3/18/02 (John Woodyard continued, Kaley continued)

SHEET 1 PAGE 1

7537

GADSDEN, ALABAMA, MONDAY, MARCH 18, 2992)

(8:20 a.m. Jury not present.)

THE COURT: One of my jurors called and is sick, so we won't be having a jury here today. Are you ready to call your first witness

MR. COX: Yes, sir. We've kind of got a witness out of order, Judge. Dr. Kaley will be here at 11:00 in Anniston. This

PAGE 2

won't take very long, I don't believe, Your Honor.

THE COURT: All right.

MR. STEWART: When we get through with this particular witness, are we going back to Anniston?

THE COURT: Yes.

MR. STEWART: Okay. I just wanted to know for logistical purposes. We'll finish here and then start back at 1:00 in Anniston?

PAGE 3

THE COURT: Yeah, unless y'all just want to go down there and start.

MR. COX: There's nobody to start with

7538

until Dr. Kaley gets here. Oh, you mean right now?

THE COURT: Yeah. Mr. Wright isn't here yet. Okay. How many packets do you have ready?

MR. FETTERMAN: We have twenty-five, one we couldn't get in time last night, Judge, so we have twenty-four, I think, that are ready to go and perhaps twenty-five if--

THE COURT: Well, that's fourteen more than I expected. I appreciate the fact that you have twenty-four. Go ahead and get what you have ready on those.

MR. FETTERMAN: We have. We have gone as far as we can right now. We're planning to do as many as we possibly we can. Our goal is twenty-five a day, and we may have fifty tomorrow.

PAGE 4

THE COURT: So, we can do more than twenty-five a day. Surely, they're accumulating.

MR. STEWART: Yes, they are

7539

accumulating.

THE COURT: Go ahead and get what you've got ready.

MR. FETTERMAN: We'll have as many done today as we can, Judge. Our goal is twenty-five a day so we may have fifty tomorrow.

THE COURT: That would be good. Joe, have you got somebody else covering for you?

MR. HUBBARD: Yes, sir, this morning. I'll make an appearance this afternoon.

THE COURT: Mr. Cox, do you want to go ahead and call your witness?

MR. COX: Yes, Your Honor. At this time, based upon agreement of plaintiffs' counsel and the accommodation of the Court, the defendants are going to call Mr. John

WATER_PCB-SD0000066947

SHEET 23 PAGE 89

only an hour and a minute late.
MR. COX: Judge, I provided a copy of this to the opposing counsel. That's another one of the CVs that we had promised to get you one of the people that we suggested in our letter to serve as an independent expert.
THE COURT: Okay. And I guess these are Dr. Frank's from last week.
All right. I think we've got everybody so back on the record.
Mr. Stewart, continue your --

EXAMINATION RESUMED

BY MR. STEWART:
Q. Dr. Kaley, I had previously asked you and

PAGE 90

covered in sort of a broad brush stroke process but I had previously asked you about these meetings in Washington and Atlanta, and I believe you indicated to me that you attended a number of those meetings and the first one took place sometime I think in January or February of 2001; is that correct?
A. I believe so. I don't have the dates memorized but something like that.
Q. Okay. I didn't ask you last week but I wanted to be sure that we got clarified for the record first who attended that first meeting. I needed to know who was there, if you recall?
A. Well, I believe the first meeting was in Atlanta and I wasn't there at that one. If you're talking about the meeting in Washington, is that the one you're talking

about?
Q. Well, I'm not going to ask you about

PAGE 91

meetings that you didn't attend. What I wanted to know is about meetings, Dr. Kaley, that you attended and that you were involved in?
A. I understand. I just want to be sure that -- I don't have the chronology of all these meetings memorized, so as far as I know there was only one meeting in Washington pertaining to the consent order. So if that's the meeting you have in mind, then I will try my best to answer questions about that meeting.
Q. If you attended that meeting, that's what I'm asking about?
A. Yes.
Q. If I have the time frame right that was either in January or February of 2001?
A. I'll take your word for that.
Q. I'm asking you --
A. Mr. Stewart, I don't remember. I don't remember.

PAGE 92

Q. Okay. Do you remember if it was cold outside? Do you remember that? We'll go at it that way.
A. I believe that's correct. Yes. I do believe that it was a cold clear day as I recall.
Q. Okay. Who all attended that meeting?
A. On behalf of Solutia, I believe it was myself, Mr. Topol, I believe Mr. Branchfield, I believe Mr. Bistline. Those are the ones I recall for sure.
Q. And those were the people who attended meetings from Solutia. What about from the agency, EPA?
A. From EPA, I believe Phyllis Harris was there. And I believe Dustin Minor was there, but I'm not sure about Mr. Minor.
Q. Anybody else?
A. Not that I recall as I sit here.
Q. What about Dick Greene?
A. I do not believe he was at that meeting.
Q. Wes Hardegree?
A. I don't recall him specifically being

WATER_PCB-SD0000066948

SHEET 24 PAGE 93

031802B

7624

there.
Q. A Mr. Leahy, Richard Leahy?
A. I don't believe he was there, no.
Q. Okay. So Dustin and Phyllis Harris were the only party --
A. Well, those are the ones I recall. I believe there actually were more -- one or two more, but I don't recall who they were. I don't believe it was any of those you mentioned. Mr. Hardegree may have been there. I don't recall.
Q. Wes Hardegree. Tell me if memorandum, notes were made of the meeting by somebody from Solutia?
A. Not that I recall.
Q. So no one took any notes at all during the meeting? Just sat there flat surfaced, nothing written down?
A. I don't recall. I certainly didn't take any notes.
Q. Okay. Don't know whether Mr. Topol did or

PAGE 94

any of the other parties involved?
A. I don't recall.

031802B

7625

Q. Did anybody take notes from EPA?
A. I don't recall -- excuse me. I don't recall specifically.
Q. You mean a government regulator sat down with you and talked to you and didn't take one single solitary note, Dr. Kaley?
A. I'm saying I don't recall. They may very well have. I don't have a specific recollection of any one of them taking notes, no.
Q. Was there an attendance record?
A. Typically there is a sheet where people -- that's passed around where people sign. Again, I don't specifically recall but that's typical in government meetings.
Q. Let me understand. Y'all were discussing this site and what to do about this site. And I believe at that time you told us last week with regard to residential

PAGE 95

properties only y'all were discussing this administrative order on consent that y'all were already involved in; is that correct?
A. Yes.

031802B

7626

Q. Didn't discuss the plant site itself or creeks or streams at that meeting?
A. I don't recall. My recollection is the focus was on the order on consent.
Q. Okay. So it's your testimony here today that y'all attended a meeting, didn't have an attendance chart, didn't make any notes or anything about what was taking place and -- to your knowledge, either by the government or by the Solutia folks?
A. I believe it was my testimony that I didn't take notes. I don't recall anybody else taking notes. And there may have been an attendance record. I just don't recall specifically.
Q. You didn't sign one?
A. I may have.

PAGE 96

Q. Oh, you may have signed it?
A. If there was one I'm sure I did sign one. I just don't recall specifically whether there was an attendance sheet passed around at that meeting.
Q. On. Now, was Mr. Weinischke there?

031802B

7627

A. Yes.
Q. Who called that -- well, first before I leave that, was anybody else there from the Justice Department?
A. I believe not.
Q. Okay. Who was it that initiated the call for that meeting, Solutia, or EPA, or Mr. Weinischke?
A. I don't know. This was an ongoing process so --
Q. You mean --
A. -- we --
Q. -- there had been meetings before that?
A. We had had meetings with the EPA with regard to the order on consent, yes.

WATER_PCB-SD0000066949

SHEET 25 PAGE 97

16 Q. With the order on consent in connection
17 with the residential properties?
18 A. Yes.
19 Q. Do you know how many of those meetings
20 have been held?
21 A. One or two or three, I believe.
22 Q. Well, what is it, one, two, or three?
23 A. I do not know. I would say at least two.

1 Q. Two. Pick the middle number?
2 A. That's fine.
3 Q. Who attended those meetings?
4 A. I believe the first meeting was -- from
5 Solutia was Mr. Bistline, Mr. Branchfield,
6 and Mr. Topol. I believe the second
7 meeting those three may have been joined
8 by myself, and possibly Mr. Cox.
9 Q. So the first meeting was attended by Mr.
10 Bistline, Mr. Branchfield, and Mr. Topol.
11 Did that occur in Atlanta?
12 A. I believe so, yes.
13 Q. And the purpose of that meeting was,

PAGE 98

14 again, to talk about the order on consent
15 in connection with the residential
16 properties?
17 A. I believe that's correct, yes.
18 Q. It didn't involve the plant site, creek,
19 streams or anything else?
20 A. Well, I mean, all those things were
21 discussed but it was focused on the
22 residential properties.
23 Q. Well, now you piqued my curiosity when you

1 say "all those things were discussed."
2 A. Well, part of the question around the
3 residential properties is whether they
4 were impacted by discharges from our plant
5 facilities. So to express some of our
6 opinions about the PCBs that may have been
7 associated with our former operations it's
8 difficult not to at least mention the
9 plant site.
10 Q. That was the context in which that was
11 discussed?

PAGE 99

12 A. Yes.
13 Q. So EPA asked y'all what y'all thought and
14 you told them that y'all thought what?
15 A. Well, number one, at the first meeting I
16 don't know what was discussed because I
17 wasn't present. But this has been an
18 ongoing process ever since EPA has been
19 involved.
20 Q. Tell me, if you would, who was at the
21 first meeting from EPA, if you know?
22 A. I don't know.
23 Q. Were there notes made of that meeting?

1 A. I don't know.
2 Q. Is it your testimony -- have you seen any
3 notes ever before?
4 A. No, I haven't.
5 Q. Would it be normal for you to see those in
6 the course of your work with the site, Mr.
7 Kaley -- or Dr. Kaley.
8 A. Probably --
9 MR. COX: Objection, speculation.

PAGE 100

10 THE COURT: Overruled.
11 Q. Probably?
12 A. Probably not.
13 Q. Who would be the person who would hold
14 those notes? Who would be the person to
15 have those notes?
16 A. I don't even know if there were notes so I
17 can't say who would hold those notes.
18 Whoever took them probably, if they were
19 taken.
20 Q. Okay. And the second meeting was held
21 when in relation to the first meeting up
22 in Washington?
23 A. It was certainly prior -- it was prior to

1 the signing of the original order on
2 consent in, what, October of 2000. I
3 mean, that was largely to discuss the
4 details of that order on consent, as I
5 recall.
6 Q. Okay. So the one that y'all had finally
7 got worked out with the EPA?

WATER_PCB-SD0000066950

SHEET 26 PAGE 101

Well, there was a negotiated order on consent, yes.
Q. Okay. And that had to do specifically with residential properties, didn't it?
A. Residential properties and some creek areas, yes.
Q. Okay. Let me just show you this. I think it's already been offered. But is that the administrative order on consent that you're talking about that y'all entered into in October? I was given that by, I think, Mr. Cobb.
A. This is dated October of 2001.
Q. So that's the --
A. So I believe this is the modified order on consent.

Q. That's the one that was modified for those additional --
A. Yes --
Q. Removal actions?
A. Because this does address Oxford Park and

PAGE 102

some other things. So this is the modified order on consent that was issued approximately a year after the original.
Q. So the meeting -- am I to understand that the meeting that y'all had in Atlanta with those people from EPA had to do with the administrative order on consent and it didn't have to do with the site as a whole? The meetings that you attended and I think Mr. Bistline and others attended over there with the folks from --
A. The immediate focus of those meetings sometime prior to October of 2000 was largely focused on residential properties; that's correct.
Q. Now, exactly how did y'all involve the public in those meetings?
A. Well, my understanding was that the EPA

had ongoing discussions with the public both preparatory and following those meetings.

PAGE 103

Q. And how is it that they indicated to you that they had ongoing meetings?
A. Well, they had had several public meetings. And it's my understanding that they also had personal conversations with representatives of the community.
Q. Are those the representatives of the community that they funded?
A. I don't know who they funded or not. I don't know who had received their funds.
Q. Did they indicate to you that it was CAPS that they had talked to?
A. Certainly Mr. Baker was one of the persons that was mentioned specifically, yes.
Q. They would meet with CAPS. Any other group that they met with?
A. I believe they met with the other group also because my understanding --
Q. Cobb Town, Sweet Valley group?
A. I believe that's correct.

Q. Okay. Anybody else?

PAGE 104

A. Not that I'm aware of.
Q. Okay. Now back to this meeting that y'all had, this secret meeting y'all had in Washington with Mr. Weinischke, how did y'all inform the public about that meeting?
MR. COX: Objection, argumentative.
THE COURT: Overruled.
Q. How did y'all inform the public about that --
A. I wouldn't agree that it was a secret meeting. But I believe, again, that the EPA has been in and continues to be in communications with the community groups in Anniston.
Q. Well, tell me, if you would, what communication you specifically know of that EPA put out about that secret meeting y'all had up there.
A. Number one --
MR. COX: Objection, argumentative.
THE COURT: Overruled.

WATER_PCB-SD0000066951

SHEET 27 PAGE 105

7635

Again, I disagree with your contention that it was a secret meeting. I don't know of any specific communications that they had with regard to that meeting.

Q. Okay. Do you know of any press releases that they had about that meeting?

A. I don't believe so. Because it was preparatory to a final consent decree and they do not issue press releases unless there is a final signed decree, I understand.

Q. Who told you that?

A. That's just my understanding. The only times I've been aware there have been press releases is when there has been an order on consent signed or something along that line.

Q. When y'all have worked a deal out? That's the only time when y'all worked a deal out?

A. When we have reached agreement in negotiations with the agency on proper

PAGE 106

procedures to deal with the issues they --

031802B

7636

it is their normal procedure to issue a press release.

Q. What press releases did the company issue?

A. I don't know if we did. I don't recall.

Q. Do you recall seeing any press releases about the meeting with Mr. Weinischke?

A. Certainly there were no press releases about the meeting with Mr. Weinischke. I'm sorry. I understood your question more generally.

Q. No. I know y'all issued press releases. I'm just talking about the meeting with Mr. Weinischke so that you could keep the public and the community here informed?

A. I believe there was no press release issued by Solutia with regard to that meeting.

Q. All right. When was the next time that you all met after January and February of 2001 about this particular --

PAGE 107

A. I don't recall specifically. I don't recall specifically another meeting. There were several exchanges of documents

031802B

7637

I believe, but I don't recall another meeting.

Q. Well, Mr. Branchfield talked about at least three meetings that took place within the last month at the time of his testimony. Did you attend any of those meetings?

A. Recently within the last month of -- his testimony here last week?

Q. Yes.

A. Yes. I did attend some of those meetings, yes.

Q. Okay. Where were those held?

A. Atlanta.

Q. Okay. And, again, when was the first of those, if you recall? Been within the last month. And I know this other taxed your memory somewhat, but within the last

PAGE 108

month certainly you can give us some kind of ball park figure.

A. Month to six weeks, four or five weeks ago probably.

Q. Where was that meeting held?

031802B

7638

A. As I said, it was in Atlanta.

Q. Who attended from Solutia?

A. Mr. Branchfield, myself, Mr. Topol, and Mr. Cox.

Q. And is that Buddy Cox?

A. Yes, it is.

Q. The lawyer seated over here at this table over here?

A. Yes, it is.

Q. All right.

THE COURT: When was this meeting?

THE WITNESS: About four or five weeks ago.

THE COURT: Okay.

Q. Mr. Topol, Mr. Branchfield, Mr. Cox, you; who else?

WATER_PCB-SD0000066952

SHEET 28 PAGE 109

I believe --
Did Mr. Bistline make that trip?
No, he did not.
Okay. Anybody else from Solutia?
Not that I recall.
So four of you?
Yes.

031802B

7639

Okay. Now, tell me who was there from EPA?
I believe Mr. Minor was there, Mrs. Annie Godfrey.
You called Mrs. Godfrey on board, huh?
Well, she had probably been at some of the other meetings also in retrospect.
So she had been at some of those meetings?
As I recall, yes. Certainly the ones in Atlanta. I'm not sure about the ones in Washington.
Okay.
I think Mr. Leahy was there.
Richard Leahy?

PAGE 110

I'm not sure of his first name. I believe that's correct.
I think that's the way The Star -- what The Star said his name was. That's what he said his name was when we met. I just didn't know whether it --
It may very well be then. If that's what he says his name is it probably is.
Okay. Who else was there from EPA?

031802B

7640

There was another woman who's name I can't recall.
Okay. Phyllis Harris?
No.
Now, who was there from the Justice Department?
Mr. Weinischke.
Okay. Anybody else come with him?
No.
Now, who called that meeting if you know?
I don't know specifically who called that meeting.

PAGE 111

Sir?
I do not know specifically who called that meeting.
All right. Who informed you that there was going to be a meeting?
Probably Mr. Topol.
Allen Topol? Tell, me if you would, what was the subject of that meeting?
Basically we had been working since the latter part of the previous year on the terms of a consent decree and that was the

031802B

7641

purpose of that meeting, was to discuss primarily wording and such with regard to that consent decree.
Now, that's the consent decree that we've previously seen that was sent to you all by the EPA sometime in November?
Yes. I believe that's correct.
And that dealt, again, just with the residential properties?
Largely, yes.

PAGE 112

Okay. And did y'all take notes at that meeting?
I didn't. I don't recall if anyone else did.
Had a liability verdict been entered at that time against Monsanto or Pharmacia and Solutia by the jury in this case?
I do not believe so, no. I think the trial was still going on.
Sir?
I believe the trial was still going on at that time.
Okay. Did anybody else, to your

031802B

7642

knowledge, take notes from the company?
Not that I recall.
Did you have an agenda that was printed out that listed the topics that y'all were going to discuss?
No.
Was there a sign-in sheet?
I believe there was, yes.

WATER_PCB-SD0000066953

SHEET 29 PAGE 113

Q. And how long did that meeting take place?
A. I'm sorry? How long did it take?
Q. Right.
A. I believe probably three to four hours.
Q. Okay. And what was the net results of your activities on that day? Did y'all reach some kind of an agreement?
A. It was primarily discussing the wording of the documents involved in the consent decree.
Q. What wording was creating difficulties that caused y'all to have to go to Atlanta to have a meeting over there?
A. I don't know that there was anything specifically causing difficulties. There

was -- had been an exchange of documents and we were discussing the terms or the conditions in various parts of those documents.
Q. Well, what terms and conditions as you sit here today do you recall that y'all

PAGE 114

discussed on that date, five or six weeks ago?
A. I don't recall specifically. There were issues around the risk assessment. There were issues around whether we needed to do treatability studies.
Q. What else?
A. I don't recall anything specifically as I sit here.
Q. Sir?
A. I don't recall anything else specifically as I sit here.
Q. Tell me, if you would, what the issue was on the risk assessment; who was going to do it?
A. No. That -- we -- we had reached agreement earlier that Solutia would do

the risk assessment.
Q. Okay. What were the issues?
A. Well, I'll do it in shorthand but basically there's a -- there's some

PAGE 115

discussion of whether --
Q. I would prefer, Dr. Kaley, you do it whatever hand that gives us a specific recollection that you have about each of the things that you discussed.
A. Yes. I will try my best. I will do it in shorthand or my -- what I'm calling shorthand. If you want more details I will. But basically it was a question of whether we were going to do what's called a backward risk assessment versus a forward risk assessment.
Q. What's a backward? To educate me --
A. Let me start with a forward risk assessment. With a forward risk assessment you start with soil levels, for example. If we were doing a risk assessment on soil and based on those soil levels and various consumptions and

exposure scenarios and things, you calculate a risk associated with exposure

PAGE 116

at a particular site.
On a backward risk assessment basically you start with an assumed risk or an appropriate risk for a particular site and using much the same procedure run in reverse. You calculate soil levels which would possibly generate a cleanup level, for example.
Q. Well, did y'all discuss cleanup levels under either one of those situations?
A. No. We haven't reached that part in the negotiations yet. Those levels are dependant on these very risk assessments.
Q. Well, what did y'all finally decide, you were going to do backward or forward?
A. We had proposed doing what we call the backward type of risk assessment, calculating appropriate soil levels which could then be translated into cleanup levels.
Q. Okay. Why is it the company chose the

You may have up to 3 Header and 3 Footer Lines

WATER_PCB-SD0000066954

SHEET 30 PAGE 117

backward, because that was the more stringent of the two?
A. Actually the numbers are the same no matter which way you run it. It's just a -- it's a better way to generate levels. Then you can generate a soil level and compare it to the levels that are already there. The assumptions and the calculations in the middle are the same either way. So neither one is more stringent or less stringent than the other.
Q. Well, why the dispute?
A. There was no dispute. There was just a question. Traditionally the risk assessments are done more in what I'm calling the forward manner. In other work we had done on the site, many of them had been done on the backward manner and that's what we had proposed to do. It wasn't a dispute.
Q. Then y'all said y'all had some dispute or some discussions rather about the

PAGE 118

treatability study?
A. Yes.
Q. What was that?
A. Pardon?
Q. What was that?
A. Well, we don't believe that the treatability studies for PCBs are appropriate. There really aren't any technologies out there that allow you to treat PCBs in place to eliminate them we don't believe. So we didn't feel that those were appropriate at this site.
Q. And they indicated to you that they thought that you should?
A. Yes. That's correct.
Q. Okay. Now, at any point in time during this particular phase of the negotiations that y'all had, was there any discussions about human health or human health risk or human health studies at all?
A. Well, part of the risk assessment process

PAGE 119

is the calculation or the performance of a human health risk assessment.

Q. But that's a little different than a health study, isn't it?
A. Yes.
Q. There have been something that I had seen in some of the correspondence you had in one of the earlier drafts that had been provided to you by EPA that called for a health study; is that correct?
A. Are we going way back to '99 or 2 -- you're not talking about these recent meetings anymore?
Q. I'm talking about the recent meetings. In fact, I thought I saw one in the document they presented to you that was a draft document that y'all got 11-17-2001. There was something about a health study in there.
A. I don't recall that specifically. I do recall that being in a very early letter

PAGE 120

from the EPA. I don't specifically recall it being in a more recent document.
Q. So you don't recall it being in the 11-17-2001 document?

A. I don't.
Q. All right.
A. That doesn't mean it wasn't in there. But I don't recall it being in.
Q. Okay. Well, do you recall receiving a letter or any kind of correspondence from the EPA where they talked to you about a human health study?
A. Yes, I do.
Q. And what happened -- I've looked at this last draft of a document which I assume came out of the most recent discussions y'all have had. I looked at the last draft of a document and I didn't see that in there. What happened to that health study y'all were to do?
A. Well, I mean, the EPA early on in the

WATER_PCB-SD0000066955

SHEET 31 PAGE 121

process presented us a list of some number -- for some reason the number 14 sticks in my mind. But some list of things that have been asked by the community to discuss with us as we moved forward in these negotiations of orders on consent

031802B

7650

and consent decree. I believe a health study was one of those and those 14 points formed the basis of our discussions with the EPA.

Q. Well, is it my understanding that y'all then agreed to do a human health study here in this area?

A. No, we did not.

Q. And why is it that the company was opposed to doing a human health study, Dr. Kaley? Because that would sort of fall in your bailiwick, I believe, wouldn't it?

A. Well, I don't believe that we feel that a study is necessary nor is one appropriate based on our understanding of the size of

PAGE 122

the population and other considerations.

Q. And now tell me what you --

A. Well, to do an appropriate epidemiology study takes thousands of people and we don't believe that there are thousands of exposed people in the Anniston community.

Q. So y'all objected to it because there weren't enough people who had body burdens

031802B

7651

of PCBs?

A. That's part of the consideration, certainly.

Q. Okay. What else is a part of it?

A. I don't --

THE COURT: Let me ask you how many people you do think have been exposed in the Anniston area?

THE WITNESS: I believe based on the blood levels I've seen, several hundred possibly. Those seem to be the numbers above background.

THE COURT: Okay. I'm sorry for

PAGE 123

interrupting.

MR. STEWART: I'm sorry. I was talking to Mr. Monk. I didn't hear your answer to the Court.

THE WITNESS: I said -- I'm sorry.

THE COURT: He had several hundred based upon the blood levels.

MR. STEWART: Several hundred?

THE WITNESS: Based on blood levels, yes, sir.

031802B

7652

Q. (By Mr. Stewart) Okay. How many -- when you say several hundred that could cover a gamut of things. How many do you understand?

A. I don't recall specifically. I haven't looked at those data for some time. My understanding is that it's maybe 25 percent of the people in the blood samples you took are above 20 parts per billion which I would consider above background 25 percent. So that probably would be 25

PAGE 124

percent of 3,500 is maybe 8 or 900 possibly at some level or another. But that's just my recollection as I sit here. I don't know -- I don't recall specifically what those numbers might be.

Q. If you had 1500, people who had detectable body levels of PCBs in their blood and perhaps your background level was a little high, would that be enough? Just say --

A. Probably -- Go ahead.

Q. Just say for the sake of a hypothetical they were above what most experts consider

031802B

7653

the background level for people. Would that be enough to take --

MR. COX: Objection to the extent he's not defining what he says most experts claim is a background level.

MR. STEWART: Well, one to four parts per billion.

THE COURT: I'm going to overrule.

WATER_PCB-SD0000066956

SHEET 32 PAGE 125

MR. STEWART: Go ahead.
A. Well, the one to four, number one, I don't know that I've seen that. I've seen five to six but that's an average; that's not a range. The average of a number of studies is five to six parts per billion. But the range is within -- all of those studies range up to 20 parts per billion in many cases. I believe that is still the number --
Q. Let's just say you had that as a background level by most experts of what I just got through saying and you had 1,500 people that are there or above -- that

level or above, would that be enough for y'all to do a health study?
A. Well, I'm not going to agree with your characterization that most experts believe that one to four parts per billion is background. I think to the extent that it's a case at all it's an average of

PAGE 126

studies. But putting that aside for the moment, no, I don't believe that that's a large enough number to do a proper epidemiology study.
Q. How many would you --
A. I don't know. I would have to look and see. But I think you would need several thousand probably to do that.
Q. Two thousand?
A. Four or five.
Q. I'm just trying to --
A. I don't know, Mr. Stewart. I'm not an epidemiologist. I don't know what it would take to do an appropriate study. But I don't believe that the data we have would suggest that was appropriate for

something for Solutia to be doing in the Anniston community.
Q. What was your -- what was your other point? You were making another point that y'all had by way of opposition to the

PAGE 127

human health study?
A. I don't even recall. Judge, do you? I don't recall what I said, Mr. Stewart.
Q. Well, I'm not asking necessarily what you said at this meeting -- I mean at this proceeding here today. But you said there were a number of reasons that y'all opposed it. One, there was not enough people that had been -- had PCBs in their body that --
THE COURT: So far that's the only --
THE WITNESS: Okay. Fine. I thought -- I misunderstood his question.
Q. That's all I know right now. What else did --
A. Right. As I just said, I also believe

that we feel it's not appropriate for Solutia to be conducting a health study in the Anniston community.

PAGE 128

Q. Why?
A. Well, number one, I suspect that anything we would do would have limited credibility.
Q. But you wouldn't be opposed to funding one, would you?
A. I believe we would be opposed to funding one by Solutia, yes.
Q. Why?
A. Because I don't believe that the demographics and the levels in that community justify a health study in that community.
Q. Are you saying -- this is very simply put, that what has happened or what y'all have exposed these people to and the body burdens that you've caused them to have don't justify a health study? Is that your --
A. Well, I don't think it's going to come as

any surprise, Mr. Stewart, that I believe

WATER_PCB-SD0000066957

that based on the epidemiology and human health literature with regard to PCBs that these people are not at risk of health effects from their exposure to PCBs.

Q. Okay.

THE COURT: If there's no risk of health effects, then why is EPA negotiating anything with you?

THE WITNESS: Well, I believe, number one, the PCBs are a regulated chemical --

THE COURT: Uh-huh. (Affirmative.)

THE WITNESS: -- for a number of reasons, primarily based on their environmental persistence and there are regulations which need to be complied with and we and the EPA agree that they need to be complied with.

THE COURT: What's the purpose of the regulation? I mean, what's there to protect? You say simply

the environment?

THE WITNESS: Well, environment. I believe there are human health considerations certainly based on animal studies you can project human health risks based on PCB exposure.

But I think, you know, our position as a company is that based on the human literature there's no observable consistent human health effects from those chemicals.

THE COURT: But there are risks?

THE WITNESS: There are risks based on calculations from the animal studies.

THE COURT: But if you take Solutia's view that there are no -- that there is no proof of effects then why negotiate anything with EPA because regardless of the risk

nothing's ever going to happen to

the human population in Solutia's view. Is that what I'm understanding?

THE WITNESS: Well, certainly I think the last part is what we say; that we do not believe the human population is at risk of adverse health effects from these exposures in Anniston.

To go back to the first part of your question, though, I mean, certainly the EPA believes and we believe and I believe ADEM believes that there are PCB levels in the Anniston community that need to be cleaned up and ought to be cleaned up and that is why we are negotiating with the agencies, to reach an agreement on how best to do those

cleanups.

THE COURT: Okay. Do you understand that ADEM believes that that

level as far as residential properties goes should be one part per million?

THE WITNESS: I don't know that I know that specifically, no.

THE COURT: You were here in the courtroom last Tuesday, weren't you?

THE WITNESS: No, I was not.

THE COURT: You weren't here last Tuesday?

THE WITNESS: No, I didn't come until Thursday.

THE COURT: Okay. Well, I knew I remembered seeing you here last week.

THE WITNESS: Yeah, I was here last -- I was here last Thursday.

WATER_PCB-SD0000066958

SHEET 34 PAGE 133

THE COURT: I thought surely you would be here Tuesday as well.
THE WITNESS: No. I didn't hear Mr. Cobb's testimony.
MR. STEWART: Might have been in a

031802B

7661

meeting.
THE COURT: Well, it wasn't Mr. Cobb's testimony. It was -- there was someone else I believe.
THE WITNESS: Okay.
THE COURT: But you weren't here.
THE WITNESS: Okay. I don't have that specific understanding.
THE COURT: Okay. That's all I have at this time.

Q. (By Mr. Stewart) Isn't one of the reasons you all don't want to do a health study with this population in Anniston, Alabama, is because it more than likely will point out, not only to Solutia and to EPA and to ADEM but to the rest of the world, that

PAGE 134

PCBs do cause health problems similar to the ones that have been accepted apparently by this jury in this case?

A. No. I don't believe that.
MR. COX: Objection, speculation.
THE WITNESS: Sorry
THE COURT: Overruled.

031802B

7662

Q. Sir?
A. I do not believe that such a study would have that result, no.
Q. Well, in other words, this is a population that, according to your own experts, y'all had an expert that you did not use at trial, a Dr. James, who indicated that this population was what he called unique and that's because of the body burdens that these people had. Isn't that correct, Dr. Kaley?
MR. COX: Objection to him asking a witness to comment on what some other witness said outside these

PAGE 135

court proceedings.
THE COURT: Overruled.

A. Well, I don't know that Mr. James said that. So I don't know specifically what he's talking about.
Q. Well, isn't this a unique population though, the people in west Anniston, because of their body burdens?
A. There are some people who have body

031802B

7663

burdens higher than have been seen in other environmentally exposed populations; that is correct.
Q. Well, and also in other workplace exposed people, too?
A. I believe their body burdens are well within ranges for workplace exposures, those few -- those people that do have those levels.
Q. Now, are you aware that a panel of ATSDR called experts -- they called a group of experts together and I believe that they

PAGE 136

stated publically that they felt a health study was appropriate? You were at that meeting, weren't you?

A. I was at that meeting. I don't recall that statement being made publically.
Q. You don't remember them indicating during that meeting that they felt like this group of people here in Calhoun County, Alabama, or in Anniston, Alabama, ought to be studied and a health study ought to be done?

031802B

7664

A. Well, there were individuals on that panel who made different kinds of recommendations on studies that might be done. I don't know that there were any -- certainly there was no consensus and I don't know that there was any final determination that studies should be done. But no question a variety of those people on that panel suggested that there were studies that might be done.

WATER_PCB-SD0000066959

Q. Which included Dr. Larry Robertson; is that correct?
A. He was on that panel.
Q. A Dr. Silverstone?
A. He was on that panel.
Q. And there were a number of people who -- Dr. David Carpenter and others, who have been involved for years in the PCB -- or the study of PCBs and their effects on humans?
A. Well, Dr. Carpenter wasn't on that panel.
Q. He wasn't present at the meeting?
A. No.

Q. Okay. Tell me when your next meeting was. This last one's five to six weeks ago that we talked about. When was the next one?
A. Approximately a week later.
Q. About a week later. Who called that meeting?
A. I think it had been discussed at the previous meeting and so it was basically a

mutual agreement to continue the discussions around the wording of the decree.
Q. So that would have been -- would that have been after the jury verdict?
A. I don't know.
Q. Okay. Who attended that meeting?
A. It was basically the same people. There were -- additionally though there were representatives from ADEM and there were two risk assessment people from the EPA.
Q. Risk assessment people?
A. Yes.
Q. Who were they?
A. Elmer Aiken, A-I-K-E-N, and Lynn Wellman,

W-E-L-L-M-A-N, I think.

THE COURT REPORTER: Thank you.

Q. Are those people both from Atlanta?
A. Yes, they are.
Q. And I noticed just reading over this draft and I -- is this draft that was designated

as I-21, is that the final document? Have there been any changes made, to your knowledge, since noon of May 13, 2002?
A. I don't know.
Q. You're not familiar with any changes?
A. I haven't seen any. In fact, I hadn't seen that draft until you showed it to me. So I haven't seen any others.
Q. Okay. All right. And I noticed in conjunction with the study -- I mean with a reading of this thing that the risk assessment was going to be done by y'all. That at some point in time, I think in February 27, 2001, EPA said that they would prefer, according to Mr. Weinischke, to -- and that's Plaintiffs' Exhibit I-5. Can I approach, Judge, and just show

him if he knows?

THE COURT: Certainly.

Q. It said they would prefer to perform the risk assessment. Was this the meeting in

Atlanta where y'all talked them out of that?
A. I don't recall that we talked them out of that at any meeting. And I don't recall specifically which -- I mean, I don't know where that changed in the process. I know we feel strongly that we should do the risk assessment.
Q. And why is that that y'all feel strongly that you should do the risk assessment?
A. Because we're going to be generating the data and we feel we can do a better job.
Q. Y'all can do a better job than Elmer and Mrs. Wellman?
A. Well, it's Mr. Wellman but --
Q. Mr. Wellman? I'm sorry. I thought it was a lady.
A. We believe we can do a better job overall, yes. But be assured Mr. Aiken and Mr.

Wellman are going to be deeply involved in the process. They've made that very

WATER_PCB-SD0000066960

SHEET 36 PAGE 141

clear.
THE COURT: Let me ask you. Earlier in response to the health assessment you stated you didn't feel like it would be appropriate for Monsanto to perform -- or Solutia to perform the health assessment.
THE WITNESS: Health study, yes.
THE COURT: Health study. And one reason is because you didn't think that people would believe the validity of it?
THE WITNESS: That's correct.
THE COURT: Okay. Then why would you think that people would believe the validity of the soil sample study?
THE WITNESS: Well, in the first place it is essential to do a risk assessment for these

PAGE 142

processes. That's part of the CERCLA process. And we believe that there will be enough oversight from EPA that that will be a credible exercise.
THE COURT: Okay. But assuming it would be appropriate to do a health study, couldn't someone at the same time oversee that type of study as well?
THE WITNESS: If one makes the assumption that it would be appropriate, certainly someone could oversee that study.
THE COURT: Okay. And certainly in the beginning EPA thought it was appropriate?
THE WITNESS: Well, EPA was -- EPA was relaying to us the requests that the community had given them in a variety of meetings. So, I mean, my view of it was that the EPA -- original EPA list was kind

PAGE 143

of a wish list.
THE COURT: Okay.
THE WITNESS: Of things that they had heard from the community that the community wanted that they were putting on the table for us to discuss and as the discussions progressed, some things went in some things went out. We felt it was appropriate because of the normal concerns for children to possibly fund an educational study. So that was what we agreed to. That's consistent with our corporate activity in the community anyway.
THE COURT: I certainly understand your wish list. And I have some of my own. One, I wish this thing was over -- this whole case was over. And I'm trying to get

PAGE 144

to that point.
THE WITNESS: I understand, Judge.

THE COURT: But you have to understand that I don't know if it's appropriate to do a health study either. And I'm simply trying to get to that conclusion as quickly as I can. Because if there does need to be a health study, well, then we need to be doing a health study.
THE WITNESS: Right.
THE COURT: And that doesn't -- in my mind necessarily need to wait for upteen other studies to be done before we reach the point of concluding that, Well, you know, there does need to be a health study. And some of these folks may be too late to study them.
THE WITNESS: Well, I understand

WATER_PCB-SD0000066961

SHEET 37 PAGE 145

your position. But to that I would say that the purpose of this meeting that ATSDR held in Atlanta was to gather views from

031802B

7672

a variety of people on whether and what studies might be appropriate. And I believe that is ATSDR's charter and I believe the company feels we should leave decisions like that to that group.

THE COURT: Well, and do you understand this Court certainly believes it needs the input from people well more educated than I am on these matters in order for this Court to make a decision whether or not a study like that needs to be done?

THE WITNESS: I appreciate Your Honor's position on that, yes.

PAGE 146

THE COURT: And I need input from Solutia as well. I'm not excluding that input. But I'm -- I want complete input.

THE WITNESS: I understand and we would --

031802B

7673

THE COURT: And in the end, I, as well as other people, may determine that there doesn't need to be a study.

THE WITNESS: I understand.

THE COURT: Okay. I don't know that that was a question but --

THE WITNESS: Well, no. I appreciate -- I understand your position.

THE COURT: Okay. Anything else?

MR. STEWART: Yes.

Q. (By Mr. Stewart) We were back to this risk assessment thing. Why is it that EPA first -- strike that.

EPA set the risk, did they not, in fact, Mr. Aiken did it, for the emergency or trigger cleanup level, didn't he?

PAGE 147

A. I don't know whether -- as I sit here I don't know whether that was really risk-based or not. I don't know whether he did a risk assessment to come up with that number or not. He certainly had input into that process. But whether

031802B

7674

there was an actual risk assessment done I don't know. I've never seen one.

Q. Well, do you know, in fact, as you sit there, that he did not do a risk assessment?

A. No, I don't. I just said that. I don't know whether one was done or not. If one was done I have not seen it.

Q. Well, did you attend that conference?

A. Did I attend --

Q. The ATSDR meeting that --

A. Yes, I did.

THE COURT: Talking about the one in Atlanta?

PAGE 148

A. In Atlanta?

Q. In Atlanta.

A. Yes, I did.

Q. And do you recall him being asked by those people who were experts in that room if he in fact had performed a risk assessment or just pulled that figure out of the air?

A. I don't recall that, no.

Q. Okay. So you weren't present?

031802B

7675

A. I'm sure I was present. I just don't recall that specific question or his answer to it.

Q. Okay. Were you there when they questioned Mr. Aiken?

A. I don't recall -- I remember him speaking several times. I don't recall that specific question or his answer.

Q. Okay. Is it normal in setting a trigger level like that to perform a risk assessment before that number is selected?

WATER_PCB-SD0000066962

SHEET 38 PAGE 149

A. I don't know.
Q. That's what y'all proposed to do for the long-term cleanup level, isn't it?
A. For the long-term, yes. That is correct. That is the procedure for long-term; that is correct.
Q. And is it not a fact that EPA generally sets the risk assessment as they requested to do in their letter of February 27, 2001, of Mr. Topol?
A. I'm sorry. What -- is it normal that they do that? Is that your question? Is it

031802B

normal that they do the risk assessment?
Q. Certainly.
A. I don't know. I think it varies depending on the site. I think that's -- some sites they do, some sites they allow the company to do it. I don't know whether there's a normal or abnormal one way or the other.
Q. Who's setting the risk assessment or who is assessing the risk up in Sauget?

PAGE 150

A. I don't know. I don't know that that's been -- that's been determined at this point.
Q. Y'all aren't, are you?
A. I don't know. It very well may be. I just don't know.
Q. Y'all may have worked out the same kind of deal up there that you've got down here?
A. We are -- we have ongoing discussions with regulatory agencies wherever we are. Whether it's to quote you, "working out a deal" or not, I would disagree with. We are involved in processes to negotiate what's best for the site.

031802B

Q. All right. When is it, if you recall, that this risk assessment was given up?
A. I don't know that it was ever given up. I believe fairly -- I mean, we have -- it's been our position.
Q. I mean responsibility for it. Maybe I didn't state that question correctly. But

PAGE 151

the responsibility for it. When did EPA give that over to y'all?
A. I don't know specifically. Sometime between whenever that letter was written and now. I don't know. I don't recall specifically.
Q. Well, what did y'all give them for that? Did y'all say, We'll give you another million dollars toward the cost of managing this site in the past or maybe two million if y'all will give us the right to perform the risk assessment?
A. No. Those kinds of discussions were never held. It was basically an argument on the merits of our ability to do the risk assessment based on the ongoing analysis.

031802B

Q. Just an intellectually -- intellectual or scientific argument about who was best capable of doing that?
A. Who would be appropriate for on this site. I'm not questioning the EPA's capabilities

PAGE 152

to do it. I think they -- certainly Mr. Aiken I believe is a very capable risk assessor.
Q. I bet you do.
A. But we believe that it would better for the overall site for us to do the risk assessment.
Q. All right. Now, the risk assessment has to do with the final cleanup level, does it not?
A. Yes. Eventually, yes.
Q. Now, are y'all looking at this as to the risk it might pose to a child over say that child's lifetime?
A. I'm sure that will be one of the considerations, yes. Mr. Aiken has made that clear.
Q. Who has made that clear?

031802B

A. Mr. Aiken.
Q. Where in this document that's marked I-21 does he say that you all will look at it

WATER_PCB-SD0000066963

from the standpoint of a child who lives on that piece of property as opposed to an adult?
A. I don't believe it's in that specific document because the details at that level are not present in that document. But Mr. Aiken has made it very clear to us that that will be one of the considerations.
Q. Well, of course, I guess Mr. Aiken made it very clear to y'all on February 27, 2001, that they were going to do the risk assessment but he sort of waffled on that?
A. No. It says that they would prefer and that they would be willing to discuss the issue. And they were willing to discuss the issue and we agreed that Solutia would perform the risk assessment.
Q. We agreed?
A. The agencies and the company.
Q. Who in the community groups did you inform

that y'all had agreed that you all would

perform the risk assessment?
A. Well, Mr. Stewart, you know we're not allowed to talk to the community groups. So I'm sure EPA was in constant communication. My understanding is they've been in communication with those groups.
Q. Okay. Widespread dispersement of your activities up there in those meetings?
A. I'm sorry?
Q. Y'all have made sure that the EPA got that out to the total community, to the city, to the state and everybody involved?
A. I don't know specifically what EPA did or didn't do.
Q. All right. Who was -- what else was discussed at this last meeting that you were telling me about that y'all had? Anything else you recall coming up?
A. Yes. ADEM was present. We discussed -- we had discussions of whether ADEM should be a signatory to the consent decree.

Q. Who wanted them to become a signatory to the consent decree?
A. I believe Solutia and EPA both felt it would be advantageous.
Q. Okay. And we covered that last time but they indicated to you that they did not want to be on the agreement; is that right?
A. I have not heard that specifically, no. Since the latest draft does not include them, I assume that that is based on their wishes. But I don't know specifically.
Q. Well, one of my colleagues wanted me to ask you a minute ago is this the latest draft, I-21, the one that was there?
A. I think I told you earlier, I haven't even seen that draft. And if there was another one later on, I haven't seen it either.
Q. So there could be another draft that could be filed with the Court that we haven't seen yet?
A. I haven't seen any draft since that one.

Q. Okay. Now, when was the next meeting that

y'all had?
A. I believe there was a meeting -- do you want me to wait for you, Mr. --
Q. No.
A. Okay. I believe there was a meeting approximately a week after the second meeting.
Q. What now?
A. I believe there was a meeting approximately a week after the second meeting. I wasn't present at that.
Q. Well, when in relation to the time this 3-13-2002 document did y'all have a meeting?
A. I think about a week before that.
Q. Was that the last one?
A. Yes.
Q. Well, I would hope so. Mr. Branchfield's indicated there were three, and I think you indicated there were three.

WATER_PCB-SD0000066964

A. Yes.
Q. About a week before that? Who all attended that meeting?

A. For Solutia, I believe it was Mr. Topol, Mr. Branchfield, Mr. Cox, and a consultant named Mr. Costello.
Q. And was Mr. Weinischke down at that one?
A. I wasn't there. I don't know.
Q. Who all was there from EPA, if you know?
A. I don't know that either.
Q. Was that when they finalized this document that was sent over here on 3-13-2001?
A. My understanding is that meeting was largely focused on EPA's request for recovery of past costs. I really don't know whether wording on the consent decree was discussed at that meeting or not. But my understanding was if it was, it was a minor consideration.
Q. So what you were focusing on at the last meeting was the figure that Solutia was

going to pay the EPA?
A. Again, I wasn't there. But that's my understanding, yes.
Q. Now, that was certainly after a decree had been rendered in this case, was it not?

A. It must have been. I don't recall specifically. But I believe that's correct.
Q. And it would be fair to say that it was after this Court at least announced and may have even held some hearings in connection with the injunctive relief?
A. I don't believe if -- my understanding -- my recollection is that the injunctive relieve hearings began a week ago today and the meeting was before then I believe.
Q. Okay.
A. It was a week before that.
Q. Now, where is it that someone would get from the Justice Department that this Court and specifically this judge forced

y'all to reveal this consent agreement before you intended to?
A. I don't know.
Q. Well, is it the position of Solutia that this Court forced y'all to make public this consent decree?
A. Well, I believe that until I think --

probably until it had been made final the EPA would not have released the terms of it. And I understand that it was produced subsequent to a subpoena from you. So I just don't -- yeah. I mean, to that extent, yes.
Q. To that extent yeah what?
A. Yes, it was made public to the people in this room at least because of the response to the subpoena.
Q. Because Mr. Branchfield had to bring that to this Court as a result of the subpoena that I issued, that the plaintiffs in this case issued to him?

A. I thought that's what I said, yes.
Q. But not the Court?
A. Well, okay. I agree with that. I mean, I assume because it was a subpoena the Court had some authority over it. But fine. If it was because you issued it, then that's fine.
Q. Well, it was issued through the state court process. And I was just wondering

why someone would say that the Court forced this out into the public?
A. I don't know.
MR. COX: Objection. He's asking him to speculate about what somebody else had said.
MR. STEWART: Well, I just wanted to know if it was them.
THE COURT: Well, it wasn't you?
THE WITNESS: It certainly wasn't me, nor do I believe it was anyone from my company. I don't

WATER_PCB-SD0000066965

know who said that to whom. I didn't even know that statement had been made.

THE COURT: But it could have been somebody from your company if such a statement was made; it just wasn't you?

THE WITNESS: It wasn't me.

THE COURT: Okay.

Q. (By Mr. Stewart) Now, in connection with this health study there was something else

I saw in this agreement and I wanted to ask you some questions about it and that's this trust fund?

A. Well, what are we looking at? I mean, that initial letter is not an agreement.

Q. Oh, it isn't?

A. It was a letter from the EPA, if I recall correctly, requesting a variety of points to be discussed as possible points in the consent decree or in the AOC. I don't

even remember which one it was prior to, frankly.

Q. So your attorney's letter back to them saying we agreed to everything is not an agreement?

A. Well, if there is such a letter that says we agree to every -- could I see the letter you're questioning me on first, Mr. Stewart, so I'm not --

Q. No. I'm not questioning you on the letter, I'm just --

A. Well, you were holding a document. If it's the list of points which we were

discussing earlier which includes the health con -- or the health assessment, then I do not believe that was an agreement; it was a request from the EPA.

Q. Certainly?

A. And I do not believe that there is a letter from our attorney responding to that saying we agreed to everything on

that list because we certainly did not and do not.

Q. Well, my only point was and it -- what I was trying to ask you -- I wasn't trying to trick you, Dr. Kaley. What I was trying to do was to ask you about the trust fund that's in this document, this final document.

A. Okay.

Q. And EPA had asked y'all for a health study at some point in time. And one of my colleagues wanted me to ask you if the trust fund was quid pro quo, if y'all swapped out. Weren't going to do a health study but were going to put up a trust

fund?

A. No. I believe the trust fund was part of the original discussions from the word go. One of the possible uses of that fund was a health study which we felt was not appropriate for this particular consent

decree. And we suggested and I think the EPA also agreed that an educational type fund or a business development type fund would be something that we could agree to.

Q. So y'all agreed on the educational trust fund?

A. I'm -- I don't know that I want to buy into your educational trust fund language. But certainly there is language in there which is that Solutia's going to contribute moneys to a -- to a fund which will be used to further primary and preschool education in the community, yes.

Q. Okay. And did that have to do with special education?

A. I believe that term may have been used in one or more drafts.

Q. Is that in the final draft?

A. I don't know. I have not read the final draft.

Q. Okay. And did -- to your knowledge, did

WATER_PCB-SD0000066966

SHEET 42 PAGE 165

EPA inform the people who were in the community about the dropping of the health study?
A. I have no specific knowledge of that. I do know that they were talked back and forth to the community throughout this process. Whether that was a specific communication, I don't know.
Q. Okay. You don't know whether or not -- did y'all inform them that you were not going to do the health study?
A. Inform the community?
Q. Yes.
A. No, sir.
Q. Okay. So, to your knowledge, you don't know whether they were informed about that or not?
A. I don't.
Q. Okay. Now, there was some discussion with

Mr. Branchfield and I wanted to know if you knew about it. Y'all put up a trust

PAGE 166

fund in the Owens case. It appears that you're counting your contributions to that trust fund for a portion of what you're obligated to do under Plaintiff's Exhibit I-21; is that correct or incorrect?
A. That's not my understanding.
Q. Okay.
A. My understanding is that they're integrated. But my understanding is in fact we're giving more than we originally proposed under this consent decree.
Q. So if on given years if y'all are making contributions to that other trust fund and you don't give anything in this trust fund, that all you're doing is just giving additional funding; is that correct?
A. My understanding is that the payment scheduled in there is a -- is a schedule that allows contributions to both funds over time. But I believe the -- I'm sorry. Well, you're pressing my

PAGE 167

understanding and I'm not sure I understood your question. But my understanding is that that agreement, the proposed draft consent agreement, has a payment schedule which takes into considerations the payments we are making under the settlement in the other case. But that the total sums of money are actually larger than the sum of the original two would have been.
Q. Okay. Do you know how much larger?
A. I don't know.
Q. Is it about a million two?
A. I don't.
Q. In other words, this indicates that you all are making -- and by "this" I mean page 9 of I-21. Can I approach, Judge?
THE COURT: Certainly.
MR. COX: Donald, I have a copy of it, if that will help you.
MR. STEWART: Well, if he doesn't want me over there next to him.
THE WITNESS: You're welcome to

PAGE 168

stand next to me, Mr. Stewart. I didn't say anything.
MR. STEWART: I'll be over here. Go ahead, Buddy.
MR. COX: I'm just trying to help.
MR. STEWART: I know. I appreciate it.
THE COURT: I think he really is trying to help.
MR. STEWART: I do, too. I am, too.
THE COURT: Okay.
Q. This is year one, year two, year three and it's 150,000 the first year and 102,000 the next year and then 84,000 the next year?
A. Yes.
Q. And I'm asking you are those contributions supplementary to what's been given in this other trust?
A. That is my understanding, yes. They're in addition to what is given in the

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SHEET 43 PAGE 169

settlement of the other case.
Q. And then in year four and year five you do
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not make a contribution?
A. Yes. That's correct.
Q. And is that because there -- and I saw it in other letters and I don't want to belabor the point, but I saw it in other letters and correspondence and it indicated that y'all were making some fairly substantial contributions to the Owens trust during that period of time and you wanted to count it toward this trust. Is that what you meant by integrating it?
A. Well, I mean, we're not counting it toward this trust. We're showing zero. We're not taking credit for those payments. And I don't know the specifics of the Owens settlement the disbursements under that settlement. But it's -- we're not substituting it. We may be paying less in

PAGE 170

those particular years because there are other payments. I just don't know. But it's not a question of supplementation -- or substitution.
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THE COURT: Do you know where it's going?
THE WITNESS: Do I know where it's going? At this point, no, we don't know yet. Under the Owens settlement, my understanding is that foundation's currently being set up and it will be.
THE COURT: Okay.
THE WITNESS: This one, the terms of this are basically to create that foundation. So we have committed the money. It may be the Owens foundation or it may be another foundation that gets that money. We do not know where it's going yet.

PAGE 171

THE COURT: But it's all going under -- both of these agreements going into the same foundation?
THE WITNESS: Not necessarily is my understanding.
THE COURT: Okay.
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THE WITNESS: It could be the same foundation. It could be two different foundations.
THE COURT: And it could wind up in separate places?
THE WITNESS: It could.
THE COURT: Okay.
THE WITNESS: That's my understanding, Judge.
THE COURT: If it was going to one spot -- if it's going to the schools in west Anniston or --
THE WITNESS: Well, I'm not sure where the moneys committed to the Owens settlement are going. But

PAGE 172

our moneys are committed to a group that is going to see that it gets to either Anniston schools or preschools or something like that and it's really that that commits us to working to form that group. And then that group will make the
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decisions and that group will include the community people and all the other interested parties presumably, you know, certainly the schools and things like that.
MR. STEWART: Thank you, Judge. That's sort of what I was looking for to find out if it went to the same company. You say it's not.
THE WITNESS: Well, I don't know at this point.
THE COURT: He's saying he doesn't know one way or the other.

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THE WITNESS: It's a possibility but that has not been determined because neither trust exists at this point, as I understand it.
THE COURT: And does Solutia have any say-so as to where it winds up?
MR. MONK: What's your question, Judge?
THE COURT: If Solutia has any say-so in this decision as to where it

winds up.
THE WITNESS: I believe we have. And, again, you're pushing, you know, whatever it says here. But my understanding is is that we have a role in the creation of the group of the fund -- of the trust. But once that is established and meets criteria set forth in this document, then it's hands off.

THE COURT: Okay. When you say you have a role in the creation of the group, does Solutia have a role in selecting the group, the members of the group? And I haven't read that in this document either.
THE WITNESS: I believe we do to some extent but with EPA approval and final sign off. But I could be wrong on that.
THE COURT: But you did state that

the community would have --
THE WITNESS: Yes.
THE COURT: -- a part in the decision making process where the money winds up?
THE WITNESS: Yes.
THE COURT: Okay. Let me get back and then I want to take a break, I guess. Get back to the

original -- well, the last set of questions I asked that follow-up on your statement that you believe it would be improper for Solutia to conduct a health study.
THE WITNESS: Yes.
THE COURT: Because people would question the validity of it?
THE WITNESS: Yes.
THE COURT: And certainly the jury in this case has returned a verdict against Solutia.
THE WITNESS: I understand that.

THE COURT: And one of those verdicts was against Solutia on suppression of the truth.
THE WITNESS: Okay.
THE COURT: So that would kind of support that belief, I guess.
THE WITNESS: All right. I'm

surprised that's where you were going but I understand. Okay.
THE COURT: Well, that's a part of where I'm going. But -- and I would assume that you would also state that it would be improper for the plaintiffs to conduct a health study and for this Court or anyone to just accept that study as truth?
THE WITNESS: Well, is that one question or two?
THE COURT: You can break it down to two if you want to.
THE WITNESS: I can't, you know, I can't make the decision based on

other groups whether they believe it's appropriate for -- to do a health study or not. I mean, that's the plaintiffs or the Court or the ATSDR has to make

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SHEET 45 PAGE 177

that decision. I was only answering for Solutia.
THE COURT: Right.
THE WITNESS: If the plaintiffs by themselves do that study without some sort of oversight, I believe it would be subject to credibility issues, yes.
THE COURT: Okay. So you can understand why the Court may not want to accept either side's version of the health study.
THE WITNESS: I can understand that, yes, sir.
THE COURT: And why the Court is concerned about, one, doing -- whether or not a health study needs to be done; and, two,

having some independent experts to assist the Court in determining whether or not, one,

PAGE 178

a health study needs to be done and, if so, how it should be done.
THE WITNESS: I certainly do understand that, Judge, yes.
THE COURT: Because taking your statement earlier, I may tend to agree with it but I tend to agree that I shouldn't accept just the plaintiffs' side either so.
THE WITNESS: Okay.
THE COURT: Have you got any questions?
THE WITNESS: Do I have any questions? Do I get to ask questions? No. I'm fine for now.
THE COURT: Let's take a recess.
(Break at 3:10.)

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