't be plant manager

11 until this other guy retired?

12 A. That's probably true because he is
13 still there but --

14 Q. The only --

15 MR. NEWSOM: Finish your answer.

16 Whoa. Please, Grover, just let him answer.

17 MR. HANKINS: Sorry.

18 THE WITNESS: I would not --

19 right. I would not be a plant manager

20 until he retired. But I have the option to

21 say no. Nobody told me I had to come

22 here. I had the option to say no all along

23 the way. The only --

0114

1 Q. (By Mr. Hankins) But that was the
2 only vacancy though?

3 A. Exactly.

4 Q. That was the only one that you had
5 a true offer for, Anniston?

6 MR. NEWSOM: I object to the
7 form.

8 THE WITNESS: That's not true.

9 MR. NEWSOME: It mischaracterizes
10 his prior testimony.

11 Q. (By Mr. Hankins) Did you have an
12 offer for Foley?

13 A. I had an offer for Foley, yes. I
14 said that.

15 Q. A written offer?

16 A. Internally. Our offers don't come
17 -- this is an internal promotion. I'm not
18 going to get a letter that says --

19 Q. You get a memorandum?

20 MR. NEWSOM: Hold on. Larry, are
21 y'all listening? Did y'all listen to what
22 he said?

23 MR. WRIGHT: We listened, Eddie.

0115

1 Why don't you let him ask the questions and
2 finish? The deposition would have been
3 over tin minutes ago if --

4 MR. NEWSOM: Y'all didn't listen
5 to what he's saying. He doesn't have to
6 say it twelve times.

7 MR. WRIGHT: Are you done? Can we
8 ask one more question?

9 MR. NEWSOM: Yes.

10 Q. (By Mr. Hankins) If you wanted to
11 be a plant manager the only place that you
12 could have been a plant manager in
13 September of 2000 was Anniston, Alabama; is
14 that correct?

15 A. No, that's not correct. Because I
16 was told that if I said no, if I said no,

17 then they would try to work something else
18 out.

19 Q. But still the only vacancy was
20 Anniston. Was there --

21 A. If you're asking me if that was
22 the only vacancy in a small plant at that
23 time on September 1, it was Anniston.

0116

1 Q. It was the only offer --

2 MR. NEWSOM: Whoa. Grover,
3 please. He wasn't finished.

4 Q. (By Mr. Hankins) Were you
5 finished?

6 A. Yes, go ahead.

7 Q. The only offer at that time was
8 Anniston?

9 A. No, I said that's not true. There
10 was Foley still. That was still an offer.
11 Even though he had not retired, I still had
12 that option of going to Foley.

13 MR. NEWSOM: Can he just take a
14 minute and explain again what happened at
15 Foley? It may clear it up for everybody.

16 MR. WRIGHT: We heard it, Eddie.
17 We heard it and we don't need your
18 testimony. If he could just finish
19 answering the question we would be done and
20 gone.

21 Q. (By Mr. Hankins) Anniston,
22 Alabama in September of 2000, was -- you're
23 saying that Foley was an option for you?

0117

1 A. Yes.

2 Q. But if you wanted to actually
3 become a plant manager at that time,
4 Anniston was the only possibility, was it
5 not?

6 A. No, that's still not true.

7 Q. What I'm saying is, if you were
8 not going to wait until this other
9 gentleman retired Anniston, Alabama was the
10 only --

11 A. That's not true, sir.

12 MR. NEWSOM: Objection. Asked and
13 answered. If you have answered it, David,
14 you tell him and we'll be done.

15 Q. (By Mr. Hankins) Was there
16 another one?

17 A. I will repeat what I said already,
18 which was I could have said no and I could
19 have still went to Foley and they would
20 have reshuffled the deck and found
21 something else. I elected to come to
22 Anniston. I was not told -- let me

23 finish.

0118

1 Q. Okay.

2 A. I was not told that I had to come
3 to Anniston. Let me say this for the
4 record because I have had to deal with
5 this in seven months since I have been
6 here. I have had people question my
7 ability and my competency to be in this
8 job. I've worked in five different
9 industries, four different companies, I
10 have managed three hundred people, millions
11 of dollars of assets, I have lectured at
12 college level, I have written two books. I
13 have got a lot more -- I've even started my
14 own community organization, took it
15 nationwide. I think that qualifies me for
16 people leadership at a plant. Now, I have
17 got people that are specialists that work
18 for me who know the process. One of the
19 things I have often said about a good
20 engineer and anybody else is you don't have
21 to know everything upstairs but you need to
22 know where to go to get the answer. For
23 seven months, I have had to deal with that

0119

1 because people have said that and I think
2 that as I've gotten out in the community
3 that I have convinced people that I must
4 know something about leadership because I
5 am running a plant and we have not had a
6 problem. We have not had a circular
7 release in four years, nor the seven months
8 since I've been there. We haven't had any
9 FNH problems. That plant has run for the
10 seven months that I have been there. It
11 just -- I don't know if that's what you're
12 getting at. I wasn't brought here because
13 I'm black or because I'm a figure head. I
14 think that I'm well qualified to run that
15 plant and that there are people that are
16 around me that know the technical specifics
17 of what it takes to run that plant, too.
18 I'm just -- I don't mean to vent on you.
19 But it's --

20 Q. I don't mind and I'm not
21 questioning your ability. I'm not saying
22 that you're not qualified. My question is
23 whether Monsanto had a motive for moving

0120

1 you as a chess pawn?

2 MR. NEWSOM: Object to the form.
3 It insults him. It's embarrassing to you
4 to even say.

5 MR. HANKINS: This is litigation.
6 MR. NEWSOM: There is also decorum
7 in any facet of life including litigation.
8 You can insult him and embarrass yourself.
9 MR. WRIGHT: There is also decorum
10 in corporate ethics and corporate
11 responsibility.
12 MR. NEWSOM: That's right.
13 MR. WRIGHT: A jury is going to
14 decide --
15 MR. NEWSOM: Exactly. This man
16 is qualified for any position is Monsanto's
17 facility.
18 MR. WRIGHT: Why did they send him
19 to Anniston, Alabama in September of 2000.
20 MR. HANKINS: That's the question.
21 THE WITNESS: My development plan
22 says a small plant and a --
23 MR. NEWSOM: Three years ago.

0121

1 THE WITNESS: Three years ago.
2 Q. (By Mr. Hankins) But see -- this
3 is the last time I'm going to phrase this
4 question to you. My understanding of what
5 you testified was that you could have gone
6 to Foley, they would have done some
7 reshuffling if you had said no to Anniston,
8 but you would not have been a plant
9 manager; is that correct?

10 A. No, I would have still been a
11 plant -- I wasn't going to go to Foley --

12 MR. NEWSOM: No. Let him finish.

13 THE WITNESS: I was not going to
14 go to Foley at anything less than a plant
15 manager. I don't know if that's what you
16 interpreted, but that's not what I meant.

17 Q. (By Mr. Hankins) Well, I
18 misunderstood you.

19 A. I think that was a
20 misunderstanding because my understanding
21 was I was going to be a plant manager
22 whether it was at Foley or Anniston.

23 Q. Even if this guy didn't want to

0122

1 retire?

2 A. Oh, he was going to retire.

3 Q. They were going to push him out
4 the door?

5 MR. NEWSOM: Let me -- I hope this
6 helps. Blake was at Anniston, a small
7 plant. This actually goes to the Decatur,
8 Alabama plant. The plant manager there
9 abruptly decided to retire.

10 MR. HANKINS: I understand that.

11 MR. NEWSOM: And so they needed to
12 fill that position which impacted the other
13 positions, you see.

14 MR. HANKINS: I understand that.

15 MR. NEWSOM: That meant that there
16 was then going to be a vacancy at Anniston
17 and the Foley guy agreed grudgingly to stay
18 on because since he was already at Foley
19 and now there was a need at Anniston --

20 MR. HANKINS: That is not what he
21 testified.

22 MR. NEWSOM: It is too. Is that
23 what you said?

0123

1 THE WITNESS: That's what I meant.

2 MR. HANKINS: My understanding of
3 what he testified was that the man -- he
4 was slated to go to Foley. The plant
5 manager at Foley decided that he did not --
6 let me finish -- did not want to retire at
7 that time. Anniston was open and they sent
8 him to -- or he was allowed to apply to
9 Anniston if he wanted it.

10 MR. NEWSOM: Can you let him
11 explain it?

12 MR. WRIGHT: Let me just make this
13 suggestion.

14 MR. NEWSOM: Can he just state it,
15 Larry?

16 THE WITNESS: I think there was a
17 misunderstanding. The plant manager at
18 Foley did not first decide, hey, I don't
19 want to retire. That's not what happened.
20 That came after. After Blake left, I have
21 the option of going to Foley, Alabama as a
22 plant manager or Anniston, Alabama as a
23 plant manager.

0124

1 Q. (By Mr. Hankins) Is Foley in
2 Alabama?

3 A. Foley is in Alabama.

4 MR. NEWSOM: In the Gulf.

5 THE WITNESS: It's in the Gulf. I
6 had selected Anniston three years ago in my
7 development plan. I looked around the
8 company and I said that's the plant that I
9 want to start off in. That is a good small
10 plant for me. It's got a lot of -- a good
11 chemical. That's where I want to go. I
12 selected it. I went to my superiors and
13 said that if something comes open in that
14 plant, I would like to be considered for
15 it.

16 Q. (By Mr. Hankins) Do you have the

17 development plan that says, for three years
18 ago, that said that you had that, is it
19 written somewhere?

20 A. I don't know if there are records.
21 I mean, every year those things are
22 revised.

23 Q. What is a development plan, is it
0125

1 a written document that travels with you?

2 Is it part of your personnel file?

3 A. It is a document that I have that
4 I meet with my boss and say this is what I
5 want to do. Every year it gets updated. I
6 don't have my development plan from last
7 year.

8 Q. But did you have a written plan
9 back three years ago that could be
10 retrieved that said I want Anniston as a
11 plant?

12 A. No, I don't. No.

13 Q. Is there any writing of that?

14 A. No.

15 Q. So the development plan is verbal?

16 A. No, sir. No. The development
17 plan is written. The development plan
18 doesn't say, Dave, three years from now
19 you're going to Anniston, Alabama. No, it
20 says you're going to be a small plant
21 manager. I initiate the conversation with
22 my superiors and say, you know, if
23 something comes open in Anniston, I would
0126

1 like to be considered for it.

2 Q. Who did you talk to and say that
3 to?

4 A. I spoke to Dennis Cavnar.

5 Q. And he is in St. Louis?

6 A. He is no longer with the company.

7 Q. Did he used to be in St. Louis?

8 A. He used to be in St. Louis.

9 Q. How did you know about Anniston
10 three years ago?

11 A. How did I know about the Anniston
12 plant? I knew about all the plants. You
13 know, I know where all --

14 Q. Why Anniston?

15 MR. NEWSOM: Whoa. Were you
16 finished with your answer?

17 THE WITNESS: I mean, I think
18 that-- I mean, I knew where most of
19 Monsanto's, Solutia's plants were.

20 Q. (By Mr. Hankins) Okay. What was
21 it about Anniston that stood out in your
22 mine?

23 A. Well, first of all, Anniston was a
0127

1 small plant. If you look around our
2 company, sir, there aren't too many small
3 plants left. My options are limited.

4 Q. What about Texas City?

5 A. That is a large plant, sir.

6 Q. It's large?

7 A. That is a huge plant.

8 Q. With regard to the Anniston
9 facility, three years ago the problems were
10 here?

11 A. Yeah.

12 Q. Were you aware that the problems
13 were here?

14 MR. NEWSOM: Object to the form.
15 Asked and answered. Vague and ambiguous.

16 THE WITNESS: Three years ago, I
17 can't remember what I knew about Anniston
18 three years ago. I really can't, but I
19 knew that I knew where the plant was. I
20 knew where all of Solutia's plants were. I
21 looked around the company in developing my
22 plan and my career and charted moves and
23 said there is a small plant that I would

0128
1 like to go to.

2 Q. (By Mr. Hankins) Would you want
3 to pick a small plant with the kind of
4 problems that this thing had three years
5 ago?

6 MR. NEWSOM: Object to the form.

7 THE WITNESS: Based on what I have
8 seen in the company in the sixteen years I
9 have been there, yes, I would have chosen
10 the plant.

11 Q. (By Mr. Hankins) Is it your
12 testimony under oath as you sit here today
13 --

14 MR. NEWSOM: He knows he's under
15 oath. Please don't remind him he's under
16 oath.

17 Q. (By Mr. Hankins) Is it your
18 testimony as you sit here under oath that
19 Anniston was your first choice three years
20 ago to be a plant manager at a small plant?

21 MR. NEWSOM: Asked and answered.

22 THE WITNESS: I thought I answered
23 that already.

0129
1 Q. (By Mr. Hankins) Would you answer
2 it again, please?

3 A. I said that I met with someone and
4 said that I would like to go, if something

5 comes up in Anniston, it is a small plant
6 that I would like to work at. It was one
7 that I picked out. Would I have gone to
8 another plant if nothing else was
9 available? Foley was going to be
10 available.

11 Q. Had you ever been to Anniston
12 before?

13 A. I have driven through Anniston
14 before, yes, sir.

15 Q. Had you ever been to the plant?

16 A. Not directly, no.

17 Q. Were you aware of the problems
18 with the environmental situation?

19 MR. NEWSOM: Object to the form.

20 Q. (By Mr. Hankins) Three years ago?

21 MR. NEWSOM: Object to the form.

22 THE WITNESS: I did not have all
23 the facts.

0130

1 Q. (By Mr. Hankins) Had you had all
2 the facts, would you have wanted to go to
3 Foley or to Anniston?

4 MR. NEWSOM: Object to the form.

5 THE WITNESS: I think I said for
6 the record that when I was offered the job
7 to choose between Foley and Anniston, I
8 chose Anniston and I don't regret that
9 decision, sir.

10 MR. HANKINS: Thank you.

11

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0131

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

2

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

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

5

6 I hereby certify that the above
7 and foregoing deposition was taken down by
8 me in stenotype, and the questions and
9 answers thereto were reduced to typewriting
10 under my supervision, and that the

11 foregoing represents a true and correct
12 transcript of the deposition given by said
13 witness upon said hearing.

14 I further certify that I am
15 neither of counsel nor of kin to the
16 parties to the action, nor am I in anywise
17 interested in the result of said cause.

18

19

20

21 Donna Armstrong

22

23