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

JOHN R. SWIFT and BARBARA SWIFT,)
Plaintiffs,)
-VS-) Civil Action NO.
) CV-97-AR-2430-E
MONSANTO CO., INC. et al.,)
Defendants.)

Deposition of BILL DEFER, taken in the above-entitled cause before Bonnie Atella, C.S.R. and Notary Public within and for the County of Cook and State of Illinois, at 200 East Randolph Street, Suite 61North, in the City of Chicago, Illinois on Wednesday, June 30, 1999 at the hour of 9:00 a.m. pursuant to notice.

APPEARANCES

STEWART & SMITH, P.C.
BY: DONALD W. STEWART
1131 Leighton Avenue
Anniston, Alabama 36207

AND

KASOWITZ, BENSON, TORRES & FRIEDMAN, LLP
BY: ELLEN B. MALOW
700 Louisiana Street
Suite 2200
Houston, Texas 77002
On behalf of the Plaintiffs;

LIGHTFOOT, FRANKLIN & WHITE, LLC
BY: ADAM K. PECK, ESQ.
400 North 20th Street
Birmingham, Alabama 35203
On behalf of the Defendant.

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MR. PECK: Usual stipulations, Don?
MR. STEWART: Yes, with the idea in mind we'll be using this not only for Swift, but with the understanding we'll be using this for Abernathy and the other cases involving Monsanto.
MR. PECK: Except subject to attorney's qualifications.
MR. STEWART: Subject to not violating the stay.

BILL DEFER,
having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. STEWART:

Q Introduce yourself, if you would, Mr. Defer, to the jury. Tell us who you are.

A My name is Bill Defer. I work for Monsanto presently. I used to work for what is now Solutia. I -- specific to this case, I worked in Anniston, Alabama, as the plant manager from December '91, moved to a new job in July of '94, left, left Anniston, with another part of Monsanto,

and started --
MR. PECK: He really didn't mean for -- he will ask you follow-up questions.
THE WITNESS: That's enough, then.
MR. STEWART: Mr. Defer, that is perfectly okay. That's refreshing.
BY MR. STEWART:
Q Have you, other than the deposition that was provided to me that you gave in the case of Dyer versus Monsanto, have you ever given a deposition?
A No, I have not.
Q But you understand from giving that deposition that you have a right to make sure my questions are clear and that you understand them; if you don't understand them you can ask me to clarify, do you not?
A Yes, I do.
Q You also understand that you have a right to take a break if at any point in time you want to take a break or consult with Mr. Peck. I assume Mr. Peck is representing you?
A Yes, he is.
Q When did that happen? When did you engage

Mr. Peck to represent you?
A Immediately after I was named as a defendant in the Dyer case.
Q So you are a defendant in the Dyer case?
A Yes, I am.
Q Now, is that the case that recently settled or the late case?
A Yes, it is.
Q Are you familiar with the details of that settlement?
A At a high level, yes.
Q When you say at a high level, what --
A Well, I don't know all the specifics about, you know, how it's distributed to the class. I don't know all those details. In general I know some of the details, yes.
Q What do you understand the settlement to be in that case?
A That the settlement consists of two parts, one of which is some remediation work that Monsanto will do, the other part is a financial settlement to members of the class.
Q Let's go to the remediation work. What do you understand is to be done by Monsanto in

connection with the remediation in the Lake case?
A I don't know any of the details.
Q How much money is going to be spent?
A $20 million is a number I have seem to recall, but that's just a recollection.
Q Over what period of time?
A I don't know.
Q Would six years ring a bell, Mr. Defer?
A I have no idea.
Q You don't have any idea?
A No.
Q How did you become aware of the fact of the $20 million figure?
A As I had to sign a paper for the settlement documents, and just skimming over, skimming over that mountain of stuff.
Q Is that money going to be devoted to cleaning up Chocolate Creek and also Lake Logan Martin?
A I don't know any of the details how that's to be directed or if it's specified where that's to be spent.
MR. PECK: Just for the record, I think it's 21.

BY MR. STEWART:
Q Mr. Peck, your lawyer has indicated it's some $21 million. Does that refresh your recollection?
A I would agree with Mr. Peck.
Q And what is that to do, when you say clean up or remediation work, is it connected or related to PCB's?
A My understanding is that it is connected and related to PCB's and includes investigation, remediation and related work.
Q So that includes, you understand that the $21 million figure includes not only remediation or clean up, but also investigation or characterization of what's there?
MR. PECK: Object to the form of the question.
THE WITNESS: I don't -- I don't know any -- I really don't know any details beyond that. All I know is that Monsanto in the settlement discussions agreed to set aside a sum of money to be used for remediation related to that case.
BY MR. STEWART:

Q When you say set aside, do you understand that that money will actually be spent or is that just going to be set aside in some reserve that may or may not be spent?
MR. PECK: Object to the form of the question.
THE WITNESS: I don't know those details.
BY MR. STEWART:
Q Well, do you have any idea, has anyone ever told you how much or what amount of PCB's were located in the lake?
A I haven't seen any of those studies and haven't had discussions with anyone and asked them about the details.
Q From your conversation about studies, it indicates that there is a distinct possibility that there are studies that have been done by Monsanto -- (we'll take a break?
MR. PECK: Why don't we take a quick break then?
BY MR. STEWART:
Q I assume there have been studies done of the lake by Monsanto?

A I don't know any, any details of any studies at all in the lake.
Q So as a defendant in the case, Monsanto just kept you completely in the dark about what your potential personal liability was?
MR. PECK: Object to the form of the question.
THE WITNESS: No. I wouldn't characterize it that way.
BY MR. STEWART:
Q They just told you, don't worry about it, Bill, we'll take care of it. You just don't need to know anything about it? How was it they put it to you?
MR. PECK: Obviously, anything told to you by your attorneys --
MR. STEWART: I'm not talking about counsel. I'm talking about Monsanto.
BY MR. STEWART:
Q What did they tell him. They got sued. I'm sure they had some conversations.
A Well, it's not unusual -- it's not extremely unusual for Monsanto employees to be named in lawsuits. This isn't the first time

that's happened.
Q This is not the first time you have been sued?
A The Dyer case was the first time I, personally, was named as a defendant, yes.
Q You are saying it's not unusual for people who are in positions like you are in, who work for Monsanto as a plant manager, to be sued, it happens quite frequently?
A It's not extremely unusual for employees of Monsanto to be named in a case, no, it's not.
Q Those who fit --
A It has happened before.
Q Those who fit your category, plant managers, you operate plants in other locations?
A I don't want to -- Don, I don't want to, I don't want to leave the impression I'm saying that that's a common occurrence. It has happened before, yes, for a variety of reasons.
Q I just got the impression that it happened quite frequently. If I misunderstood you, please, correct me.
A I didn't say quite frequently, I don't believe.

Q Maybe I took from the fact that you said it wasn't unusual for that to happen, that it happened quite frequently. If I presumed something from your response, I apologize.
A Okay.
Q Where do you live now?
A I live in Augusta, Georgia.
Q What do you do there now?
A Travel to Chicago a lot. My job for Monsanto is based in Chicago now.
Q What is your job for Monsanto in Chicago?
A I have a manufacturing leadership role for the NutraSweet consumer sector of Monsanto.
Q Manufacturing leadership role, is that what you said?
A Um-hum.
Q And I didn't hear what products you dealt with?
A Oh, I currently am involved with Nutrasweet brand aspartame.
Q Have you been sued about that?
A No, sir.
Q Has Monsanto been sued about aspartame?
A I don't know the answer to that.

Q You don't know whether litigation is going on for that product that you are involved in?
A None that I know. There is no litigation involving Nutrasweet that I am personally involved in.
Q Are there some claims being made by people in the general public about aspartame, consumer groups and that type?
A There is -- there are -- there are groups out there that hold different opinions, dissenting views about aspartame.
Q What are those opinions? They think aspartame is harmful to people?
A I don't want to --
MR. PECK: Object to the form of the question.
THE WITNESS: I don't want to try to characterize what some of those groups think about aspartame. I, personally, think it's a great product. It's safe. As you can see, I am consuming it right now.
BY MR. STEWART:
Q So you are saying that these people are saying aspartame is a good product and people ought

to consume as much of it as they can get or are they saying they should not consume it at all?
MR. PECK: Object to the form of the question.
THE WITNESS: I don't want to try to characterize what they are saying. There are -- it has been at times a controversial product, yes.
BY MR. STEWART:
Q Is it more --
A For different reasons.
Q Is it more controversial today than it used to be?
A It's hard for me to say. I don't have a history that goes all the way back to the beginnings of Nutrasweet.
Q How did you obtain your job here in Chicago? Did you move from Augusta to here?
A My job moved, yes. I haven't physically moved yet though.
Q So you were involved in a plant in Augusta that manufactured some of these products, aspartame?
A There is a Monsanto plant in Augusta,

Georgia, yes.
Q Did you run that plant after you left Anniston?
A Yes. I was a plant manager of that facility.
Q What do they make there?
A That plant makes NutraSweet. It also makes pharmaceutical intermediates.
Q Makes what?
A Pharmaceutical intermediates.
Q Just consider me totally ignorant of the chemistry.
A It makes intermediates of what's called bulk actives for pharmaceuticals. In other words, they make the drug, not necessarily the pills is what we make there. If that makes sense, we make the drugs but not the pills.
Q It turns into the pill at some other Monsanto plant?
A Right.
Q You all make the raw materials that are made into pills?
A Yes.
Q Were you involved in pushing the aspartame

approval through the FDA?
A Not at all.
Q Are you familiar with that process?
A No -- other than, no. I am not familiar with it. I wasn't involved with it. I am not familiar with it.
Q You don't know anything at all about the difficulties that have been created by Monsanto's rush to push that through the FDA?
MR. PECK: Object to the form of the question.
THE WITNESS: I don't know any of the details of that. I was not, personally, professionally involved in any way.
BY MR. STEWART:
Q Let me ask --
A And it was approved well before 1994, which was when I started being involved with the business.
Q Okay. Let me ask you this: Just, you know, as a matter of policy of the company, how long have you been with this company?
A 20 years.
Q And is it a practice, as practical matter,

is it generally Monsanto's policy to keep a person who would take over something like this job you now have and just keep you totally ignorant of any concerns that people might express about the product you are producing or the plants or facilities that you are involved in?

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

THE WITNESS: Don't -- I don't feel like I am totally ignorant of the products that I am involved in.

BY MR. STEWART:

Q You don't know anything about the FDA process. I just wondered.

A No. Those processes inside of Monsanto are dealt with by people whose area of expertise it is to work with the FDA. That's, I'm not a, you know, a health scientist, a toxicologist, a regulatory specialist. That's not what I do.

Q So you don't want to know anything about the controversy that surrounded the product at the time it was approved by the FDA that you are now producing and conducting activities or producing with Monsanto?

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

BY MR. STEWART:

Q It's not a concern on your part?

A Don't -- I do not go out of my way to learn that. My feeling was when I first asked the question you were phrasing it in a way that you, you know, implied that I had some specific business knowledge and I don't. That product's regulatory approval was received long before I ever got involved with NutraSweet.

Q Any other products that you make and handle the process of making, manufacturing process that you direct now that has this controversy around it that maybe aspartame does?

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

THE WITNESS: Can you be more specific? I'm not really sure I understand what you are saying.

BY MR. STEWART:

Q You may not be aware of the controversy that surrounds aspartame. Apparently there was some objection to it. I'm just asking you if some

of the other products that you all manufacture, that Monsanto manufactures that you control or direct the activities and the manufacturing of those things, any other item that you have manufacture of that has the controversy that, maybe, aspartame does?

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

THE WITNESS: Well, I wouldn't really -- I wouldn't, first of all, describe, you know, the manufacturing of aspartame was laden with controversy. I don't feel that way about it, neither do all the Monsanto employees who work in that area directly or indirectly. We don't feel that way about the product. We think it's a great product.

BY MR. STEWART:

Q Of course, if they don't know anything more about it than you do, how would they even know anything about the controversy?

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

THE WITNESS: Was that rhetorical?

BY MR. STEWART:

Q No, that's a question.

A Again, I don't feel ignorant about the products I make. It's just that something like product toxicology is a very specific specialist area and it's not my area of expertise and I don't want to comment on it like it is. It would be unfair.

Q How did you move from, who tapped you to move from the Anniston plant to Augusta, Georgia?

A Well, at the time NutraSweet was part of a, was part of a different division of Monsanto, a position came open, and there was a selection process and I was selected.

Q Who picked you?

A That would be my, the boss, the boss that I had at the time, a gentleman named Steve Longfield.

Q Steve?

A Steve Longfield.

Q And what is it that set you apart from the other people who were involved in the competition?

A Experience, job competency, those areas, that would be my assumption.

Q How many employees are there at the plant

in Augusta?
A Today there are approximately 600.
Q How many?
A 600.
Q How many were there in '94?
A When I first transferred to Augusta, I just had responsibilities for NutraSweet and that was about 350 people.
Q So you weren't plant manager when you transferred there?
A I was.
Q Of the plant that made Nutrasweet?
A Um-hum. We used to actually have two separate plants, and then they were all consolidated into one, that's how the job grew.
Q How many employees did they have in Anniston when you moved from there?
A When I left Anniston in early '94, there was approximately 100 employees.
Q And you say Steve Longfield was your boss at that time?
A He was my first boss at Nutrasweet.
Q Who was your immediate superior when you were at the Anniston plant?

A At that time, in '94, it was a gentleman named Bob Jones.
Q Bob who?
A Bob Jones, Robert Jones.
Q Is that the Robert Jones, who is an environmental --
A No, it's not a different Robert Jones.
Q Where was he located?
A St. Louis.
Q What was his position?
A Director of manufacturing.
Q And who is his immediate superior?
A I don't recall. I just don't recall. There was a time -- there was a lot of change going on. I don't recall.
Q Do you have any judgment at all as to who it would be?
A It was either potentially the commercial vice president, what could have been, which would have been a fellow named Mike Miller --
Q Who is was Mr. Miller's boss?
A Bob Potter, that's my recollection.
Q President of the company?
A Yes. He was president of the chemical

group of Monsanto at the time.
Q It was divided into a chemical group and agricultural group, is that the way it was divided at that time in '94?
A Yes. And some other smaller groups, but the two main ones were the chemical group and the agricultural group.
Q And you all were part of the chemical group at that time?
A Anniston was, yes.
Q Now, what did you do to prepare for this deposition here today?
A Met with Adam yesterday and had a discussion with him.
Q Did you review any documents?
A No, not specifically, not before the meeting. I think during our, during our discussion yesterday Adam referred to a couple of them, yes.
Q What documents were they?
A I think at points we referred to the deposition which you have in front of you.
Q You reviewed your deposition?
A No. We, Adam referred to parts of it. I have not reviewed it in detail.

Q What else did you look at?
A Adam also referred to --
MR. PECK: Wait. In answering the question, if you looked at a document, if you can recall it, you can tell him. Don't tell him what I told you or discussions --
MR. STEWART: I'm not looking for what Mr. Peck told you.
THE WITNESS: Okay. All right. We'll get that another way.
MR. PECK: I didn't really take that your question was --
MR. STEWART: I'm not.
MR. PECK: I think we have been through that, actually.
MR. STEWART: We may call John in a few minutes. I'm just kidding.
BY MR. STEWART:
Q Before you leave that deposition, what part of it did you look at?
A Gee --
MR. PECK: Object to the form of the question.
THE WITNESS: I can't recall the

specifics of what, of what specific part we looked at. I didn't have it in front of me. Adam was just talking about it.

BY MR. STEWART:

Q Do you want to take a look the deposition and point out to me, if you can, Mr. Defer, what part of the deposition?

MR. PECK: That's why I object. Don't, to clarify what's going on here. I had the deposition in my hand, I referred to it, I discussed it. He didn't even look at it. That's why.

THE WITNESS: I was sitting over there and Adam was sitting over here and I was not -- this is the closest I have looked at it.

BY MR. STEWART:

Q When was the last time that you read the deposition before you came up here to meet with Adam yesterday?

A I reviewed it very briefly, immediately after the deposition, yes.

Q You are saying you don't recall which part of it --

A I don't recall. I couldn't find it. There is no way I could find it right now.

Q You don't even recall the subject matter?

MR. PECK: Of what, what he read after the deposition.

BY MR. STEWART:

Q Well, I thought --

MR. PECK: See, he didn't, let me just --

THE WITNESS: The problem we are having here is yesterday I didn't look at the deposition.

MR. STEWART: If you would let me ask some questions, we have got a reservation of your rights as a lawyer to discuss things with him.

MR. PECK: Right.

MR. STEWART: If he referred in any way to the document that is before him, we have a right to know which portion of that.

MR. PECK: Absolutely. And if he did, he can tell you that. I just want it clear yesterday he didn't look at it.

MR. STEWART: What I am concerned about,

I know you are trying to preserve the attorney-client relationship. We want to do that. That's not even an objection. If you would let us ask the question and let him respond to it, I think we would --

MR. PECK: I think he misunderstood it. He read the whole thing after his deposition. That was several months ago. He didn't look at it at all in preparation for this deposition. That's what I think the record establishes.

MR. STEWART: I guess what I was saying was, I appreciate your attempt to help us here. If we could let the witness answer the question and you stick to the normal objections, I might have a much better opportunity to take the deposition. I would ask that you do that.

BY MR. STEWART:

Q Mr. Defer, you have seen the deposition notice, haven't you?

A For this deposition?

Q Yes.

A Yes.

MR. STEWART: Let me mark this as Plaintiff's Exhibit 1?

THE WITNESS: Yes.

MR. STEWART: Would you mark that Plaintiff's Exhibit 1, please.

(Plaintiff's Exhibit No. 1 was marked for identification.)

BY MR. STEWART:

Q Just for the sake of being careful, if you will look at pages five, six, seven and eight. Let me just ask you, beginning with one, on page five --

A Under requested documents?

Q Yes. Have you reviewed that before your deposition here today?

A Yes, I did.

Q And is it my understanding that you had no documents that were requested in the document request, one through 21?

A Besides the deposition, that was the only one that.

Q That's it?

A That fulfills this request, yes.

Q Okay. So you took no information with you

from the Anniston plant, kept no personal files?
A I kept no personal files. The only information that I took with me from the Anniston plant was documents that were served on me, legal documents that were served on me. There was a very small amount of those that went with me from Anniston to Augusta.
Q Well, do you still have those?
A Yes, I do.
Q Well, of course, this would be all files in your possession that would have reference to the matter that was in question; that's number one. Did you not understand that that might be something that you should provide us?
A Yes. And I discussed all those with Adam. He and I reviewed those.
Q When did you do that?
MR. PECK: Well, don't disclose the content of our discussions, but obviously I helped him decide what was responsive, Donald, and this is pertaining to the files in this matter; that's the Swift matter.
MR. STEWART: Again, Mr. Peck, I would appreciate it if you would just --

MR. PECK: As you are talking about a response to request for production, which he obviously did with the assistance of counsel, and I think I am entitled to explain our position on that, that's why I am doing that.
BY MR. STEWART:
Q Mr. Defer, were there documents that you looked over that you had in a personal file that you looked over with your attorney that were matters that you chose not to bring here with you today?
A There were documents in that file based on my discussion with Adam and, you know, his recommendation was that they were not responsive to what you were asking for, yes.
Q Did you have any personal notes in there on any of those documents, Mr. Defer?
A Yes.
Q You mean personal notes that you made about this incident that occurred or the papers that were served on you you didn't bring with you?
MR. PECK: Object to the form of the question. That's not what he said. He

asked -- I will state for the record he has two notes. They're both direct communications with me. One was in preparing for this deposition, one was preparing for the Dyer deposition. Those are clearly attorney-client and they're not responsive. That's why I didn't create a privilege log for those notes. Those are only notes made from communications with me.
MR. STEWART: Mr. Peck, if you would just let me ask the witness questions, I would appreciate it. We have been through this before and files are being cleaned and everything.
MR. PECK: I was trying on avoid having another war about it. It's a non-issue.
MR. STEWART: Well, it's a non-issue because you have apparently cleaned his files out.
BY MR. STEWART:
Q What else, Mr. Defer, did you have in there, other than those documents that your lawyer mentioned. Any, any notes or memoranda that you made just to yourself?

MR. PECK: Other than the notes I have already described.
THE WITNESS: No. You know, don't -- I, you know, if I could just clarify something in your last question. You, you know, you used the phrase "clean the files out." Nothing has been cleaned out. Nothing has been purged, so I just want to make sure you understand.
BY MR. STEWART:
Q Well, the only thing that we have here is your, Miss Malow is reading today, is this deposition?
A Right.
Q And there apparently were some personal notes, and I understood that there were some notes that you made in connection with the papers that were served on you or the incident that was the subject of the lawsuit that you were sued in. And is that correct or incorrect?
A Yes. There are some personal notes, but they still exist. I mean, nothing was purged. That's what I was trying to --
MR. PECK: You need to listen to his

question. The personal notes do not pertain to notes that you made from reviewing the documents.

THE WITNESS: Oh, yeah. That's correct.

MR. PECK: Look, I don't want to have to get in a fight about this, Donald. It's a non-issue, and the personal notes, if we have to go on the record on it, are notes that he made from discussions with me. And if you will ask him that question clearly, that's what he will tell you.

BY MR. STEWART:

Q Is that the nature of the notes?

A Yes, it is.

Q Are those the only notes that are contained in the file?

A Yes, they are.

Q So, during the time that you were there at the Monsanto plant and first dealing with the problem that came up, you made no personal notes?

A Well, I -- I wouldn't say -- I am not -- I don't recall. If I did, I would have left them in the files at Anniston.

Q So there is some file at Anniston that

very well may have your personal notes in it?

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

THE WITNESS: Don, if I can give my answer and phrase it slightly different. It is possible that there are some, you know, there are some notes pertaining to this matter in files in Anniston that I wrote. That's possible. I don't -- I am not saying I remember any, but it's possible. But I left them there, Don, when I moved to Augusta.

BY MR. STEWART:

Q Well, didn't you have telephone conversations from time to time with representatives, either from the State or the Federal government?

A On what matter?

Q While you were plant manager there.

A On what matter?

Q Any matter, first, and then on the matter that we are here about today.

A I can't recall that I had a specific phone conversation with any state or government officials

while I was there.

Q Didn't you have face-to-face contact with them?

A Yes. There was some of them.

Q And did you not take notes during those meetings?

A I may have, and those meetings could have included matters other than the subject of this deposition, yes.

Q And did you leave those in the file?

A Any -- anything like that would have been left in the file, absolutely.

Q Did you not have telephone conversations with representatives of the Alabama Power Company in connection with the problem, the PCB problem, that arose while you were plant manager?

A I may have had telephone conversations with Alabama Power related to the West End Landfill property, yes.

Q And you kept notes on that, didn't you?

A If I did, they're in the file. I left them in the file in Anniston.

Q What is the name of the file in which they would be located?

A I don't know.

Q Well, you all maintained a file, I would assume, on the problem that arose on the west end landfill, didn't you, at the Anniston plant. I mean it just wasn't scattered to the wind. You maintained a file, didn't you?

A There were documents that were retained, but I can't remember a specific name of a file, no.

Q Well, how did you retain those documents?

A In a file cabinet. I know that sounds -- I am not trying to be -- they were, you know, they were in a file and, you know, clearly they were marked with some descriptive title. I just don't know, don't --

Q You would turn over whatever notes you had, whatever correspondence you had, and --

A Absolutely.

Q -- and you would give it to your secretary and say put this in the PCB file or the West End Landfill file, however it was designated?

A However it was designated; that's correct.

Q So there would be notes of yours that would be contained in that file?

MR. PECK: Object to the form of the

question.
THE WITNESS: Don, if I made notes, I would have left them in a file, yes. I didn't take any notes with me.
BY MR. STEWART:
Q Yes, sir. But I thought we had already clarified that you had made notes at some time during conversations that you had with people at the Alabama Power Company?
MR. PECK: Object to the form of the question.
THE WITNESS: If I gave you that impression, I apologize. I did have, I most likely did have some telephone conversations with Alabama Power representatives about the West End Landfill. I don't remember any of those specific conversations and I may have created notes. If I did, they're in the files. I would have left them behind. That's standard Monsanto practice, you don't take files with you.
BY MR. STEWART:
Q And if you make a note of a telephone conversation you generally, as a habit or practice,

would put it in a file that was related to that, would you not?
A Well, hypothetically speaking, in general, talking about my personal habits, no, I wouldn't always keep -- if I took a, if I made notes of a telephone conversation, I might or might not keep them in the file. I might use them during the conversation and discard them. I can't say that I would always keep them. I don't know.
Q Mr. Defer, how do you -- do you dictate your letters, write them out longhand? How do you do it?
A Well, my personal style is that I rarely dictate. If I was going to have the assistance of an administrative assistant, I would write it out longhand or I would type the document myself.
Q And are those types of documents in the files, would you give her those to put in the files?
A If it was deemed, you know, relevant or something, that should be kept. It would have, I would have put it in the file at the time, yes.
Q Do you remember doing any of that at the time that you were having these conversations with

ADEM, Alabama Power Company, EPA about the West End Landfill? You did, did you not?
MR. PECK: Object to the form of the question.
THE WITNESS: Without, Don, you have actually, as I hear you ask the question, you have actually put two things in there. If I can divide my answer up into two parts --
BY MR. STEWART:
Q You most certainly have a right to do that, and sometimes I will ask more than one question, but you appear to be of above average intelligence and I assume you understand. If you want to separate them and give an answer, you go ahead and do that, that's fine.
A The answer is yes, I likely either created documents, received documents, that were filed in connection with the West End Landfill. I am sure that that happened, but I don't want to characterize and say it was from each and every one of those parties because I don't -- my recollection is I didn't necessarily have direct contact with each of those parties that you have listed in the

question.
Q Do you have a laptop computer?
A I do now; I did not then.
Q Did you have a computer, not a laptop, that you used in the office there?
A Yes, I did.
Q Do you all maintains disks, floppy disks, anything like that?
A Yes, I did.
Q Were those generated in connection with the work that you did in connection with this particular matter?
MR. PECK: Object to the form of the question.
THE WITNESS: If I, if my -- I don't have any specific recollection of creating any kind of specific floppy disk. We, at the time Monsanto was, you know, had moved to, you know, electronic mail, most of the documents that were on the computer were the electronic mail variety type of document.
BY MR. STEWART:
Q Did you save the e-mails?
A E-mail that was saved consistent with our

records retention policy, that account was transitioned to my replacement, so --
Q That what now?
A Well, my account, my account was turned over to the gentleman that replaced me.
Q Who would that be?
A That was Jack Majowski.
Q When you say transition, you mean you just left those with him?
A Well, you know, the network administrator did whatever magic he did and he took over my account is, in essence, what happened. My files became his files.
Q I still write my letters out in longhand, and wouldn't know how to operate a computer if my life depended on it. Consider me real ignorant, just a poor little country boy from Alabama. Tell me, if you would, if those e-mail messages are retained for recordkeeping purposes just like you would?
A The E-mail, E-mail messages in that account that Jack would have taken over are subject to the exact same record retention policies as a hard copy, as a floppy disk. They're all covered

by the same record retention policy, so --
Q Do you keep them?
A Subject to the, subject to what's specified in the record retention policy, yes.
Q For what period of time?
A It depends on the document. Don, I would have to refer to the specifics of the document. I don't want to try to talk extemporaneously about what our records retention policy is.
Q Let's just say, it's the reflection of a message that you might have sent to Mike Fortman in connection with a meeting you had with ADEM, that would be something you would retain, wouldn't it?
MR. PECK: Object to the form of the question.
THE WITNESS: That's a hypothetical question, at least the way I am interpreting it; and without actually looking at the document, you know, it's hard for me to say whether it would be retained or not.
BY MR. STEWART:
Q But it could be?
MR. PECK: Object to the form of the question.

THE WITNESS: Any document would be retained consistent with our records retention policy, that's my answer, and it would apply to your question.
BY MR. STEWART:
Q Tell me, if you would, what your educational background is, just briefly?
A Bachelor's degree in chemical engineering, and a master's degree in business administration.
Q Where did you get your bachelor's?
A University of Mississippi.
Q And when did you get that?
A 1979.
Q And when did you get your master's?
A 1985.
Q 1985?
A '85.
Q And where did you get that?
A Washington University.
Q And where was Washington, you mean Washington University in St. Louis?
A St. Louis.
Q Did you get that master's while you were working for Monsanto?

A Yes, I did.
Q Did they pay for your -- I am not talking about pay through salary, I'm talking about did they pay for your education?
A Monsanto had a tuition reimbursement program that I took advantage of, yes.
Q What about your bachelor's?
A No, I worked my way through school.
Q Give me your work history before Monsanto, just briefly.
A I don't -- all my professional experience is with Monsanto. I joined them after I graduated.
Q Just as soon as you left University of Missouri you joined Monsanto?
A True.
Q Where?
A At a plant in the St. Louis area.
Q What was the name of the plant?
A The W.G. Krummrich Plant.
Q What were you involved with at Krummrich?
A Different, different assignments and operations and engineering while I was there.
Q Tell me what they were.
A Process engineering, production

supervision, several different assignments, and several assignments in environmental.
Q What were the assignments in environmental, and when were you -- when did you work in that area?
A I worked in that area from -- sometime in, say, mid '85 to mid '88.
Q Did you work on any projects there, Mr. Defer, that were related to PCB's?
A Yes, I did.
Q Tell me what they were?
A Transformer conversions.
Q When did you do that?
A I can't recall the specifics, but we had a program to change out fluid in some of the older transformers and certify them as PCB free.
Q Well, you don't remember when, would it be between '85 and '88?
A Yes, yes.
Q And why is it that you understood that you all were converting transformers, getting rid of the PCB's?
A In general, it was -- it wasn't a functional issue, the transformers worked fine.

There was significant regulatory burden in terms of inspection and recordkeeping in not doing that.
Q Was that the only reason?
A That's the only reason that I recall. I was not directly accountable for that.
Q Who was?
A One of my colleagues was.
Q Who?
A A gentleman named Andy Quick.
Q Andy Quick?
A Yes.
Q How is it that you got involved in that?
A Just in terms of, you know, taking vacations and cross training and being able to fill in for each other; that's how I got involved in it a little bit, yes.
Q Who ordered you to do that in the company?
A Well, I guess my direct supervisor gave me that assignment.
Q Who?
A A gentleman named Warren Small.
Q Who did you understand though indicated to you and to the people in your position at plants like Krummrich, who indicated to you all that you

should get rid of these transformers? Did that come from a plant manager or did it come from somebody in higher levels of the company?
MR. PECK: Object to the question.
THE WITNESS: I can't recall a specific individual that that assignment came from.
BY MR. STEWART:
Q Well, how did you all -- one day you walked in, and there was a paper on your desk, unsigned, anonymously telling you to get rid of the transformer?
A Well, first of all, we didn't actually get rid of the transformers. It was a process of using a, you know, a company that specialized in it. You change the fluid out.
Q Changing the fluid out. It wasn't laying on your desk one morning when you came in, and oh?
A No. The reason -- I am not trying to be evasive, but that, we were already working on that when I came into the area. So, I don't -- I know that to be true, so, I don't -- if you want to know what I know about the genesis of that idea, that was before my time in that area.
Q Where did Andy -- where is Andy Quick

working now?
A He is working for the Searle division of Monsanto.
Q What is he doing for them?
A He's still -- Andy still works in environmental safety.
Q At Krummrich?
A No, he worked.
Q He moved up to corporate headquarters?
A He works here in Chicago at the Searle headquarters.
Q Where is Warren Small working now?
A Warren is retired.
Q Where does he live?
A I don't know for sure. A couple years ago he was living in Knoxville, Tennessee.
Q What position did he hold with the company before he left, Mr. Small?
A I guess his title was environmental manager, something like that. He actually --
Q For all of Monsanto or for some --
A For certain projects. He, he retired from the headquarters in St. Louis, as I recall.
Q He would be manager, similar to when Joe

Hansen was part of that group, where they would take on environmental projects that would come up from time to time?

A You are testing my memory there. I don't -- it could be, it could be, but I don't know. I really don't know.

Q Mr. Defer, other than this conversion -- by the way, were there any health reasons given to you when you were converting these transformers?

A No.

Q So no one ever told you that there was a potential health hazard to having PCB's in these transformers?

A No, we didn't, and -- no, the answer is no.

Q Nobody ever said to you, Bill, if these things catch on fire or burn, you have a strong possibility of creating a health problem for the people that work around here. We have got to get rid of them and make this a PCB-free plant?

A I -- let me answer the question this way. No one, you know, it wasn't stated to me that the reason we were changing, you know, converting, converting the transformers was a fear of health

issues; however, PCB's are, you know, an industrial chemical and just like a lot of chemicals we handled in the plant at the time, yes, we would have taken special precautions in the event of a fire.

Q Had EPA said anything about those things at the time you all were involved in converting to without PCB, had they banned PCB's?

MR. PECK: Object to the form of the question. No foundation.

THE WITNESS: You know, EPA's regulations on PCB's predate me. I am not an expert on them. I don't, I don't even know if the word "ban" is the right way to characterize it, but those regulations came in to effect, you know, before I got into environmental. I'm not an expert on them, no.

BY MR. STEWART:

Q You didn't know anything about it at the time, you were just sort of following the road or following what Mr. Quick said or Mr. Small said.

A I wouldn't characterize it quite that way. My area of interest was to be able to follow in

behind Andy and provide assistance as necessary in the program of refilling and changing the fluid, and to do that there was some recordkeeping requirements you had to, you know, know what the level of PCB's in the fluid was before and after.

And then there was, as I recall, were certain recordkeeping requirements, and if you, I seem to recall at some point in time, then from a regulatory perspective it came, you cleared that hurdle and then you didn't have to do the inspections and all the recordkeeping that went with it. We still inspected things as part of general good practice, but we didn't have to have the same kind of documentation, but that's what I focused on.

Q What else did you do at Krummrich in connection with PCB's?

A Nothing, nothing else specifically, no.

Q Were there ever any environmental assessments made of the Krummrich plant while you were there?

A There have been, yes, but I don't recall anything specific.

Q So then the environmental or as part of

the environmental group at the plant from '85 to '88, you never had any responsibilities in that area?

A Well, my responsibilities during that time were focused initially on water and then later on were expanded to air issues, so, generally speaking, assessments typically fall into another area so that was not an area that I had accountability for.

Q When you went to Krummrich, did anybody ever tell you anything at all about what manufacturing processes had gone on at that plant?

A There was not a specific orientation or training on, you know, past production, if that's what you are asking, no.

Q Well, what, exactly, was your position in the environmental group there?

A Environmental specialist was my title.

Q So as an environmental specialist, when you went to Krummrich, no one sat down and told you, Bill, here are the things we manufactured in the past?

A That wasn't, I mean, there wasn't a specific orientation when I first joined the group

that said, here's all the history, no, there wasn't.
Q Did anybody ever give you that history?
A I would have, you know, I would have asked or been told that history if it was relevant to the assignment I was working on, yes.
Q Mr. Defer, did anybody ever tell you about Krummrich's relation to the manufacturing of PCB's?
A I know that PCB's used to be manufactured at the Krummrich plant, yes.
Q Did anybody ever tell you whether or not they had landfills that had PCB's in them that were located around the Krummrich plant?
A I don't know any of the details around the landfills. I know there were closed landfills. Again, that was not my area of accountability.
Q Did you have any knowledge, when you went there as an environmental specialist or in the environmental group, what was buried in those landfills? I think you said you had a responsibility for water?
A Um-hum.
Q Would one of your responsibilities in that area be to determine whether something might be

getting off the reservation and into bodies of water that were located around the plant?
A Can you rephrase that question to be a bit more specific? I don't understand what you mean by reservation.
Q Well, your property.
A Okay. I am assuming maybe you are referring to maybe ground water, possibly; that wasn't an area that I worked in.
Q What water did you work in, surface water?
A Discharges from the plant, you know, wastewater discharges to the City treatment plant.
Q So you were concerned about that in connection with the manufacturing process that was then ongoing?
A Yes.
Q Who had the responsibility for surface water runoff of ground water? Mr. Quick or Mr. Small, who had that responsibility?
A You mean like stormwater, I guess would be the term I use. From the plant site, itself, we actually had what's called the combined sewer system.
Q Combined sewer system?

A Well, the stormwater and the process water went out the same sewers, and so we didn't have a -- some of the traditional stormwater kind of issues, necessarily.
Q Were the landfills located on the site in Krummrich?
A No, no. They weren't.
Q Where were they located?
A A quarter, half a mile away or so.
Q On other property?
A On other property. It was not contiguous property.
Q So you had no responsibilities for that while you were there?
A No.
Q What about PCB waste, did anybody ever tell you what happened to the PCB waste or still bottoms that came from the manufacturing process at Krummrich? Did anybody ever give you a history of that?
A No, not on the process waste, no.
Q Did you ever learn about any other waste, PCB waste and what happened to it at Krummrich?
A My recollection is that, or my

understanding is that when the unit was dismantled that some of that material and equipment or whatever was taken to an off-site landfill.
Q Now, tell me what you mean, Mr. Defer, by an on off-site landfill?
A I mean Alabama.
Q So, when Krummrich dismantled their manufacturing equipment, the equipment they used to manufacture PCB's; is that what you are telling me?
A All I am -- all I am saying is that my recollection is that, yes, that's what I -- what I, my recollection is that --
MR. PECK: Object to the form of the question.
THE WITNESS: -- that when a unit was dismantled, that that material was taken off site. That was before I, you know, started working there.
BY MR. STEWART:
Q Sure.
A But that's all, that's all I do, Don.
Q When you say "unit," you mean manufacturing unit or do you mean an incinerating unit?

A I have no idea.
Q Do you know whether or not an incinerating unit was ever located, PCB incinerating unit was ever located at Krummrich? It was, wasn't it?
A Oh, boy. I think there was one there, but -- again, that's before.
Q Did it handle solid or liquid waste?
A I don't know. I just don't know.
Q Do you know when that unit was dismantled --
A No.
Q -- in relation to when you came there?
A No.
Q I believe you have indicated you went there in, what, period of time?
A '79 to '88.
Q '79 to '88. So, it's your statement here today that the incinerating unit was gone at the time that you went there in '79?
MR. PECK: Object to the form of the question.
THE WITNESS: I don't recall it operating when I was there. It's my recollection.

BY MR. STEWART:
Q Was it physically though in existence, they just weren't incinerating things in it?
A I'm not sure. I'm just not sure.
Q Is that what you are talking about was taking to landfills?
A No, I don't even want to be that specific. You asked what I knew. And my honest answer was, yeah, I have a recollection of being told that, you know, when the unit was shut down, some of that material was taken off site, and that's all.
Q Who told you that?
A I can't even remember who told me that.
Q Would it have been Mr. Quick or Mr. Small, perhaps, who told you that?
MR. PECK: Object to the form of the question.
THE WITNESS: I just don't know. I don't know. There are a lot of people who work there.
BY MR. STEWART:
Q Where did go after you left that plant?
A I went to a Monsanto plant in Houston, Texas.

Q What is the name of that plant?
A Chocolate Bayou Plant.
Q Were there not some environmental problems that you were involved in there?
A I was involved with some environmental issues while I was there, yes.
Q Before we left the Krummrich plant, were there any other environmental issues? We asked about PCB's, any other environmental issues that came up while you were at the Krummrich plant that you dealt with?
A I had responsibility for a lot of things, most specifically in the water and air.
Q Tell us what they were.
A Obtaining new air permits would be a good example, things that took a lot of my time for facilities, emissions reporting, complying with wastewater regulations, just in that general area.
Q And Krummrich is in Illinois, is it not?
A Yes, it is.
Q It's across the river. And you dealt with the Illinois equivalent ADAM, or the environmental protection folks in the State?
A Yes, I did.

Q And also EPA?
A Not as much, mostly with Illinois EPA.
Q Are you the one who interfaced with them on the issues that you were accountable for?
A Sometimes I did, yes.
Q Back to the PCB thing. Did anybody ever tell you about protective equipment that was used at the Krummrich Plant for employees that worked around PCB's?
A No.
Q You are not familiar with any of the techniques, but equipment that was used in that process?
A No, I am not.
Q Who would have been at that plant?
MR. PECK: Object to the question.
THE WITNESS: I don't know the answer to your question, so if I gave you names, I will just be speculating. I don't know.
BY MR. STEWART:
Q Well, of course this is a discovery process, and we have a right to ask you, just your best judgment, who would have a handle on that kind of information, Mr. Defer? I am not trying to --

A Are you, are you asking for what?
MR. PECK: Object to the form of the question.
THE WITNESS: What types of individuals are you --
BY MR. STEWART:
Q I'm asking somebody who would know about what employees did about either eating in and around a PCB process, what kind of clothing they wore, what happened to that clothing after that left that plant and process?
MR. PECK: Object to the form of the question. Calls for speculation.
MR. STEWART: We are in discovery, Adam.
MR. PECK: We are in discovery, but discovery means giving facts known, not engaging in speculation from people. There is no -- there is no requirement that he speculate or guess.
THE WITNESS: Don, I don't know. It sounds like you are asking an industrial hygiene kind of question. I don't know who was accountable for that back then.
BY MR. STEWART:

Q You say the unit was taken to Alabama. Do you know if anything else was taken to Alabama from Krummrich at the time PCB's were manufactured there?
A Yes. I did state that my recollection that something from that, something around the dismantling unit went off site, yes. I did state that. I don't know about anything else being taken offsite during that time period.
Q All right. You were telling me about your job in Houston, and you dealt with some environmental problems. What were those?
By the way, first, what was your position there?
A Well, I had --
Q Did you get a promotion or did they demote you or what did they do?
A I was promoted when I went to Houston.
Q I assumed you were.
A I was in the environmental area for a year, and then I was in a manufacturing job after that.
Q You were in an environmental area for about a year?

A Um-hum.
Q Were you the head man at the plant in the environmental group?
A I was the leader of the environmental group, yes.
Q When did you all start grouping people up like this and did you all move to something like that about this time?
A What do you mean?
Q Well, organizationally, you said you had certain positions. Didn't all of a sudden you become a member of a group? Did some process take place where you all studied how the Japanese did things and thought maybe this is a good process, we'll do that?
A Are you referring to the use of the word "group"?
Q The reason I said that, Miss Hansen said there were some changes, a former Monsanto employee that we asked questions of. She indicated after a while that became a group. I just wondered when that happened.
A I don't know what Jo was referring to, we used the term groups, teams, leader instead of boss

or manager; that's Monsanto's culture.
Q Just makes you feeling better about telling people what to do if they're part of a group?
MR. PECK: Object to the form of a question.
THE WITNESS: I feel better when people talk to me that way. That's my personal opinion.
BY MR. STEWART:
Q That's part of it. You mentioned Jo, and that is Miss Hanson's name, as if you knew her fairly well. Did you ever see her at any point in time at the Krummrich plant at the time that you were there?
A It's possible, but I never worked with her on any specific issue, no.
Q Do you remember a project that she might have been working on at some point in time dealing with regulatory agencies about a problem that existed at the Krummrich plant?
A I don't recall.
Q As a leader of the group, what environmental problems did you deal with in -- is

it Chocolate Bayou?
A Chocolate.
Q Chocolate Bayou. Is that in Alvin, Texas?
A Yes, it is.
Q Tell me what you did at Chocolate Bayou?
A Well --
Q What problems you dealt with?
A You know, at that plant we had a wastewater treatment plant, so we had, you know, permits around that. We had different units. So you had to have proper kind of air permitting. We had, you know, waste disposal that had to be permitted properly, so it pretty much ran the whole gamut.
Q You didn't have any major environmental problems at that plant while you were there?
A Well, what do you mean by that?
Q Are you familiar with the Brio litigation?
A I am familiar with it, yes, I am.
Q Did you become familiar with it because you were located at that plant?
A I became familiar with it because Brio was located, I don't know, 15, 20 miles from the plant, but that was not managed by my group.

Q Well, what information did you acquire that about that while you were there?
A Well, my recollection, this is my recollection only, is that that was a third party landfill, and Monsanto was one of the companies, among many, that had waste disposed there, and there was a -- you know, the site was, there was a remediation in progress.
Q So there was remediation going on at that site as a result of litigation or as a result of regulation or what was it?
MR. PECK: Object to the form of the question. No foundation.
THE WITNESS: Well, I don't want to speculate on what was driving the remediation, but I mean there were regulations and, yes, I do recall there was litigation as well.
BY MR. STEWART:
Q Wasn't that a super fund site?
MR. PECK: Object to the form of the question. No foundation.
THE WITNESS: I don't -- I don't recall. Might have been, I don't recall.

BY MR. STEWART:
Q You are saying that you were there for how long?
A I was in, I was in Houston for three years; I was in environmental for only a year.
Q Well, the other two years, what did you do?
A I was in manufacturing.
Q What kind of manufacturing?
A I was the leader of one of the manufacturing units on that site.
Q What did you manufacture?
A A product called sorbic acid and potassium sorbates.
Q Well, are those raw materials that were used in a product?
A No, they're food ingredients actually.
Q Food?
A Ingredients.
Q You put them in tomatoes, potatoes?
A Well, check the label when you go to the store, but their purpose is to prevent like molding growth. You would find them in cheeses, salad dressing, anything that there is humidity and

protein.
Q They may come in contact with tomatoes and potatoes?
A Yeah, I guess so.
Q Well, I am sort of curious about something. You indicate you there were for three years, and seem to be a fairly observant person and you were not aware that this Brio matter was a Super Fund site?
A It may have been, Don, I don't recall, and I don't want to speculate. I wasn't accountable for that. If you know that it was and you tell me, that's fine. I don't want to speculate.
Q I'm asking you, Mr. Defer, just what you know.
A I don't know.
Q In your environmental role with Monsanto, did you understand what a Super Fund site was at that time or do you now?
A I don't know the details of that, of that law. You know, I am not an expert. Do I understand that, yeah, that there is an area of environmental regulation that can ultimately result in a site being designated as a Super Fund site by

the EPA, yes, I do know that.
Q Do you know what CERCLA stands for?
A I used to, I used to.
Q When you see that term, do you know what it means? Can you tell us, is that an acronym?
A I don't know. I used to know what the acronym meant.
Q I'm not asking you what the words meant. When you see CERCLA, do you connect that in some way with a Super Fund site?
A To be honest with you, I connect it with the other part of CERCLA, which is, being a manufacturing guy, which has to do with emergency response and reporting process. That's, frankly, what it means to me.
Q So you never had any training or anything about what a CERCLA site would constitute while you were in environmental?
A No, not specifically, no.
Q They comparmentalize -- I'm just so struck by that, they compartmentalize you all pretty well. They just sort of say, hands off, Bill, don't find out anything about CERCLA even though you are in the environmental part?

A No, they never said "hands off." In the case of the plant at Houston though, there were some offsite issues that were dealt with by a different group.
Q When you were sitting around in the coffee room, I assume they had one there at the plant, you all never discussed the CERCLA site or the Super Fund site that you all were involved in, never came up?
A It might have come up. I don't recall specifics of those discussions. I wasn't, I was not directly accountable for, didn't ever have to, you know, get involved in developing a plan or anything.
Q Developing a plan?
A Specifically under CERCLA I never did anything like that.
Q You knew what that meant and know what that means today, don't you?
A In general, yes, at a very high level, yes.
Q Were there other people involved in contributing to the remediation at Rio, other companies?

A I think there were.
Q Why was that, Mr. Defer?
A I don't know the -- I just don't know the specifics of the case, whether it was litigation, regulation, you know, agreement. I just don't know.
Q Was it because they, perhaps, had contributed to some of the things that were located in the landfill that might be a part of the problem?
A Well, I don't know the details, so that would be speculation on my part.
Q Generally, if somebody has not contributed to the problem that existed in a landfill or waste disposal site, are they held responsible by either the EPA or state regulators for cleaning it up? If they haven't contributed to the mess, is there any legal way that you know of, just with your bare rudimentary knowledge of CERCLA or state regulations, would they be required to help clean it up?
A Now, the problem is you -- what I am struggling with with your question is you used the word contributed to and, boy, that's a -- that's

a -- that it is a complicated area. That's not my area.
Q Putting stuff in the landfill, that might create a problem?
A If they had sent waste.
Q Right.
A Okay. All right. Well, generally that could result in some -- my understanding is generally, sure, that could result in somebody having to participate.
Q If they didn't send something there, then they obviously would not have a responsibility; correct?
A I don't know. I don't know that to be true, necessarily.
Q If they didn't own it or have any relationship with it, and didn't send waste to it, they wouldn't be held responsible for doing anything with it, would they?
A I don't know that that is necessarily true.
Q Who did you deal with by way of regulatory agencies? I was asking that a minute ago, in just the job that you had with this environmental group,

did you deal with EPA?
A In Houston?
Q Yes.
A Most of the dealings were with the Texas, the Texas group. I think it's called the Air Pollution Control Board and the Texas Water Commission. They had separate commissions.
Q By the way, how far is Alvin from Houston, 40 miles away, approximately?
A Thirty, 40 miles, yeah, south of Texas, south of Houston.
Q So you dealt with the Texas group and did you tell me that you dealt with EPA?
A Not much. I can't say that I did, that we did much, although not myself, personally, we dealt with them a fair amount. In fact, you know, the year I was there, they got, you know, they got, you know, best in Texas award from EPA Region Six for environmental performance. So, yes, we did things with them. Myself, personally, I didn't do a lot of dealings with US EPA while I was at Texas.
Q What part did you play in getting that award?
A Well, the honest answer is the whole plant

earned the award so I have got to say that right up front. That's how the award was earned. So, it's not only --
Q Was it handed to you in some kind of public meeting?
A Yes -- well, not me personally, no, no. It was not handed to me, personally. It was presented to the plant, yes.
Q Okay. Now, where did you go after that?
A After I left Houston, I transferred to Anniston, Alabama.
Q After you left Houston in what year, '91?
A The very end of '91.
Q How is it that you happened to be tapped for -- by the way, how many people on did you have working for you at the Houston plant?
A Well, when I was in environmental, maybe eight, including administrative assistants.
Q How is it that you happened to be tapped for a position in Anniston?
A Again, you know, just in general, the process is there was an opening, the candidates were solicited, we had to interview, and I was selected.

Q Who picked you?
A The plant did.
Q The plant did?
A Yes.
Q And how did that happen?
A I had interviews with the plant staff and the union committee.
Q The plant staff and the union committee?
A Yes.
Q And they took a vote and they voted you in?
A No. Then they talked to my future boss, and they told my future boss which one of the candidates they liked, and that's how I got the job.
Q Who was your future boss?
A Vince Matteucci.
Q Matteucci?
A Yes.
MR. PECK: You might want to spell that.
THE WITNESS: I'm not even sure I can. M-a-t-t --
BY MR. STEWART:
Q Is he Irish?

A Italian, e-u-c-c-i or something like that.
Q What was his position?
A He was the Director of Manufacturing.
Q With Monsanto Chemical Group?
A Yes, within one of the units, one of the sub-units inside the chemical group of Monsanto, yes.
Q What was that sub-unit?
A Performance materials, I think is what it was called then.
Q Performance?
A Performance materials.
Q Performance materials?
A Yes, that's what it was.
Q And where is he today?
A He's retired.
Q And where does he live?
A St. Louis, Missouri.
Q Did he remain Director of Manufacturing until he retired?
A No. I actually think he had an assignment as Director of Engineering or something like that.
Q Was that a promotion before he retired?
A Maybe, maybe not. I'm not sure.

Q Was that also at corporate headquarters in St. Louis?
A Yes, it is.
Q When did he retire?
A Sometime after I left, left Anniston.
Q Was it a mandatory retirement because of age?
A I don't know if it was or not. I am just guessing. He retired two to three years ago, just a guess, and I don't know.
Q How old was he when he retired?
A I don't know exactly.
Q Was there some reorganization at that time, and did he receive a severance package similar to what Miss Hansen, Jo Hansen got?
A I have no idea. I don't know.
Q Tell me, during the time that you were in Alvin, or Krummrich or Anniston, if there were any fines imposed against Monsanto or a penalty by the EPA or a state regulatory agency?
MR. PECK: Object to the form of the question.
THE WITNESS: While I was at those plants, there were issues that EPA requested

penalties, yes.
BY MR. STEWART:
Q Sir, I am having trouble at the tail end of these answers and I am sorry.
A Yes. There were times when I was at those plants that EPA requested penalties of Monsanto, yes.
Q Tell me about those.
A Oh, boy.
MR. PECK: Object to the form of the question.
THE WITNESS: What, what is there something specific that you want to know, Don?
BY MR. STEWART:
Q Tell me what fines were imposed and for what and when, that type of thing.
A Well, since you are asking what fines, I am assuming maybe you are meaning what was the form of the fine, and you said when. This is -- I don't remember those specific details but, you know, to be responsive to what you are asking, let me think about some things that stand out in my mind, is that fair, and I will talk about the ones that I

recall.
If we go backwards, while I was at Anniston there was an issue involving reporting of leaks from a process.
Q Leaks?
A You know, from process material.
Q What was that?
A It was from our heat transfer fluid area.
Q What was the material?
A There are several issues, several reporting issues taken together, but they were either raw materials, intermediates or finished products in our heat transfer area.
Q What were they?
A Therminal 66, therminal BP 1, intermediates of those products and raw materials of those products, I guess.
Q What were the raw material of the therminal process?
A By intermediates from linear alkabenzene.
Q You mean it's a leak of benzene?
A Linear alkabenzene I was using right then. Benzene is another raw material.
Q Does it relate to that?

A One of the issues that EPA raised involved a benzene leak, yes.
Q When did that occur?
A Boy, I can't recall the exact time, but it was while I was in Anniston.
Q Did they impose a fine?
A They requested a fine, yes.
Q How much?
A I do not recall the exact amount of the fine.
Q Approximation?
A $100,000.
Q Was that a one-time leak or a leak over a period of time?
A In this specific instance, it was a one-time leak.
Q What caused it?
A Well, as I recall, we did do an investigation at the time, it was fairly detailed, it was a leak of benzene from a piping system, the unloading system, and it leaked to a concreted area.
Q How much got out?
A It was not very much.

Q How much is not very much?
A Less than, my recollection is it would be something less than 100 pounds.
Q Less than 100 pounds?
A Yes.
Q And they fined you $100,000?
MR. PECK: Object to the form of the question.
BY MR. STEWART:
Q Is that correct?
A Well, based on that incident, you know, they -- they notified us of non-compliance and requested fines, yes.
Q Non-compliance with what?
A Reporting regulations.
Q What was the failure there? What did you not report?
A The alleged failure was failure to timely report. I, personally, disagree with that and so does Monsanto.
Q Failure to timely report the leak?
A Yes.
Q What was the delay?
MR. PECK: Object to the form of the

question.
THE WITNESS: The circumstances around the issue of the leak was, as I recall, was that we didn't actually observe a leak. What we found was a valve in the piping system that had a part dislodged and, of course, that is not a normal occurrence, and something we were concerned about. There was no evidence of a leak. So an investigation was started, an internal investigation, and as several -- several days later, sort of that time period.
BY MR. STEWART:
Q How many days, Mr. Defer?
A Several, less than -- less than five, that's all I, you know, I don't want to be speculating, but several days later when the investigation was completed, and when the team said, "this is the most likely cause."
You know, my question was, "Well, gee, if that was the most likely cause, then what you are implying that is some material was leaked," and the team said, "yes."
I said, "Well, then we have to call

the national response center," and we did.
Q So you waited some five days before you called them and they fined you $100,000?
MR. PECK: Object to the form.
THE WITNESS: Well, we waited -- we waited in, we called them as soon as our investigation was complete and as soon as I had reasonable personal knowledge, we reported it.
BY MR. STEWART:
Q All right. Tell me, if you will, what other fines were imposed. By the way, did you all pay that fine?
A My recollection is that Monsanto and EPA reached an agreement; that agreement occurred after I left Anniston I think.
Q Was that Region 4?
A Yes, Atlanta, whatever is in Atlanta. I think it's four.
Q Who at Region 4 did you all deal with?
A Boy, I -- I, I can't recall. I can't recall.
Q Do you know a guy named Dick Green?
A Doesn't ring a bell, no.

Q What particular group did he work with, whoever it was that you interfaced with?
A Boy, I don't know. I am assuming it would have been somebody in there -- well, that's speculation, obviously. It was the air group or the water group. I don't know. I just don't know.
Q Waste management, would that have been the group?
A I don't know.
Q Tell me, if you would, if a report was prepared on that particular incident?
A What do you mean?
Q Did you all have an internal report or a document that reflected the findings of this team that looked at the benzene leak?
A My recollection at the time is that yes, there was.
Q Any other penalties going back to that time that were imposed by EPA or by state regulatory agencies, either at Anniston or Krummrich or Chocolate Bayou?
A I can't remember any other at Anniston. And, in fact, again, if I just look at my time at Anniston, my memory is no, there were none, because

this issue, again, while I remember I disagreed with it, I, personally, think we did nothing wrong. I think I absolutely did the right thing, and we argued pretty vigorously with EPA about it, but that was settled after I left, as I recall.

Q What other penalty did they request at any other plant you were involved in?

A At Chocolate Bayou, I remember we paid, we ended up with the Coast Guard, the U.S. Coast Guard there was an issue that ultimately we paid a small penalty on. It involved an oil leak from a bilge of a barge, that left a -- allegedly left a sheen on the water.

Q You mean oil leaking from an oil barge wouldn't leave a sheen on the water?

A That's not what I am saying. I didn't see it and obviously --

Q Someone else did?

A No. Actually in this case, maybe I am just tossing that out. My recollection is that we self-reported, now that I think about it. So --

Q What was the fine?

A My recollection is $1500.

Q Anything else at Chocolate Bayou or

Krummrich, any other issues where they requested fines or penalties?

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

THE WITNESS: Well, Don, that's again, I want to make sure I am being responsive when I answer your question.

BY MR. STEWART:

Q I know this is some time ago.

A It's pretty broad and it goes back a long time ago. There is nothing that really stands out in my mind that I remember as a specific issue, you know --

Q What about state regulators at Krummrich?

A Involving a request for fine or penalties? No, nothing really stands out in my mind.

Q Did you ever meet anybody from ADEM while you there were up until the time you had the problem in '93? You didn't answer?

A You probably are you referring to --

Q You mean you didn't have one in '93 when you were there at the plant?

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

THE WITNESS: What problem are you referring to? I'm not sure I understand what you are saying.

BY MR. STEWART:

Q Did a problem with PCB's arise in '93 at the time you were at the Anniston plant.

A In 1993, the issue that I remember that I was -- that I was involved in involved the West End landfill.

Q Did that have to do with PCB's?

A Among, yes, among other things, yes.

Q That's what I had reference to.

A Well, with that reference, yes, I guess I did, didn't have a lot of personal interaction with them. I probably -- I might have been in meetings with them once or twice before that time.

Q Who would you have met with?

A Boy, I can't remember any specific names.

Q Did it have -- while we are on that subject, did it have anything to do with penalties at any time?

A No, it did not.

Q Did it have anything to do with corrective actions?

A Again, I am not an expert in that area of regulation, but --

Q Well, as plant manager, don't you have to be aware of what goes on there in corrective actions?

A Yes. I am aware, I am aware, for example, that we were doing some ongoing work related to a closure of a unit, and I do recall being in a meeting with ADEM about that.

Q Closure of unit at the Anniston plant?

A Yes, parathion manufacturing unit.

Q Oh, parathion?

A Yes.

Q You all were closing out a parathion manufacturing unit in Anniston during the time that you were there?

A It had already been dismantled. This was ongoing monitoring of the site, and working with --

Q What site?

A -- the area of the plant where this unit was, where it was physically located.

Q How were you monitoring it?

A Ground water samples.

Q Who did you deal with on that?

A I can't recall any specific name at ADEM, no.
Q None come to mind?
A No, but I didn't, you know, I didn't handle those day-to-day dealings.
Q You didn't meet with them, like you indicated earlier? I thought you said you met with them at one point in time before the thing came up or maybe two or three?
A My recollection was that there was probably a meeting at the plant where they came and reviewed some of that work. I just don't remember who those people were.
Q Were there any corrective actions required of you while you were in the environmental group at Chocolate Bayou by state regulators or by EPA?
A There was, you know, without trying to speak to the specific regulations involved, there was some work that we did related to some, some old, old units at Chocolate Bayou, yes.
Q What would those old units involved have been?
A They were actually, my recollection is that they were -- actually the term would be a

sump, you know, where you collected process material in a sewer, and then pumped it somewhere else. It was around those units. And I just, I can't recall which unit it was, whether it was active units, closed units, I just don't remember.
Q What did you do in connection with it?
A Personally, nothing. I didn't necessarily, you know, I was leader of the group, so, the personnel who was actively managing that worked for me at the time.
Q What did they do, dismantle it, take it somewhere, or did they monitor it, or what were they doing?
A Okay. Well, while I was there, you know, working with the Texas regulators, there was an investigation and an assessment on the site. I do remember that. Beyond that, I don't know that we ever got, you know, beyond that phase.
Q What prompted the investigation and the assessment of this particular site at Chocolate Bayou?
A I don't -- I don't know the exact specifics.
Q Did something happen at the plant? Did it

get off the plant site?
A No. These were located well within the boundaries of the plant.
Q Did they locate it in some kind of inspection of the plant, when the Texas regulators came, did they say, "This looks bad, we need to investigate and find out what the situation is"?
A I just don't know. I just don't know.
Q What about Krummrich, any corrective actions that were taken there?
A There was work involved at some of the off-site landfills. There was work involved in maybe some units that were closed, but I wasn't directly involved in those.
Q Were any of those related to PCB's or offsite migration of PCB's, either the units involved in PCB production or the landfills?
A None of them, none of them were involving units involving PCB production.
Q What about the landfill, did they characterize some of the landfills and make some kind of assessment as to whether PCB's were getting out of those landfills?
A I don't know. I just don't know. They

could have. It was not my area of responsibility.
MR. PECK: Is now a good time for a break?
MR. STEWART: Yes, fine.
(Recess taken.)
BY MR. STEWART:
Q Well, you were telling me that, I believe when we left, that there were some, with the assessments, and that type stuff, is that where we were?
A I don't recall.
Q We talked about?
A As to where we were.
Q We talked about the sump, didn't we, in Texas, talked about that?
A Yes, okay.
Q Anything else you remember by way of corrective actions that you might have taken at any of those facilities?
A Boy, I sure don't. There is always the possibility that there were others, just nothing jumps to mind.
Q When you worked in Anniston, where did you live?

A Golden Springs.
Q Where did you go to church?
A First United Methodist.
Q Okay. Who was the pastor there at that time?
A Well, I remember Tom Paris, the assistant pastor.
Q Oliver Clark?
A No, Oliver Clark and Kitzen --
Q Dan Kitzens?
A Dan. You went there, too, didn't you.
Q Absolutely.
A I thought so. I thought I recognized your face.
Q What class were you in at the First Church?
A Genesis class. I think that's right. I get confused, whatever one Tom was facilitating. All the thirty somethings.
Q Bless your heart. I wasn't in your class.
A No, you weren't.
(Discussion was had off the record.)
BY MR. STEWART:

Q Who did you run around with? Who were your friends and associates?
A Okay. We are back on the record.
Besides acquaintances at the plant, I mean, people in our immediate neighborhood or people from church or people from, you know, our kids frankly; that's how, you know, it's the stage we were in our life and still are. You seem to make most of your friends through your kids.
Q Who were they?
A Let's see. Becky and Don Hollingsworth, were good friends of one of our daughters.
Q Is that the dentist?
A Yes, it is.
Q Okay.
A My wife did some stuff with Tom's wife.
Q Cindy Parish?
A Yeah, Becky Ledford, Don and Becky Ledford. Ellen did a lot of stuff with -- she was a member of one of the circle groups, so there was that circle of people. There were some folks in the neighborhood that we did stuff with.
Q Who?
A That's when I got introduced to bunko,

that's a southern thing.
Q A little card game?
A Yeah, it's a southern thing.
Q My sister-in-law played that.
A Oh, man. Well, you are asking, you are really doing a brain buster here.
Q At some point in time, this may be tried in Calhoun County. I am just trying to find out who you know there.
A Off the top of my head I am doing a total blank. There was probably seven or eight couples in the neighborhood there that we used to do stuff with.
Q What neighborhood did you live in in Golden Springs.
A What was that called, Greenbriar -- no, that's the elementary school. We lived on Stillwater. It was Adrianne Watley's subdivision there at the end on the left. Cynthia Wingo lived in there and some other folks. I can't remember the name of the subdivision.
Q What civic clubs did you belong to while you were there in Anniston?
A Civic clubs? Rotary.

Q Who were your buddies in there?
A Oh, maybe somebody like Ray Chapman, Tom Huff from Werner, Glen Howie.
Q Is that where you bank, at South Trust?
A Yes, I did.
Q Is the corporate account at South Trust, payroll account and stuff like that, did you all maintain it at South Trust?
A We did have an account. It was a pretty small account like, I don't know, $15,000 for emergencies, which always amazed me. I think it just sat there. No, there was not much company business with South Trust.
Q What was your bank?
A Oh, in town.
Q Yes.
A That was it. All the payables were done out of the house. We would enter them in the plant, all the checks were cut out of St. Louis. The only --
Q No payroll account, anything like that?
A Maybe there was for the hourly employees there was a sweep account, and maybe that was at South Trust, you know, so the money would be

deposited and a day later it would sweep out or something like that.
Q Anybody else that you were involved with at Rotary other than Glen and Mr. Huff and Ray Chapman?
A Oh, gee. What's the fella's name? Hoffman, the guy that was heading the YMCA. He's a member of First United Methodist.
Q Ted?
A And others, maybe through United Way or United Cerebral Palsy; that would be some of the other people.
Q Did you work with a fund drive for cerebral palsy each year?
A You bet. That's part of the job description.
Q You all participate in that each year?
A Every year.
Q And did you work with United Way?
A Yes, I was on the board of directors of United Way.
Q Were you a member of the chamber?
A Yes, I was.
Q Who were some of your friends in the

chamber?
A Well, I have mentioned some of them.
There were some other folks I used to deal with.
Guys like Bill Jackson.
Q An attorney there in town?

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