

STATE OF ALABAMA
IN THE CIRCUIT COURT OF ETOWAH COUNTY
(Transferred from Calhoun County, Alabama)

SABRINA ABERNATHY, et al.,

Plaintiffs,

versus

CIVIL ACTION NUMBER

CV-2001-832

MONSANTO COMPANY, et al.,

Defendants.

-----/

DEPOSITION OF DAVID CAIN

The deposition of DAVID CAIN was taken before Janet F. Russo, as Commissioner, commencing at 10:15 a.m. on July 26, 2001, by the Plaintiffs, at the offices of Fite & Miller, 1000 Quintard Avenue, Anniston, Alabama pursuant to the stipulations set forth herein.

COPY

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A P P E A R A N C E S

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Witness: DAVID CAIN	
BY MR. STEWART	5

No exhibits were marked for identification,
offered or attached as exhibits hereto.

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

IT IS STIPULATED AND AGREED, by the parties, that the deposition of DAVID CAIN may be taken before Janet F. Russo, as Commissioner and Notary Public, Alabama at Large, at Anniston, Alabama, on July 26, 2001, commencing at 10:15 a.m.

IT IS STIPULATED AND AGREED that the signature to and reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance were had with all laws and rules of Court relating to the taking of depositions.

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

IT IS STIPULATED AND AGREED that notice of filing by the commissioner is waived.

1 STATE OF ALABAMA, BIRMINGHAM, JULY 26, 2001

2

3 DAVID CAIN,

4 after having been first duly sworn, was

5 examined and testified as follows:

6

7 EXAMINATION

8 BY MR. STEWART:

9 Q. Mr. Cain, I'm Donald Stewart. I
10 represent the plaintiffs in this case.

11 Have you given a deposition
12 before?

13 A. Yes, sir.

14 Q. Have you given a deposition before in
15 this case?

16 A. Not in this particular case, no, sir.

17 Q. I'm talking about the Monsanto cases
18 here in Anniston.

19 A. I have given a deposition in the last
20 case we had that was settled, Owens.

21 Q. Owens?

22 A. Yes.

23 Q. And when did you come here, to Anniston?

1 A. Well, I came here almost a year to the
2 date. It's been about a year.

3 Q. How is it that you happened to be
4 selected, Mr. Cain, to serve as manager
5 of this plant?

6 A. How was I selected?

7 Q. Yeah.

8 A. Well, I was -- I was informed last
9 January that I would be plant manager at
10 our Foley, Alabama plant, which is down
11 near Pensacola.

12 Q. Why didn't you take that job?

13 A. Well, I had been -- As a matter of fact,
14 I accepted that job, to go to Foley. I
15 was in the process of looking for a
16 house in Pensacola.

17 Our plant manager at the Decatur,
18 Alabama plant announced he was going to
19 retire. I guess it was in probably June
20 of last year he announced his retirement
21 abruptly.

22 When he announced his retirement
23 that left two plant manager jobs open.

1 Blake was selected to go to --
2 fill the Decatur job. And then that
3 left still two plant manager jobs
4 opening, in Anniston and Foley.

5 And at that time I knew of the
6 Anniston plant because I had been
7 interested in it about three years ago,
8 really.

9 I was asked which one of these
10 plants I wanted to go to, Foley or
11 Anniston.

12 When I saw the Anniston plant was
13 open, I decided this would be a better
14 plant for me from a growth standpoint.
15 That was how I wound up in Anniston.

16 Q. Who asked that question of you?

17 A. My boss, Larry Spickard.

18 Q. Who?

19 A. Larry Spickard.

20 Q. So that I understand the sequence of
21 events, my understanding is you were
22 scheduled to go to Foley. Were you in
23 Foley?

1 A. No. I was still in St. Louis.

2 Q. Doing what?

3 A. I was a business team leader of a unit
4 we have there called P2S5.

5 Q. What is that?

6 A. It's phosphorus pentasulphide. It's
7 used to make an oil additive.

8 Q. But you hadn't run a plant before, had
9 you?

10 A. Yes, sir, I did.

11 Q. Where?

12 A. I was in Greenwood, South Carolina. We
13 have two plants there.

14 Well, it's two plants on one site
15 where we make carpet fibers.

16 One plant is a residential carpet
17 plant, and the other plant -- the south
18 plant is the contract.

19 Q. So you ran one of them?

20 A. I ran one of the plants, the south
21 plant.

22 Q. When did you do that?

23 A. I went there in 1994. And I left there

1 in 1998.

2 Q. To go to St. Louis?

3 A. To go to St. Louis.

4 Q. Wasn't that a promotion?

5 A. To go to St. Louis? Yes, sir.

6 Q. You had moved up in the corporate
7 headquarters in St. Louis for Monsanto
8 or Solutia?

9 A. No. When I left Greenwood, I went to
10 the Krummrich plant. It was a
11 promotion, but it was for Solutia.

12 Solutia spun off in '97, and I
13 left in '98.

14 Q. Let me ask you something. How did they
15 decide at your level who you would work
16 for? How did that happen?

17 A. How did they decide who I would work
18 for?

19 Q. Yeah. You were a Monsanto employee
20 before the spin-off. Did you just
21 automatically -- Did you have a choice
22 whether you would stay with Monsanto or
23 go with Solutia?

1 A. Well, they decided which plants would be
2 Solutia and which plants were Monsanto.
3 And the employees went with where you
4 were.

5 Q. Did anything change about your
6 compensation, benefits, anything like
7 that?

8 A. Nothing of significance.

9 Q. So it remained the same?

10 A. It pretty much stayed the same.

11 Q. Everybody stayed in the same position?

12 A. Woke up the next.

13 Q. Woke up the next day, and you were still
14 working at the same plant, still had the
15 same job, still had the same benefits;
16 you just had a different name on the
17 bottom of the check?

18 A. There were some differences. Obviously,
19 there were some things that changed.
20 But I was in the same job.

21 Q. So you had this promotion to go to
22 Krummrich. And then you got another
23 promotion to go from Krummrich to the

1 corporate headquarters?

2 A. No. I left from Krummrich to come to
3 Anniston.

4 Q. Maybe I misunderstood. Are you saying
5 that when you left South Carolina you
6 went to Krummrich and you were there in
7 St. Louis where the corporate
8 headquarters were but you were working
9 at the Krummrich plant?

10 A. Right, exactly. The plant was in the
11 St. Louis metropolitan area.

12 Q. That was a promotion?

13 A. That was a promotion.

14 Q. How big was the plant in South Carolina?
15 How many employees?

16 A. About a thousand people. The plant that
17 I had had three hundred people.

18 Q. How many are there at Anniston?

19 A. Eighty-five.

20 Q. Do you know anything about the
21 difference in the revenues? Do you make
22 more money for Solutia or Monsanto at
23 South Carolina than you do here?

1 A. Well, the volumes are much bigger. It's
2 a bigger plant. They produce more
3 carpet.
4 Q. You make more money?
5 A. You make more money, yeah.
6 Q. The budget was bigger?
7 A. The budget was much bigger.
8 Q. By four, five, six, seven times?
9 A. In that neighborhood. Much bigger.
10 Q. Did you get a pay raise when you went to
11 South Carolina to Krummrich?
12 A. Yes, I did.
13 Q. How big is that Foley plant?
14 A. Excuse me?
15 Q. How big is the Foley plant?
16 A. Between a hundred and fifty to two
17 hundred people probably.
18 Q. Was the budget bigger?
19 A. Compared to --
20 Q. Anniston?
21 A. The budget is probably smaller.
22 Q. Smaller? What do they make down there?
23 A. They are in the carpet business as well.

1 Q. Volume just less than it was at that
2 plant where you had three hundred people
3 hired?

4 A. The volume is significantly less.

5 Q. Well, it takes two hundred and fifty
6 people to make less of the material --
7 It is different material, I would assume
8 -- Who do they make?

9 A. It's very labor intensive. That's why
10 it takes more people.

11 Q. What kind of material do you make down
12 there?

13 A. The Foley plant makes staple carpet
14 fibers.

15 Q. So it's labor intensive?

16 A. Very labor intensive.

17 Q. Alabama tends to get those kinds of
18 plants and facilities. That's just an
19 aside; in the way we do business; labor
20 intensive --

21 MR. STEWART: This is off the
22 record.

23 (Discussion held off record.)

1 Q. (By Mr. Stewart) Tell me, David, are
2 the people who serve as plant manager at
3 Foley and Anniston on a comparable level
4 in the company hierarchy. Would it be a
5 parallel move or a lateral move, rather,
6 for somebody to move from Foley to
7 Anniston or from Anniston to Foley?

8 A. Would it be parallel?

9 Q. Lateral.

10 A. Pretty much. It could be.

11 Q. What is it you were told about the
12 Anniston plant site problems when you
13 came here, Mr. Cain, before you got
14 here?

15 By the way, before we -- If you
16 don't mind, what is the date, if you can
17 tell me, that you came here?

18 A. The date?

19 Q. Yeah. You said it was about a year ago.
20 And I don't believe I got that date
21 down.

22 A. Well, I closed on my house in early
23 August.

1 Q. Of?

2 A. Last year.

3 Q. Last year. 2000?

4 A. Yeah, 2000.

5 So it would have been -- I started
6 at the plant probably -- you know,
7 probably a week or two before that.

8 I would say late July, mid to late
9 July. That's why I said it's almost a
10 year to the day.

11 Q. Of 2000?

12 A. Yeah.

13 Q. Mr. Cain, who debriefed you about the
14 Anniston plant?

15 A. I'm sorry. Initially I was briefed by
16 my current manager, Larry Spickard. He
17 gave me the initial briefing.

18 Q. What did he tell you?

19 A. Well, he told me about the -- a little
20 bit about the history of the plant. He
21 told me about --

22 Q. What did he tell you about the history
23 of the plant?

1 A. He told me about how Monsanto purchased
2 the plant and how the plant did produce
3 PCBs in the early years. He told me
4 about the current products, the people.

5 He did brief me on the current
6 environmental litigation that was
7 ongoing. And then mostly it was on the
8 things that I would need to know about
9 the current operation of who's in the
10 plant now, the products that are in the
11 plant.

12 Q. What did he say to you specifically
13 about the current environmental
14 litigation that was taking place here in
15 Anniston?

16 A. I mean, honestly, I can't recall the
17 specific conversation.

18 I know he briefed me on the issue
19 of PCBs, that we were trying to
20 remediate the issues. But I can't
21 recall the specific conversation.

22 Q. Anything else as you sit here today that
23 you remember or recall him telling you

1 about what attempts Monsanto or Solutia
2 were taking to remediate the situation?

3 A. As I sit back and look at it now, I
4 can't recall any specific conversation
5 or words that were said.

6 At this point I was trying to come
7 up to speed in knowing more about the
8 plant.

9 Q. Is that something that he considered
10 important enough to talk to you about?

11 A. Yes.

12 Q. And said it was specifically PCB -- the
13 problem with PCBs that y'all were trying
14 to address in the environmental area?

15 A. Well, he mentioned the fact that PCBs
16 were produced in the plant and said that
17 there was some current remediation
18 efforts that were going on.

19 I cannot remember exactly what his
20 words were when he briefed me. That was
21 one of the first conversations we had.

22 Q. Did you have any more conversations with
23 him about the Anniston plant after that

1 first one?

2 A. Oh, sure. I mean, as I -- Like with any
3 other job.

4 If you are going to take on
5 something new, you are going to probably
6 have a lot of conversations with your
7 immediate supervisor.

8 We had ongoing discussions about
9 my move, my family moving, looking for a
10 home, things that were going on in the
11 plant.

12 Q. I'm talking about the Anniston plant,
13 Mr. Cain. And really I'm trying to
14 focus on what our purpose of being here
15 today is. I'm just trying to find out
16 what Mr. -- How do you pronounce it,
17 Spickard?

18 A. Spickard.

19 Q. -- told you about the environmental
20 problems and the PCB problems that y'all
21 had here at the plant. Whether it was
22 in the first conversation or the
23 subsequent conversation you had with

1 him, if you can just tell me what he
2 told you. I would like to know.

3 A. Honestly, I can't remember specific
4 conversations. That's not to say that
5 it didn't happen. I can't remember the
6 specific conversation.

7 Q. You have told us basically all you can
8 remember about what Mr. Spickard told
9 you about the situation?

10 A. Yeah.

11 Q. You just remember a general discussion
12 about remediation and the environmental
13 problem and PCBs. Is that fair?

14 A. I remember those conversations to that
15 extent, yes.

16 Q. Who else briefed you -- By the way, did
17 you have the job at the time you had
18 these conversations? Had you already
19 been picked for the Anniston plant site
20 at the time --

21 A. Yes. I had accepted the job.

22 Q. Who picked you?

23 A. I was selected by Mr. Spickard.

1 Q. Mr. Spickard?

2 A. Yeah.

3 Q. So he has the responsibility of making
4 that particular decision about the
5 Anniston plant even though he was
6 located at the Krummrich plant, or was
7 he located at the corporate
8 headquarters?

9 A. He was corporate headquarters.

10 Q. What was his position?

11 A. He is the director of manufacturing.

12 Q. For Solutia?

13 A. In Solutia he is one of several
14 directors, yes.

15 Q. How do you spell his last name?

16 A. S-p-i-c-k-a-r-d.

17 Q. And his first name is --

18 A. Larry.

19 Q. Is it Lawrence?

20 A. No, sir. I think it's just Larry.

21 Q. By the way, were there other candidates
22 up for the job in Anniston --

23 A. I wouldn't know.

1 Q. -- that you know about?

2 A. I wouldn't know.

3 Q. Did you go through an interview process
4 where they told you they were going to
5 look at a number of people?

6 A. I wouldn't know.

7 What I went through was -- Again,
8 I was selected for a plant manager's job
9 in January. I was told when the
10 Anniston job came open that I had a
11 choice. Either way I was going to be a
12 plant manager, whether it was Foley or
13 Anniston.

14 Whether or not there were other
15 people involved that were available, I
16 wouldn't know.

17 Q. You probably told me; but I guess
18 Mr. Spickard is the one that told you
19 that?

20 A. That told me what?

21 Q. What you just got through saying; that
22 you were selected for the job in Foley,
23 but that the Anniston plant was open and

1 you could go to either one of those? Or
2 was it someone else?

3 A. No.

4 Q. Who told you that?

5 A. The Foley plant did not fall under
6 Mr. Spickard.

7 Q. Somebody else had picked you for Foley?

8 A. Let me explain.

9 The Foley plant fell under another
10 director of manufacturing.

11 Q. I guess he got hacked off when
12 Mr. Spickard gave you the choice of the
13 Anniston job.

14 A. No, sir. The Foley plant fell under
15 Rebecca Peterson, who was the director.

16 Rebecca Peterson offered me the
17 job as plant manager.

18 When the Anniston plant came open,
19 Rebecca asked me which -- would I prefer
20 to go to Anniston. The Foley job is a
21 nice job; the Anniston plant would
22 prefer traditional -- it's a traditional
23 plant, and it would provide good --

1 probably better plant manager type
2 experiences than the Foley plant.

3 Q. Rebecca told you that?

4 A. Yes.

5 Q. If Rebecca didn't have responsibility
6 for the Anniston plant, how did she have
7 the capability to make that offer to
8 you? Had she talked to Mr. Spickard?

9 A. Rebecca and Larry were peers.

10 Q. They talked to each other about this?

11 A. I'm assuming this. That's probably what
12 happened. I'm sure they had to.

13 Q. Was anybody else involved in that
14 decision?

15 A. I wouldn't know. I'm sure that HR would
16 be involved.

17 And one of the things we have is
18 we have success in planning.

19 We have a pretty good idea of
20 where people are going, because we do
21 career development planning.

22 And I had been planning my career
23 for some time, that I was slated to move

1 to a plant about the time that I moved.

2 Q. Mr. Cain, who else did you talk to about
3 the Anniston plant?

4 Can you list those people, before
5 you came down here, who might have
6 briefed you on the problems that existed
7 here?

8 I'm specifically interested in the
9 current environmental problems the plant
10 is experiencing.

11 A. I was briefed by Dr. Bob Kaley.

12 Q. Dr. Bob?

13 A. Uh-huh (indicating yes).

14 Q. Anybody else other than Dr. Bob Kaley?

15 For instance, did you talk to
16 Blake Hamilton at any point in time?

17 A. Oh, yes. I talked to Blake when I
18 accepted the job. And before I accepted
19 the job I talked to Blake.

20 I'm trying to -- Go ahead. I'm
21 sorry.

22 Q. I'm just trying to find out who you
23 talked to first. And then I will ask

1 you about --

2 A. Well, let's see. There was another
3 person in the meeting with Bob that was
4 -- What's his name? Mike Foresman.

5 Q. Mike Foresman. He was still with the
6 company at that time. He is no longer
7 with them.

8 A. He is no longer with them. He was in
9 there.

10 Q. He was in with Bob when y'all talked to
11 them?

12 A. When I was brief.

13 Q. He was in remediation?

14 A. Yes.

15 Q. Anybody else you talked to?

16 A. I don't remember anybody else being in
17 the room other than the three of us.

18 Q. Where was this room? Were y'all in St.
19 Louis?

20 A. Yeah. I was still living in St. Louis
21 at the time.

22 Q. What prompted this? I mean, what was
23 the purpose of this meeting that you had

1 with Dr. Kaley and Mike Foresman?

2 A. Well, I remember, you know, after Larry
3 briefed me, asking -- you know, that I
4 would like to know a little bit more
5 about what's going on in the community
6 or in the environmental arena.

7 And Dr. Bob was -- I was informed
8 that Dr. Bob could sit down and answer
9 any questions that I might have about
10 remediation.

11 Q. He knew the answers to the questions
12 that you might have about that; is that
13 correct?

14 A. Yes.

15 Q. Did you ask that Mike Foresman be there,
16 or did Mr. Kaley bring him with him? Is
17 he the one that brought Mr. Foresman to
18 the meeting?

19 A. I don't remember how Mike got there.
20 But it was more of an introduction.
21 Because I would be working closely with
22 the remediation manager in Anniston who
23 reported to Mike Foresman. So it was

1 kind of an introductory meeting.

2 Q. Were you told at that time who the
3 remediation manager was by Kaley?

4 A. Yeah. I think I was.

5 Q. Would that have been Mr. Branchfield?

6 A. Yeah. Yes, sir.

7 Q. Was he at any meeting that you might
8 have had before you came to the plant,
9 or did you meet him when you came to the
10 plant?

11 A. I met Craig much later.

12 Q. When did this conversation with
13 Dr. Kaley take place -- and Mike
14 Foresman, if you recall?

15 I guess what I'm trying to find --
16 To put it in context, had you accepted
17 the job at that time?

18 A. No. It was before I accepted the job.

19 Q. You just wanted to find out what --

20 A. Yes.

21 Q. -- can of worms they were handing you?

22 A. I didn't say it was a can of worms. But
23 I wanted to know what was going on

1 before I accepted the job.

2 Q. You wanted to know what was in the can
3 of worms? Is that right?

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

6 A. No, sir. I wanted to know what was
7 going on, and I had some questions.

8 Q. So you asked for the meeting?

9 A. I had requested it.

10 Q. What was said by Mr. Kaley -- or
11 Dr. Kaley?

12 A. Honestly, I can't -- There was so much
13 that was said, I can't -- I can only
14 give you very generalities. I can't
15 remember.

16 I had a lot of questions. I
17 wanted to know about the history of
18 PCBs, what were they made for. I wanted
19 to know about the plant; what else did
20 the plant make. I wanted to know about
21 -- tell me about the remediation.

22 There was a lot of questions. I
23 can't remember specifically what Dr. Bob

1 or Mike said in detail. But it was -- I
2 was just throwing out questions that I
3 had.

4 Q. You said you just remembered in general.

5 Would you tell us generally what
6 Dr. Kaley told you about the history of
7 PCB production at the plant?

8 I'm trying to write down those
9 things you have told me, Mr. Cain. And
10 I wanted to go over those one at a time
11 and need you to tell me.

12 A. Well, let's see. I remember -- I
13 remember asking the purpose of PCBs.

14 We talked about their industrial
15 purposes. We talked about the different
16 types of aroclors that were produced.
17 We talked about when they stopped
18 manufacturing PCBs.

19 Q. When did they tell you that happened?

20 A. I can't remember the exact date. But it
21 was 1969, '70-ish, something like that.

22 And again, it was a lot of
23 questions that I kept building on

1 whenever they told me something, trying
2 to just get a feel for the plant.

3 Q. What did they tell you about the
4 remediation?

5 A. At that time they had told me that they
6 had gone out and had remediated certain
7 parcels of land. And they may have
8 mentioned specific parcels.

9 I can't remember which parcels may
10 have been mentioned, because they were
11 Greek to me then; not being familiar
12 with Anniston.

13 But they did tell me there was a
14 remediation plan in place and it was
15 being implemented.

16 Q. Is that it, what they told you?

17 A. To the best I can remember.

18 Q. When you say remediated certain parts of
19 the land, what is it that they told you,
20 Mr. Cain, about that particular process?
21 What land did they tell you had been
22 remediated?

23 A. The one that probably sticks out in my

1 mind that I can remember is probably --
2 The land around Mars Hill was one that
3 probably sticks out.

4 Q. The church, Mars Hill church?

5 A. Yeah. I mean, that's -- I just remember
6 the church.

7 Q. Anything else you remember they told you
8 about land that had been remediated?

9 A. Not specifically.

10 Q. Now, they told you that a remediation
11 plan was in place? Is that what they
12 told you?

13 A. There was a plan.

14 Q. Did they tell you, Mr. Cain, that that
15 plan had been worked out on a permanent
16 basis or an interim basis?

17 How is it that they told you --
18 What was the status of that plan as you
19 understood it from the conversations
20 with Dr. Kaley and Michael Foresman?

21 A. I understood it to be an active plan.

22 Now, whether or not you want to
23 put a label on it -- I never heard a

1 label put on it.

2 Q. What did you understand an active plan
3 to mean? Is that a term that they used
4 or a term that you used?

5 A. That's a term that I used.

6 Q. What do you mean by active?

7 A. A plan that was -- a plan that was
8 current. A plan that wasn't stagnant.

9 Q. What is it that you understood either
10 from your conversations -- or your
11 understanding as we sit here today --
12 about that plan that's -- some of which
13 is already in place out there at the
14 plant; the covering of the landfill on
15 the west side, the covering of the
16 landfill on the south side of 202, and
17 that work that was done around Mars
18 Hill? What do you understand the status
19 of that to be, permanent, in place,
20 final deal, or interim?

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

23 A. Could you ask me again? You asked me,

1 you know, several pieces again.

2 Is the landfill in a permanent
3 state?

4 Q. If you want to take it one at a time,
5 Mr. Cain, and it would be simpler for
6 you, you have a perfect right to do
7 that.

8 A. Would you, please?

9 Q. Yeah. What about the landfill west of
10 the plant? Do you understand that to be
11 a permanent fix for that particular
12 problem?

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

15 A. I'm not -- I'm not a hydrologist or a
16 geologist. And I'm not in a position to
17 speculate on the state or condition of
18 the status of where the landfill is.

19 I would have to refer you to Craig
20 Branchfield.

21 Q. Of your company, the people who are in
22 remediation?

23 A. Yes.

1 Q. What I'm asking you is it your
2 understanding as the plant manager of
3 the Anniston plant -- That's a fairly
4 important item, isn't it, as far as you
5 are concerned?

6 A. Uh-huh (indicating yes).

7 Q. You have had conversations with people
8 who are in governmental positions, have
9 you not, about that particular site, the
10 Anniston plant site?

11 A. I have had conversations with who?

12 Q. Governmental officials who are involved
13 in the remediation process here in
14 Anniston.

15 A. Not pertaining to the landfill, sir.

16 Q. So you have had conversations with
17 governmental officials; but you have not
18 talked to them about the landfill?

19 A. Could you be more specific; state,
20 federal government officials?

21 Q. Any of them.

22 A. I talked to ADEM about my plant, things
23 that are going on inside my plant.

1 Q. Who at ADEM have you talked to?

2 A. ADEM has made -- they have made several
3 regularly scheduled audit visits twice
4 to my plant.

5 Q. Who?

6 A. I have had a visit from an auditor by
7 the name of Ron Shell.

8 Q. Was he responsible for auditing the
9 remediation work there?

10 A. No, sir. It's just what -- the current
11 operations in the plant.

12 Q. I'm talking about remediation in
13 particular, Mr. Cain.

14 Who is it that you talked to at
15 ADEM about the remediation that's going
16 on at the plant?

17 A. I have not spoken to anyone.

18 Q. You don't do that kind of --

19 A. I defer to my remediation manager, Craig
20 Branchfield. He is my liaison.

21 Q. That's the person who has had the
22 contact about the remediation that's
23 going on; and you have not had any?

1 A. That's correct.

2 Q. Now, that's with ADEM?

3 A. That's right.

4 Q. You have had some conversations with the

5 EPA officials, have you not, about the

6 Anniston plant?

7 A. Yes, I have.

8 Q. Were those in Washington or in Atlanta?

9 A. No, sir. Those were in Atlanta. And

10 they were in general about the Anniston

11 plant.

12 Q. In general about the Anniston plant?

13 A. Yes, sir.

14 Q. Who did you meet with in Atlanta?

15 A. I met with the Region Four

16 administrator. I met him.

17 Q. Who was that?

18 A. I can't --

19 Q. Was he the head of the deal?

20 A. I can't remember his name, sir.

21 Q. Dick Green?

22 A. I met Dick Green.

23 Q. Was he in the meeting? Was he in the

1 meeting, running the meeting?

2 A. Yes.

3 Q. Who else?

4 A. There were several other people. I
5 can't remember the names of the folks
6 that were there.

7 Q. Do you know what their positions were or
8 what they did?

9 A. No. I can't remember.

10 Q. Who all was with you when this meeting
11 was held?

12 A. Glenn Rustin, who is vice president of
13 Solutia, public affairs and governmental
14 affairs. And Dennis Cavner.

15 Q. Who?

16 A. Dennis Cavner, C-a-v-n-e-r. He was vice
17 president of operations excellent;
18 basically operations.

19 Q. Was Mr. Rustin housed or based in
20 Washington? Did Mr. Rustin live in
21 Washington?

22 A. Yes, sir.

23 Q. And he is head of the governmental

1 operations?

2 A. Governmental affairs.

3 Q. Governmental affairs.

4 When was that meeting that you are
5 referring to, where you met the regional
6 administrator and Dick Green and some
7 other people? I will get to those in a
8 minute.

9 A. It was shortly after I was here.

10 I would say probably last August,
11 maybe. I hadn't been here that long.

12 Q. Who arranged the meeting?

13 A. I'm not certain. It may have been
14 Mr. Rustin.

15 Q. Mr. Rustin?

16 A. It may have. I don't know for certain.

17 Q. What was the purpose of your going over
18 to EPA in Atlanta?

19 A. Well, it was explained to me, when I was
20 asked to go, it was going to be an
21 introductory meeting.

22 I was the new plant manager in
23 Anniston. It was a chance for me to

1 meet those folks and for them to meet
2 me.

3 Q. So the purpose of the meeting was to
4 introduce you to the administrator over
5 there and for them to meet with you; is
6 that right?

7 A. That's correct.

8 Q. Who else was at the meeting other than
9 you and Mr. Rustin, those two people you
10 mentioned, plus the others? Who else
11 was there?

12 A. Again, there was just several other
13 people. I can't remember the names.

14 Q. Do you remember what their job or
15 responsibility -- Were they involved in
16 the remediation effort here and worked
17 under Dick Green?

18 A. I can't remember. I can't remember.

19 Q. You don't know what they did?

20 A. No. They may have mentioned it. But I
21 can't remember.

22 Q. How long did the meeting last?

23 A. It was a very short meeting. Less than

1 an hour.

2 Q. What was discussed?

3 A. I had a chance to talk a good portion of
4 the meeting and just indicated that I
5 was the plant manager of the plant and
6 where I came from and that -- I wanted
7 to put a face on the plant.

8 Very generalities. We were there
9 probably thirty minutes, and we were
10 out.

11 Q. Whose office did you meet in?

12 A. It wasn't in an office. It was in a
13 conference room.

14 Q. A conference room? Was it not the
15 office of the regional administrator?

16 A. Not being familiar with that building,
17 sir, I wouldn't know.

18 Q. You don't know?

19 Was remediation discussed at all?

20 A. I can't remember. I don't think so,
21 because it was a very general, light
22 conversation; "This is Dave Cain, plant
23 manager." It was very introductory.

1 Q. Tell me, if you would, Mr. Cain, if
2 there were other meetings with EPA at
3 any point in time at any other place
4 that you attended with Mr. Rustin.

5 A. No.

6 Q. The reason I ask that question -- And I
7 may be wrong. But it's my understanding
8 that there was a meeting held in
9 Washington between Mr. Rustin and you
10 and another person connected with
11 Monsanto and EPA officials in Washington
12 last year.

13 A. No, sir. I've never been to Washington,
14 D.C.

15 Q. Never in your life?

16 A. Never in my life.

17 Q. Do you know if such a meeting took
18 place; where they wanted to put a face
19 on Monsanto for people who were involved
20 with the EPA?

21 A. In Washington, D.C.?

22 Q. Yes.

23 A. I wouldn't know, sir.

1 Q. You have no information as you sit here
2 today about a meeting -- And I may be
3 wrong about what Mr. Branchfield said,
4 and he may be wrong about where y'all
5 went.

6 But it was my understanding that
7 you were involved in a meeting there and
8 there were some people from EPA. I know
9 that in pretty good detail. And I may
10 have misunderstood that. It may have
11 been another plant manager.

12 A. The only thing Craig could be talking
13 about is the trip to Atlanta.

14 Q. So he may just have the location wrong?

15 A. I assume. I have never been to
16 Washington, D.C., in my life.

17 Q. Have you had any meetings with anybody
18 local, Steve Spurling or anybody like
19 that, who is associated with the EPA
20 about what's going on out there in --
21 out on the plant site?

22 A. No, sir.

23 Q. Have you had a meeting with any groups

1 that are located here who are pushing
2 for activities, citizen groups?

3 A. I may have spoken at meetings,
4 gatherings where there may have been
5 people. But I have never been invited
6 to a meeting to talk specifically about
7 that issue.

8 Q. Spoken at gatherings? Do you mean
9 gatherings where someone else would call
10 them and perhaps some of those groups
11 may be there or meetings of those
12 groups?

13 A. No. I have spoken at gatherings where I
14 was invited to come and speak, and some
15 of those people may have been there.

16 Q. What are those meetings that you are
17 referring to?

18 A. I'm on probably ten or eleven boards of
19 directors of various civic groups in
20 this city.

21 I get invited out a lot to speak.

22 A lot of times they are in places
23 where there is probably people that are

1 pushing for the actions that you're
2 talking about.

3 Q. What I had specific reference to was
4 meetings where you all would have
5 meetings with CAPs or the Community
6 Against Pollution groups. Have you ever
7 meet --

8 A. I never met with anybody from CAP.

9 Q. What about the Cobb Town-Sweet Valley
10 group?

11 A. I have met with any -- I have never met
12 with that group. I may have met with
13 members of those groups in various other
14 meetings. But I never met under the
15 umbrella of Cobb Town or CAP.

16 Q. When you say various other meetings, are
17 you talking about various other meetings
18 that might have taken place similar to
19 what you said a minute ago?

20 A. Exactly.

21 Q. Where you were called upon to speak and
22 maybe some of those people were there?

23 A. Exactly.

1 Q. What about public officials here in
2 Anniston or Calhoun County? Have you
3 met with any public officials who are
4 located here in Calhoun County since you
5 were made plant manager here at
6 Anniston?

7 A. I'm on, again, eleven or twelve boards.
8 I met with --

9 Q. I mean particularly about the
10 remediation problem.

11 A. Not that I can recall.

12 Q. Did you ever attend a meeting at the
13 Caldwell Building here in Anniston that
14 was called by a young fellow named Pete
15 Conroy?

16 MR. PECK: Caldwell building, did
17 you say?

18 MR. STEWART: Caldwell Building.
19 A building on Noble Street.

20 A. I don't know where the Caldwell Building
21 is.

22 Q. It's on Noble Street; at the corner of
23 10th and Noble. There used to be a

1 restaurant downstairs. And the meeting
2 was on the third floor.

3 A. Oh, that's where we have Rotary.

4 No, I did not.

5 Q. Did representatives from your outfit go
6 there and make a presentation to that
7 group?

8 A. I don't know which particular group you
9 are talking about, Mr. Stewart.

10 Q. It was a group called together -- And I
11 want to know whether it happened during
12 your watch, whether or not you were
13 involved in that meeting.

14 It was a group of city officials
15 and county officials. And this was a
16 briefing that Mr. Conroy arranged
17 sometime -- maybe six months ago, seven
18 months ago -- it would have been after
19 you became plant manager -- for what was
20 happening at the Anniston plant about
21 the PCB problem.

22 Do you recall that meeting? If
23 you didn't and weren't a participant in

1 the meeting, we can go on to something
2 else, Mr. Cain. I'm just trying to find
3 out if you recall it.

4 A. I do not recall the meeting, and I did
5 not participate in such a meeting.

6 Q. Have you met with any governmental
7 officials about the remediation problem
8 -- that's really what I'm trying to
9 focus on here today -- at the Anniston
10 plant site at any point in time since
11 you have been here?

12 A. No, sir.

13 Q. No one from the city council and no one
14 from the county commission?

15 A. No, sir.

16 Q. What about the legislators?

17 A. Have I met with any legislators about
18 the remediation at the plant?

19 Q. Right.

20 A. No, sir.

21 Q. Have you had any connection or contact
22 with the Oxford City Council?

23 A. No, sir.

1 Q. What about the folks at the mall,
2 Mr. Grimmer and that crowd? Were you
3 involved at all in any way in
4 discussions with those people?

5 A. No, sir.

6 Q. What have you had to do with the
7 remediation here, the plan that you all
8 have in place; nothing?

9 A. Craig Branchfield is the remediation
10 manager. And he keeps me apprised of
11 what's going on and what he's doing in
12 his area. And I'm kept abreast of it
13 almost on a daily or weekly basis;
14 depending on our schedules.

15 Q. Other than your conversation with him
16 about what has taken place on the basis
17 that you talked about, the frequency
18 that you talked about, what other
19 involvement do you have?

20 A. Well, I participate in some of the
21 decision making that will involve the
22 site.

23 My involvement is -- Again, Craig

1 keeps me abreast of what's going on. So
2 I guess you would say it's more of a --
3 The plan is pretty much in place.

4 And if there is changes to it,
5 Craig will come to me and ask me for my
6 support. Or if he needs something from
7 me, if something -- if he needs a
8 resource that I can give him, I provide
9 that.

10 But I look to Craig to pretty much
11 be my advisor in that remediation role.

12 Q. So you say that you participate in the
13 decision making which involves the site.

14 What decisions have you been
15 involved in in connection with the
16 remediation on the sites since you have
17 been here?

18 A. Well, there has been -- Again, in
19 generalities, there has been some things
20 that I have had to bless with my
21 approval on some of the minor things;
22 such as, for example, Mars Hill church.

23 They were having a problem with

1 somebody backing up their car to the
2 church, driving through the fence, and
3 literally breaking into the church and
4 stealing equipment out of the church.

5 That property is part of the
6 remediation program. And I approved
7 Craig to put in necessary security
8 measures to prevent such an activity.

9 Q. What other arrangements -- decisions,
10 rather, have you been involved in?

11 A. I can't remember any real specific, big
12 -- Nothing, really. I make decisions
13 daily. I can't remember anything
14 specific that would -- that would change
15 or alter the plan that's in place.

16 Q. Now, what do you understand that plan to
17 be?

18 You are the plant manager in
19 Anniston. What do you understand that
20 remediation plan to be?

21 A. I believe and understand it to be that
22 we will -- in those areas where we feel
23 that we are responsible for PCBs leaving

1 our sites that we will make every
2 attempt to try to remediate those areas.

3 Q. And this is off site that you are
4 talking about?

5 A. Yes, sir.

6 Q. It is my understanding that from the
7 comment -- And certainly I don't want to
8 put words in your mouth. I want to make
9 sure I clearly understand what you just
10 got through telling me.

11 Am I to understand from what you
12 just told me that you feel like what
13 y'all have done on the site is over?

14 And by site I mean the plant site
15 and the area you purchased around the
16 plant which is yours.

17 Y'all are through with that; is
18 that the right?

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

21 A. Would you please restate that?

22 Q. Yeah.

23 A. Thank you.

1 Q. I will be glad to. And I don't want to
2 put words in your mouth. I'm just
3 trying to understand what you say.

4 You are telling me that -- It
5 sounds as if you were referring to
6 off-site activity.

7 If there is something off site
8 that y'all feel like is your
9 responsibility, then y'all plan to make
10 every effort to remediate that.

11 And what I asked you was, based on
12 that response, am I to understand that
13 you feel like what y'all have done so
14 far on the plant site -- that takes care
15 of the problem; that problem is taken
16 care of?

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

19 Q. You don't have to do anything else
20 there?

21 MR. PECK: Same objection.

22 A. Well, I think that -- what I believe is
23 that we will continue to do what we have

1 done in the past. And that is to work
2 with the regulatory agencies and
3 community leaders and local officials in
4 trying to arrive at some resolution
5 that's fair for everybody. I believe
6 that.

7 Q. Mr. Cain, isn't involved in that the
8 cheapest, least expensive way for
9 Solutia to get out of this mess? Isn't
10 that really what you just got through
11 telling me that y'all were trying to do?

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

14 A. No. I disagree.

15 Q. Do you know anything about this
16 conservation corridor?

17 A. I know very little.

18 Q. What do you know about it?

19 A. Just very little.

20 Q. Well, I'm asking you what that very
21 little is, Mr. Cain. It's a real
22 straightforward question.

23 A. That it would protect certain easements;

1 right-of-ways of certain waterways.

2 Q. Do you even know where they are; the
3 name of them?

4 A. I believe it's Choccolocco Creek.

5 Q. Choccolocco Creek? You are not real
6 sure if it is?

7 A. No, sir.

8 Q. Whose handling that? Who engineered
9 that?

10 A. I don't know who engineered --

11 Q. Whose idea was it?

12 A. I don't know.

13 Q. Do you know how much it's going to cost?

14 A. No, sir. I don't know.

15 Q. Do you know whether or not in that plan,
16 the remediation plan, if there is any
17 money budgeted to dredge portions of
18 Choccolocco Creek?

19 A. No, sir. I don't know.

20 Q. Is that budget that would be put
21 together for remediation separate and
22 apart from your budget here at the
23 Anniston plant? Is that something Craig

1 is responsible for, and you don't have
2 any responsibility for it?

3 A. That's correct.

4 Q. Do you understand the conservation
5 corridor idea to involve dredging of
6 Choccolocco Creek?

7 A. No, sir, I don't understand that.

8 Q. Sir?

9 A. No.

10 Q. Are you telling me that it would not
11 involve dredging Choccolocco Creek?

12 A. Your question was did I understand it,
13 and I said no.

14 Q. You just know that it has to do with
15 easements?

16 A. Yes.

17 Q. Do you know where those easements would
18 be located?

19 A. No, sir.

20 Q. Just along the creek? Is that what you
21 understand?

22 A. Yes, sir.

23 Q. Why is it that you understand Monsanto

1 would be interested in buying up
2 easements? Is that what they are going
3 to do along the creek?

4 A. I don't know that, sir. I don't know
5 that that's what that plan says.

6 Q. Other than Mr. Branchfield, who do you
7 know is involved in that?

8 A. I don't know.

9 Q. What governmental officials are involved
10 in it that you know about?

11 A. I don't know. I don't talk to Craig
12 that much about that particular project.

13 Q. What about the liner for Snow Creek?
14 What do you know about that?

15 A. Very little; nothing.

16 Q. Do you understand that that's in the
17 plan or in the works?

18 A. No, sir.

19 Q. A liner for Snow Creek?

20 A. No, sir. I don't know that.

21 Q. What little do you know about it,
22 Mr. Cain?

23 A. About the liner in Snow Creek?

1 Q. Right.

2 A. I know nothing about a liner for Snow
3 Creek.

4 Q. Why is it, Mr. Cain, they have kept you
5 in the dark as plant manager here in
6 Anniston about the remediation efforts
7 going on off site?

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

10 A. No, sir. I don't believe I'm in the
11 dark.

12 Q. You don't know anything about the -- And
13 you may. I just asked you about the
14 liner. Do you know anything about the
15 plan on Snow Creek for remediation?

16 A. If you are asking me about specific
17 details, I would refer you to Craig
18 Branchfield. But that doesn't mean that
19 I'm in the dark of what's going on as
20 far as remediation is concerned.

21 Q. Tell me what you understand so that I'm
22 assured that you are not in the dark
23 about what's going to happen on Snow

1 Creek.

2 A. I'm not -- I'm not well-versed in all
3 the activities that's going on with that
4 plant or have gone on with it.

5 But again, I would refer you to
6 Craig Branchfield.

7 That doesn't mean that what Craig
8 is doing I'm totally blind to.

9 Q. What do you know about the cleanup of
10 the 11th Street ditch? What has Craig
11 or anybody else shared with you about
12 that?

13 A. I know that Craig is in the process of
14 characterizing the 11th Street ditch.

15 Q. How so?

16 A. Well, under the guidance of the AOC he
17 is sampling the ditch and characterizing
18 what's in the ditch.

19 Q. Do you have any idea or understanding of
20 the levels that he's finding in the
21 ditch, Mr. Cain?

22 A. I have not seen any results.

23 Q. Do they even give you the results, or do

1 they bypass you?

2 A. No. I haven't seen any results.

3 Q. Have you seen any results from the
4 creek, Snow Creek?

5 A. I can't remember.

6 Q. Have you seen any results from any tests
7 that were taken of fish or sediment or
8 surface water in Choccolocco Creek?

9 A. I can't remember.

10 Q. Did you see the sampling results of the
11 ball field or know anything about the
12 Oxford ball field, what's happening down
13 there?

14 A. I remember seeing some of the results.

15 Q. Who gave the check to the school in
16 Oxford? Were you in the paper when they
17 handed the check?

18 A. Which check, sir?

19 Q. Was there any money given from the
20 Anniston plant to the school in Oxford?

21 A. I gave checks to several schools, and
22 Oxford was one of them.

23 Q. When did that happen?

1 A. I gave out several checks last week.

2 Q. In Oxford?

3 A. In Jacksonville.

4 Q. I'm asking about Oxford, Mr. Cain. And
5 I'm sorry. That was probably a poorly
6 worded question.

7 A. If you asked me where I gave the money,
8 I gave the money at a luncheon
9 presentation in Jacksonville.

10 Q. Jacksonville. That was last week?

11 A. Last week.

12 Q. Was that check involved and those checks
13 you made out made payable to the Oxford
14 City School System?

15 A. Last week there was a check to the
16 Oxford Board of Education.

17 Q. For how much money; ten thousand
18 dollars?

19 A. I can't remember. It was probably ten
20 thousand or less. It wasn't -- It was
21 based on a grant that they submitted.

22 Q. A grant that they submitted. When did
23 they submit the grant?

1 A. Well, I can't remember the date. It was
2 due by June 1st of this year. I believe
3 it was June 1st.

4 Q. Any other money you have given to the
5 City of Oxford in the last six months?

6 A. I have not.

7 Q. I don't mean you personally. I'm
8 talking about Solutia.

9 A. That's what I mean. If there was money
10 given, I would have been involved in it.
11 There were no funds that left the plant
12 to the City of Oxford.

13 Q. Tell me if there were any monies given
14 to the Anniston schools in the past six
15 months.

16 A. Yes. Anniston was at the same meeting
17 Oxford received it.

18 Q. They received a check in the same
19 amount?

20 A. No. Their check was for twenty-nine
21 thousand, I believe.

22 Q. Was that a grant?

23 A. That was a grant. They submitted a

1 grant too.

2 Q. Now, what is it that you understand --
3 And so I get it clear -- I don't think I
4 gave you an opportunity to answer or to
5 respond to this.

6 But what is it you understand,
7 Mr. Cain, is the overall remediation --
8 You were sort of vague. And I want to
9 sort of get some idea.

10 You indicated Craig talked to you
11 about the 11th Street ditch, Snow Creek,
12 and Choccolocco Creek. You also
13 indicated that he talked to you about
14 things on the plant site.

15 But what is it that you understand
16 or is fixed in your mind that this plan
17 -- the remediation plan is as far as
18 Solutia's position? I'm not talking
19 about anybody else. I'm talking about
20 Solutia.

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

23 A. Could you restate that question; maybe

1 rephrase it?

2 Q. Let me see if I can simplify it.

3 What do you understand y'all's
4 remediation plan is here in Anniston at
5 the plant site as far as PCBs is
6 concerned?

7 A. Well, again, I repeat what I said
8 before, which was in those places where
9 PCBs have left our site, that's what we
10 have tried to remediate.

11 Q. So if PCBs left your site and got on
12 somebody's residential property, y'all
13 plan to clean it up?

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

16 A. On those places where, you know, PCB
17 levels have exceeded what the government
18 would allow, I think we would make an
19 attempt to clean it up.

20 Q. What is that?

21 A. My understanding is ten parts per
22 billion is the trigger.

23 Q. Is that an emergency kind of cleanup, or

1 is it long-term?

2 MR. PECK: Object to the form of
3 the question; no foundation.

4 Q. That's it, as you understand it?

5 A. That's my understanding.

6 Q. And what government official told you
7 that?

8 A. I can't remember where I read it.
9 Somewhere. It was in some literature.

10 I can't remember if it was an EPA
11 document or what. I can't remember.

12 Q. Did it come as a result of conversations
13 you had with them or a document?

14 A. It would have been, again, something I
15 read somewhere. I just don't remember
16 where I read it.

17 Q. Related specifically to the Anniston
18 plant?

19 A. No, sir. It was in general. It wasn't
20 specifically to Anniston or the Anniston
21 plant.

22 MR. PECK: I need a bathroom break
23 when you are ready.

1 MR. STEWART: Let me finish this
2 line of questioning.

3 MR. PECK: That's fine.

4 Q. (By Mr. Stewart) Have you had any
5 conversations, Mr. Cain, with Craig
6 Branchfield about that ten part per
7 billion and that being it; anything
8 above that, that's the cleanup y'all
9 have to do on residential property?

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

12 A. I can't remember. Craig and I talk all
13 the time. I can't recall the specific
14 conversation.

15 Q. Could it be that he's the one that's the
16 source of that, that understanding you
17 have?

18 A. No, sir. Craig was not the source of
19 that understanding.

20 Q. It's a document that -- Was it a
21 government generated -- It wasn't
22 something y'all generated; it was
23 something that the government generated?

1 A. Yes, sir.

2 Q. In connection with the Anniston plant
3 site?

4 A. No, sir. I remember reading it on
5 something I went out and done, a search
6 on my own on the internet.

7 Q. Was that internet search related to the
8 Anniston site or just the general rules?

9 A. It was not related to the Anniston site.

10 Q. What else do you understand is part of
11 the remediation program for residential
12 property? Anything else that y'all have
13 in place; whether it's an agreement with
14 the government or what?

15 A. I don't need to speculate. I don't
16 know, sir.

17 MR. STEWART: You can go take a
18 break.

19 (A break was taken.)

20 Q. (By Mr. Stewart) What do you understand
21 about the landfills out there from your
22 briefing? Did they tell you what was
23 buried in them?

1 A. No, sir. Not specifically.

2 Q. Did you not find it something that you
3 wanted to know, Mr. Cain, before you
4 came down here, as to what was buried in
5 the landfills?

6 A. No, sir. That wasn't tops on my list.
7 My understanding was that it was capped
8 and nothing else was going in it.

9 Q. You are talking about the west landfill
10 and the south landfill?

11 A. That's right.

12 Q. So it didn't matter to you what was in
13 there?

14 A. My understanding was that what was there
15 was safe.

16 Q. Who told you that?

17 A. I can't remember if it was -- I can't
18 remember. I know it came up in one of
19 the earlier discussions. I can't
20 remember who it was that said it.

21 Q. Could it have been Mr. Kaley?

22 A. I don't know. It could have been. I
23 don't know. I can't remember.

1 Q. What responsibility, Mr. Cain, do you
2 have for reporting to the federal
3 government about what stuff is located
4 on the plant site, in your landfills?

5 A. Well, we sample our out-falls on a
6 regular basis, and we send that data to
7 the government.

8 Q. When you say out-falls, are you talking
9 about discharge points off the plant?

10 A. Uh-huh (indicating yes).

11 Q. What about the groundwater monitoring?

12 A. That's included in that. Some of that
13 is included in that.

14 Q. Do you recall sitting here today whether
15 or not y'all have seen PCBs in any of
16 those groundwater tests that are made?

17 A. Yeah. I do recall we flagged one spot;
18 a discharge point around the warehouse
19 inside the plant.

20 Q. A warehouse?

21 MR. PECK: He is asking you about
22 groundwater monitoring well
23 samples.

1 A. Well, that's a little bit different.

2 But that was a run-off.

3 Q. A run-off at the warehouse had PCBs in
4 it?

5 A. We had a sample that had some PCBs in
6 it.

7 Q. What was the level?

8 A. I don't remember.

9 Q. Who did the testing?

10 A. I can't remember who did the testing.

11 Q. What about in your groundwater?

12 A. No.

13 Q. You have had no groundwater test or
14 analyses that showed the presence of
15 PCBs in the groundwater here in Anniston
16 since you have been here?

17 A. Not in the twelve months I have been
18 here.

19 Q. What would that indicate to you if you
20 found it in there?

21 MR. PECK: Object to the form of
22 the question; no foundation.

23 A. I would be surprised if it was there.

1 Q. I'm not asking for your reaction. I'm
2 asking you what would that indicate to
3 you.

4 MR. PECK: Same objection; no
5 foundation.

6 MR. STEWART: For the record,
7 Mr. Branchfield indicated
8 there were some PCBs found in
9 the groundwater.

10 MR. PECK: My no foundation is his
11 lack of qualification to
12 answer it. That's what I
13 mean by no foundation. I'm
14 not questioning that.

15 MR. STEWART: What I want you to
16 know is I didn't ask him the
17 question without having
18 knowledge of the fact that
19 some had been found. I'm
20 just asking him as the plant
21 manager here in Anniston what
22 that would indicate to him as
23 the plant manager.

1 MR. PECK: Same objection; no
2 foundation.

3 A. Well, I mean, I'm not -- I'm not
4 qualified technically to answer that.
5 It would indicate the presence of PCBs.
6 But it would cause me to ask questions
7 about it.

8 Q. What questions would you ask?

9 A. I would then ask somebody to tell me
10 where they came from.

11 Q. If the groundwater well, the test well,
12 the monitoring well was located
13 downgradient from a landfill, you would
14 want to know, would you not, Mr. Cain,
15 whether or not it came from that
16 landfill; wouldn't you?

17 A. I'd ask for some advice or some
18 investigation be done to try and find
19 the source.

20 Q. How old are you, Mr. Cain?

21 A. I'm forty years old.

22 Q. You seem to be on an upward mobile path
23 in Solutia, earlier Monsanto. Would

1 that be a fair assessment of it?

2 A. I don't know. You would have to ask the
3 outside world. To me it's something I
4 have been working on all my life.

5 Q. I understand that. Is it a fair
6 position, comparably speaking, to people
7 your age who are relatively bright?

8 A. I know other people that are doing at my
9 age more than I'm doing. So again, it's
10 relative. I have friends that are doing
11 more than I'm doing.

12 Q. You're apparently a good manager.

13 A. I'd like to think so.

14 Q. So when you found something like that in
15 the groundwater, you would want to know
16 -- as I understand what you're telling
17 me -- where it came from?

18 A. That's a fair assumption.

19 Q. And as a practical matter, wouldn't you
20 ask the question, "Craig, find out for
21 me how much stuff is buried up there"?

22 MR. PECK: Object to the form of
23 the question; calls for

1 speculation.

2 A. If you're asking me to assume that it
3 came from the landfill, then I don't
4 know that. I said I would ask to tell
5 me -- "Can you tell me where it came
6 from?" I wouldn't assume it came from
7 the landfill.

8 Q. Let's say it came from the landfill.

9 A. That would be speculating. I don't know
10 that.

11 Q. But you would want to know that,
12 wouldn't you?

13 MR. PECK: Object to the form of
14 the question. Same
15 objection; calls for
16 speculation.

17 A. Again, I would just ask, "Help me
18 understand where it came from."

19 Q. You would want to know whether or not it
20 came from your landfill, wouldn't you,
21 Mr. Cain?

22 A. I would ask, "Help me understand where
23 it came from."

1 Q. Wouldn't you assume if it was
2 downgradient -- the monitoring well was
3 downgradient from the landfill -- What
4 do you understand that's supposed to be
5 monitoring?

6 A. Well, sir, I'm not a hydrologist. I
7 don't -- I would be speculating. I'm an
8 electrical engineer. I would be
9 speculating on hydrology.

10 Q. The hydrology of what?

11 A. Of how water flows.

12 Q. In and around that landfill; the
13 groundwater you are talking about?

14 A. In general.

15 Q. Has anybody told you anything about
16 that?

17 MR. PECK: About what?

18 A. About what?

19 Q. The hydrology of the earth under that
20 landfill.

21 A. No, sir.

22 Q. No; they have never told you that?

23 Mr. Foresman or Dr. Kaley or Craig

1 never told you anything about that?

2 A. They may have explained it to me or
3 talked about it. But I don't recall it.

4 Q. What about the west landfill? Do you
5 know anything about the hydrology?

6 A. I don't recall.

7 Q. The way the water flows onto that west
8 landfill?

9 A. I don't recall. We may have talked
10 about it, but I don't recall.

11 Q. Those are on your plant site, and those
12 are your responsibility, aren't they,
13 Mr. Cain? Are you saying yes?

14 A. I'm saying yes.

15 Q. Would that not be information that you
16 would need in order to make an informed
17 decision about the source of the PCBs?

18 A. If it came down to making a decision, I
19 would ask for the necessary information
20 to make a balanced decision.

21 You are asking me to speculate.

22 And I can't speculate not having all the
23 facts and information in front of me to

1 make a decision.

2 Q. What do you understand, from your
3 conversation with Dr. Kaley and
4 Mr. Foresman or Craig Branchfield or
5 anybody, the remediation on the south
6 landfill was done for? Why was that
7 capped over?

8 The landfill south of 202 was
9 capped before you came here. Do you
10 remember that? Did they tell you that?

11 A. Yes.

12 Q. Why did they tell you they capped it?

13 A. I can't recall that specific
14 conversation.

15 Q. Did they tell you whether or not it was
16 capped for PCBs? Did you understand it
17 was done for PCBs and the PCB problems?

18 A. My understanding is that there is
19 probably some PCBs there, but I can't
20 recall specifically --

21 Q. In that landfill, and that's why they
22 capped it?

23 MR. PECK: Object to the form of

1 the question.

2 A. I can't recall that specifically nothing
3 but PCBs are in there. I don't know
4 what's in the landfill.

5 Q. So you don't know as you sit here today,
6 Mr. Cain, as the plant manager here in
7 Anniston, why they capped the landfill
8 that's south of 202?

9 A. I know that there is some PCBs there.
10 And I'm --

11 Q. Under that cap?

12 A. My assumption is that there is.

13 My assumption is also that it was
14 capped to -- just as a protective
15 measure.

16 Q. To prevent PCBs from mobilizing and
17 leaving the plant site?

18 A. That's pretty much the purpose of the
19 landfill in capping it.

20 Q. On the south landfill?

21 MR. PECK: Object to the form of
22 the question; no foundation.

23 A. Again, I'm speaking in general from a

1 layman's term of understanding caps and
2 landfills.

3 Q. You are unlike, say, as a normal lay
4 person as you sit here today. You have
5 a plant that had a PCB problem. And you
6 are the manager and this is the site
7 that you are responsible for; isn't it?

8 A. That's correct.

9 Q. Now, part of your responsibilities,
10 Mr. Cain, if I'm not mistaken -- and you
11 correct me if I'm wrong -- is to make
12 sure you don't harm your neighbors. Is
13 that right?

14 A. That's correct.

15 Q. So wouldn't it be a part of your
16 responsibility and wouldn't you want to
17 know, despite the cap, if you still had
18 a problem with PCBs leaving that
19 landfill?

20 A. No, sir. I don't believe PCBs are
21 leaving that landfill. My understanding
22 of that --

23 Q. What do you base that on?

1 A. I base that on the science and the
2 experts that were responsible for
3 building that landfill and that cap.

4 My understanding is that it's safe
5 and that there are no PCBs leaving that
6 landfill.

7 And I base it on the samples that
8 Craig Branchfield has shown me of
9 run-off from those sites, that there are
10 no PCBs leaving that particular site.

11 Q. Would your source of your information
12 about that be Dr. Kaley and Craig
13 Branchfield and Foresman? Is that the
14 sum total of the source, or are there
15 other people that you talked to?

16 A. I'm sure there are other people. I
17 can't remember. I know that I have
18 spoken to those three and others about
19 landfills.

20 Q. And you are basing it on the tests that
21 have been performed?

22 A. On the samples, yes.

23 Q. The samples.

1 Have you ever seen a dye test
2 result done on that landfill?

3 A. No, sir.

4 Q. What about air tests? Has he shown you
5 air sampling?

6 A. I have not seen air samplings on the
7 site.

8 Q. In the twelve months that you have been
9 here as plant manager of Anniston,
10 Mr. Branchfield has not shown you any
11 air sample results?

12 A. I can't remember seeing air sample
13 results. I can't remember.

14 Q. If you saw PCBs first in those air
15 samples and you knew the air samplers
16 were located --

17 Well, let me ask you so that Adam
18 doesn't object and earn that huge fee
19 that he's going to be paid for coming
20 over here today.

21 MR. PECK: You are just
22 guaranteeing an objection,
23 aren't you?

1 MR. STEWART: I'm trying to. I
2 want you to earn your money.

3 Q. (By Mr. Stewart) Do you know if there
4 is any air sampling going on or a plan
5 for the south landfill and the west
6 landfill?

7 A. I am aware that either they occurred or
8 are in the process of occurring, air
9 sampling.

10 Q. And would you not want to know if those
11 -- If they have occurred before you came
12 or are going on now, would you not want
13 to know, Mr. Cain, whether or not they
14 were finding PCBs in the air?

15 A. Yes, sir.

16 Q. You would consider that to be
17 significant?

18 A. I would.

19 Q. Why?

20 A. Again, it's no different than the
21 example you gave of if I saw PCBs in the
22 groundwater. I would want to know. If
23 there were PCBs leaving the landfill, I

1 would want to know.

2 Q. By air?

3 A. I would want to know.

4 Q. Do you know anything about the vapor
5 flux tests that are being performed,
6 Mr. Cain?

7 A. No, sir, I don't.

8 Q. Have you ever heard that terminology
9 used?

10 A. No, sir. That's the first I have heard
11 of it.

12 Q. The first you have heard of it?

13 You would want to know the answers
14 to the questions about the groundwater
15 and about the air because of -- I would
16 assume -- And I certainly don't want to
17 put words in your mouth. If you agree
18 with me, I would appreciate it if you
19 would tell me yes or no -- because you
20 are responsible to the community that's
21 around the plant; wouldn't you?

22 A. That's a fair assumption.

23 Q. Because if it was leaving the plant

1 site, there is a distinct possibility it
2 might affect your neighbor?

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

5 A. I don't know. Again, I would be
6 speculating in saying that if it left
7 the plant site it was going to affect my
8 neighbor.

9 Q. Where would it go?

10 A. Your question was would it affect my
11 neighbor. And I'm not qualified to say
12 that PCBs are going to have an impact on
13 this person because it went to his
14 property.

15 Q. Well, by affect the neighbor, I mean to
16 get on his property. He might breathe
17 it if it's in the air, wouldn't he?

18 MR. PECK: Object to the form; no
19 foundation.

20 A. Again, I'm not technically qualified or
21 medically qualified to say that if it
22 left the air it might affect the
23 neighbor.

1 Q. I'm not asking you to get into a
2 discussion -- And I will rephrase the
3 question so you don't have to.

4 He might breathe it, might he?
5 It's in the air; off-gassing from your
6 landfill; leaving the plant site. There
7 is a distinct possibility, is there not,
8 Mr. Cain, the neighbor that lives in the
9 area might breathe it; isn't there?

10 MR. PECK: Object to the form of
11 the question; no foundation.

12 A. A possibility exists anywhere you go.

13 Q. How is that, Mr. --

14 A. Well, you are saying if it got into the
15 air.

16 If an air molecule is in the air,
17 common sense says there is a chance you
18 can breathe it.

19 Q. If it was in levels that were fairly
20 significant, off-gassing from your plant
21 -- All I'm asking you, Mr. Cain, is one
22 of the reasons you would want to know
23 that is because of the fact that it

1 might affect -- or your neighbor might
2 breathe it. It might be deposited on
3 his property.

4 A. I don't know that.

5 Q. Well, why did they cap it?

6 MR. PECK: Object to the form of
7 the question; asked and
8 answered; no foundation.

9 A. I don't know. I'm not the landfill
10 expert.

11 Q. You know, I'm not a landfill expert,
12 Mr. Cain. And there are a lot of people
13 in this room, and none of them are.

14 But why would you cap the
15 landfill? I mean, that's just a common
16 sense question I'm asking. Why did you
17 understand that they capped this
18 landfill?

19 MR. PECK: Object to the form of
20 the question; no foundation.

21 Q. What's the purpose of that cap?

22 MR. PECK: Same objection.

23 Q. How long have you worked for Monsanto or

1 Solutia?

2 A. Sixteen, seventeen years.

3 Q. And you have been around a landfills
4 before. Or have you?

5 A. Uh-huh (indicating yes).

6 Q. And you understand the purpose -- I
7 thought you told me earlier the purpose
8 of the cap was to prevent the stuff from
9 leaving the reservation. Didn't you
10 tell me that?

11 A. Yes. That's what I said.

12 Q. And so your concern about that stuff
13 being in the air would be because you
14 wouldn't want it to leave the
15 reservation. Isn't that what it would
16 be based on, Mr. Cain?

17 MR. PECK: Object to the form of
18 the question; no foundation.

19 A. My understanding is if the cap is on it
20 it's not going to leak into the air; is
21 my own personal understanding.

22 Q. Of the type cap you have got there that
23 you wouldn't be finding it --

1 A. My understanding of caps in general.

2 It's not going to leave.

3 Q. It's not going to leave. That's your
4 understanding?

5 A. Yes.

6 Q. You gained that from Dr. Kaley and
7 Foresman, or just general knowledge you
8 have acquired since you have been with
9 Monsanto?

10 A. That's just knowledge I have acquired
11 since being alive, sir. It's not just
12 Monsanto. It's just what I believe.

13 Q. So am I to understand that -- and I
14 certainly don't want to put words in
15 your mouth -- that you would not be
16 concerned for your neighbor if you felt
17 that thing was off-gassing -- the
18 landfill was off-gassing PCBs and
19 leaving the reservation through the air?

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

22 A. Sir, my understanding is -- my own
23 personal belief of caps is it's not

1 leaving through the air on their
2 landfilll.

3 Q. So even if you had some air samples that
4 showed that, you would not feel as the
5 Anniston plant manager that you had any
6 responsibilities to correct whatever the
7 problem was that was giving you that
8 stuff, giving you those readings?

9 MR. PECK: Object to the form of
10 the question; no foundation;
11 calls for speculation.

12 A. I wouldn't know. I would be speculating
13 if I --

14 Q. You wouldn't feel any responsibility to
15 share it with the community that that
16 might be happening?

17 A. I would be speculating. I don't know.
18 I'd have to be in that situation.

19 Q. I'm asking you as the plant manager, if
20 you knew it was coming off there,
21 Mr. Cain, if you would not feel a
22 responsibility to share that with the
23 community?

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

3 A. If I knew beyond a shadow of a doubt --

4 Q. Right.

5 A. -- that all samples -- that everything
6 indicated that it came from my landfill,
7 I would -- I would want to understand
8 how it left the site -- First of all, I
9 don't believe it would leave the site,
10 so I would merely just be speculating.

11 I'd have to see proof that it came
12 from the landfill, which I don't believe
13 that it would come from because of the
14 cap.

15 Q. But if it did come from the landfill,
16 you would want to share it with your
17 neighbor?

18 A. Again, it's a scenario that I would have
19 to be in that situation to see what were
20 all the factors, what information did I
21 have in front of me that I know beyond a
22 shadow of a doubt and in speculating.

23 Q. If you knew it was killing fish in Snow

1 Creek, you would want to tell your
2 neighbors too, wouldn't you?

3 MR. PECK: Object to the form of
4 the question; no foundation.

5 A. It's again speculating.

6 Q. But you would want to tell your
7 neighbors about it.

8 If stuff leaving your plant was
9 killing fish in the creek and could harm
10 those neighbors, you would want to tell
11 them about it, wouldn't you, Mr. Cain?
12 It's a real simple yes or no. Just tell
13 me yes or no.

14 A. I'm sorry, Mr. Stewart. It would be
15 speculating.

16 Q. And you wouldn't write on any document
17 that you weren't going to tell the
18 neighbors, would you? They wouldn't
19 find a document with David Cain's
20 signature on it that said, "Don't tell
21 the neighbors," would they, Mr. Cain?

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

1 A. I would have to see the situation that
2 it was in. You are asking me to
3 speculate again. That's not how I
4 manage --

5 Q. If you didn't tell the neighbors or
6 attempt to protect the neighbors and
7 take some kind of corrective action, you
8 would be violating the code that y'all
9 have to live by as plant managers of
10 Monsanto.

11 Isn't one of y'all's
12 responsibilities as plant managers for a
13 Monsanto or Solutia plant -- And I don't
14 know whether that was transferred when
15 it was spun off or not.

16 But do you remember what
17 Mr. Mahoney said about what your
18 responsibility was to your neighbors? I
19 think it was in the '80s.

20 A. What specific --

21 Q. Did anybody ever tell you about that,
22 what your responsibility was to your
23 neighbors?

1 A. What specific code are you referring to,
2 Mr. Stewart?

3 Q. Somewhere in all these documents we have
4 gotten. We get them in grips and grabs
5 from Adam. But whenever we get one, it
6 tends to be informative.

7 And there was a code that said --
8 sort of a pledge or a promise called the
9 Monsanto Pledge that says how you treat
10 your neighbors, the people who live
11 around your plant.

12 A. Uh-huh (indicating yes).

13 Q. If you didn't tell your neighbors about
14 the danger -- All I was asking is
15 wouldn't you be violating that pledge if
16 it was publically made?

17 A. You are speculating and tying those two
18 events together, the pledge and that
19 event.

20 Q. Did you have any responsibility,
21 Mr. Cain -- Well, let me ask you. Did
22 you know about the pledge before I
23 mentioned it? Did anybody ever tell you

1 that y'all had a responsibility to those
2 folks that live around your plant not to
3 hurt them?

4 A. That's not what the pledge says. I
5 recall the pledge --

6 Q. What does the pledge say?

7 A. I can't remember specifically what the
8 pledge says.

9 Q. It doesn't say anything about your
10 responsibility to your neighbors, to
11 make sure that discharges don't come off
12 your plant and hurt your neighbors or
13 the environment?

14 A. I'm sure the pledge is not that
15 specific, sir.

16 Q. You don't remember it being that
17 specific?

18 A. I don't.

19 Q. Do you remember anything in general
20 requiring you to have that kind of
21 attitude toward your neighbors in the
22 pledge?

23 A. That was in the '80s. I started with

1 the company in '85 as an engineer.

2 By the time I got management
3 responsibilities, I don't recall.

4 Q. So there is nothing that you are taught
5 as a manager about that pledge -- Have
6 y'all discarded that?

7 A. We are no longer Monsanto, sir.

8 Q. So in the spin-off to Solutia you
9 discarded what y'all felt like was that
10 responsibility to the neighbors?

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

13 Q. You don't have any?

14 A. I don't recall. I don't.

15 Q. Are you responsible or did you have any
16 involvement in the -- putting together
17 this response on behalf of Solutia to
18 the CERCLA section 104(e) request for
19 information that was related to the
20 Anniston site?

21 A. No, sir.

22 Q. Who did that?

23 A. That probably was before my time.

1 Q. Have you seen it?

2 A. No, sir.

3 Q. Are you familiar with and have you had
4 conversations with people about why
5 Monsanto wasn't forthcoming about the
6 mercury discharges from the plant site?

7 MR. PECK: Object to the form.

8 Object to the
9 characterization of the
10 question.

11 MR. STEWART: That's how The Star
12 had it.

13 MR. PECK: You're not one to say
14 The Star always gets it
15 right, are you, Donald?

16 MR. STEWART: Well, I thought that
17 was a good article.

18 MR. PECK: I suspect you did.

19 Q. (By Mr. Stewart) Sir?

20 A. Rephrase that question, because I was
21 lost in thought on The Anniston Star
22 after you said that.

23 Q. Well, have you ever met anybody from The

1 Star?

2 A. I met -- Well, I know Brandy. Brandy
3 and I are on a board together.

4 Q. Brandy Ayers?

5 A. Yes.

6 Q. The editor, publisher?

7 A. Yes.

8 Q. I'm talking about people who really work
9 down there.

10 Have you ever met with anybody
11 that works at The Star?

12 A. Well, the managing editor I met.

13 Q. Chris Waddle?

14 A. No. Troy Turner.

15 Q. Who?

16 A. Troy Turner.

17 Q. Has Chris moved up since I last talked
18 to him?

19 A. Yeah. I met Chris, though.

20 Q. What was the purpose of your meeting
21 with Mr. Turner?

22 A. He is my neighbor.

23 Q. But you didn't have a meeting

1 specifically about Solutia or
2 remediation or that kind of stuff; you
3 just knew him socially?

4 A. No. When he first came to town and I
5 found out he lived by me, he was my
6 neighbor, I invited him out to lunch.
7 We went out to lunch. We went out and
8 talked about Jacksonville, where we
9 lived. We talked about Solutia in
10 general. That was pretty much it.

11 Q. Where do you live?

12 A. In Jacksonville.

13 Q. Okay. So you don't live in Anniston?

14 A. No, sir.

15 Q. What do you know about the
16 misinformation story that appeared in
17 The Anniston Star about mercury?

18 Strike that. Let me ask you is
19 that the first time you knew that there
20 had been mercury discharges from this
21 plant?

22 A. That story was false. We did not
23 discharge mercury from the plant.

1 Q. Tell me who told you it was false.

2 A. Well, I spoke with several people about
3 that story.

4 Q. Who?

5 A. I spoke with Jerry Brown.

6 Q. Jerry Brown.

7 A. I spoke with Bob Kaley. And who else?

8 There may have been some others.

9 I don't remember exactly who. Those
10 were probably the two principals I spoke
11 with about that story.

12 Q. What did Mr. Brown tell you about it?

13 A. He merely just explained to me that --
14 you know, we did use mercury in our
15 chlorine production and that it pretty
16 much was a closed loop system.

17 Q. Closed loop?

18 A. Uh-huh (indicating yes).

19 Q. I assume y'all are planning on suing The
20 Star for this false allegation that they
21 made about mercury discharges?

22 A. I plan on --

23 MR. PECK: Object to the form of

1 the question.

2 A. I'm not going to answer on the grounds
3 of -- I don't know what we can do
4 legally. But I plan on responding in a
5 letter to the editor.

6 Q. Is somebody helping you write that? Is
7 Dr. Bob helping you --

8 A. No, sir.

9 Q. David is going to do that?

10 A. I am very comfortable writing, sir.

11 Q. You are going to tell The Star what, a
12 closed loop system, no mercury
13 discharges?

14 A. I will in so many words indicate that
15 story is not true. We did not release
16 fifty tons of mercury into the
17 community.

18 Q. Was it ten or five tons?

19 A. No, sir.

20 Q. You all did not discharge any mercury
21 into Snow Creek and subsequently into
22 Choccolocco Creek. That's your
23 position?

1 A. My position will be that -- My position
2 will be that fish sampling in 1970 and
3 another sampling done in the '90s
4 indicated that the levels of mercury
5 were lower than what the FDA allowed for
6 fish consumption.

7 Q. Did anyone, including Mr. Brown, tell
8 you anything about fish studies that
9 might have been done before those dates
10 that you're talking about?

11 A. No. Not that I can remember.

12 Q. If there had been fish studies done
13 before that day, would you want to know
14 about that?

15 A. I would have been surprised that The
16 Anniston Star didn't report it in the
17 story.

18 Q. I will go with Adam on that one.
19 Sometimes they don't get everything
20 right.

21 They got the discharge right,
22 Mr. Cain, but sometimes they don't get
23 everything right.

1 But wouldn't you want to know
2 about those other fish studies before
3 you write this letter off to The
4 Anniston Star?

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

7 MR. STEWART: I'm trying to help
8 Mr. Cain, Adam. I like him.

9 THE WITNESS: You're trying to
10 help me re-write the story?

11 MR. STEWART: Before y'all stick
12 him out there without being
13 fully informed. I'm trying
14 to get him fully informed.

15 MR. PECK: Are you talking about
16 fish studies on mercury?

17 MR. STEWART: I'm talking about
18 fish studies, Adam, on
19 Choccolocco Creek. That's
20 what I'm talking about.

21 I want Mr. Cain to be
22 fully informed. In fact, if
23 you'll give me permission, I

1 may send them to him.

2 THE WITNESS: You can help me
3 write the story, then,
4 Mr. Stewart.

5 MR. STEWART: I will be glad to,
6 Mr. Cain.

7 Q. (By Mr. Stewart) Wouldn't you want to
8 know those exist?

9 A. If there was a fish study that was done
10 before that that would have levels that
11 would contradict the 1970 and the '90
12 study, I think it would be interesting.

13 Q. Now, you were going to tell me all that
14 you were going to say in that story.
15 But I just want to know if you were
16 going to say that there were no mercury
17 discharges that came from the Monsanto
18 plant.

19 A. I don't know if I can say there were
20 zero discharges from the plant. I don't
21 know. But I do know there wasn't fifty
22 tons of mercury released into the
23 environment.

1 Q. So Mr. Bryant, who was quoted in the
2 story, that said it was just sewered
3 into the tributaries that lead away from
4 the plant and into Snow Creek is just
5 not telling the truth?

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

8 Q. Mercury, I believe.

9 A. I disagree with what he said.

10 Q. That's a former Monsanto employee that
11 said that anybody who said it was a
12 closed loop system and there were no
13 discharges was telling a story.

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

16 That would require that
17 The Anniston Star would have
18 gotten that right as well.

19 I object to his improper
20 question.

21 Go ahead.

22 A. I disagree with Mr. Bryant in that
23 story.

1 Q. Have you talked to him?

2 A. No, sir.

3 Q. You don't want to talk to him before you
4 write the letter to find out if perhaps
5 Jerry might not have been there when
6 something happened or maybe Jerry is
7 just sort of pulling your leg?

8 A. No, sir. I don't believe Jerry was
9 pulling my leg.

10 Q. Do you believe him to be an honest
11 person?

12 A. I believe him to be an honest person.

13 Q. And accurately portrayed what happened
14 at the plant; including what happened on
15 that south landfill and why it happened?

16 A. I believe Jerry to be an honest person.

17 Q. So if he said that that south landfill
18 remediation cap -- all that stuff that
19 was done over there was done because of
20 parathion and not PCBs, you would tend
21 to believe ol' Jerry, wouldn't you?

22 MR. PECK: Object to the form of
23 the question. You are asking

1 him an improper question and
2 asking one witness to comment
3 on another.

4 Q. Well, you wouldn't disbelieve him if he
5 told you it was parathion over there
6 that y'all were trying to take care of?

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

9 A. It's speculation.

10 Q. That's not speculation, Mr. Cain. I
11 took his deposition. Frankly, it was
12 the floor above us. That's what he
13 said.

14 A. Then, sir, you know more than I know.

15 Q. So they didn't tell you that was because
16 of parathion and not because of PCBs?

17 A. I did not get into that discussion.

18 Q. Now, I looked up in this deposition --
19 Ms. Russo happened to bring a copy of
20 this today.

21 And I'm getting older, Mr. Cain.
22 But at least two days after the
23 deposition I can remember it.

1 Now, next week it may be hard.

2 And I notice Adam just objected to
3 the form, so he probably -- I think Adam
4 was at Jerry Brown's deposition, so he
5 probably remembers that.

6 And I just asked him -- If he
7 didn't, he can comment.

8 MR. PECK: I objected because it's
9 improper to have one witness
10 comment on the testimony of
11 another. That's why I
12 objected.

13 I think you are slightly
14 simplifying the entire
15 conversation as well.

16 MR. STEWART: With Mr. Brown?

17 MR. PECK: That wasn't --

18 MR. STEWART: I talked to
19 Mr. Branchfield. I know what
20 the parting line is.

21 MR. PECK: Well, where are you
22 reading from?

23 MR. STEWART: Page two

1 fifty-eight.

2 Off the record.

3 (Discussion held off record.)

4 MR. PECK: Are you talking about
5 the Washington meeting?

6 MR. STEWART: Yeah.

7 Q. (By Mr. Stewart) Mr. Branchfield said
8 there was a trip made to Washington. He
9 said, "There was a meeting that was
10 held, Mr. Stewart. And I'm trying to
11 recall who attended that meeting." He
12 said, "I believe Mr. Rustin and our
13 plant manager, David Cain."

14 So I wasn't asking something that
15 would be -- that was information from --
16 "There was one other person who
17 attended" -- And he didn't recall who
18 that was.

19 A. Uh-huh (indicating yes).

20 Q. Is it fair to say that -- I want to make
21 sure that I got my meetings and that
22 that meeting was between you and the
23 people in Atlanta and that the

1 destination -- you think that's what
2 Mr. --

3 A. That's what --

4 Q. -- Branchfield is referring to?

5 A. That's what I believe.

6 Q. And he said that meeting took place in
7 the fall of last year.

8 A. Uh-huh (indicating yes).

9 Q. Was that after Bush went in? I mean, he
10 was declared the winner.

11 A. Do you mean my meeting in Atlanta?

12 Q. Yeah.

13 A. My meeting in Atlanta did not occur in
14 the fall.

15 Q. Well, that's what he said.

16 A. But he also said I went to Washington,
17 D.C., and I did not go.

18 Q. He said it on page two fifty-nine. "It
19 would have been last fall."

20 MR. PECK: I object to the form of
21 the question. It's improper
22 to ask a witness to comment
23 on the testimony of another

1 witness.

2 Obviously he was wrong.

3 The guy knows if he has been
4 to Washington or not.

5 MR. STEWART: That's not an
6 objection, Adam. Come on.

7 A. I don't remember. The meeting I went to
8 in Atlanta was sometime after I arrived
9 here.

10 Q. In August of 2000?

11 A. I believe it was before the fall. It
12 could have been late summer. But I
13 believe it wasn't in November.

14 Q. So Mr. Branchfield could have been right
15 about the trip but David perhaps didn't
16 go?

17 A. He could have been right about the trip
18 going to meet in Atlanta. But the time
19 he could have been mistaken about and
20 the fact -- and the place. It wasn't in
21 Washington.

22 Q. There is also a possibility that
23 Mr. Rustin and some representative group

1 from Solutia could have met with people
2 in Washington in the fall about the
3 Anniston plant site?

4 A. I don't know. I believe Craig was
5 talking about our trip to Atlanta.

6 He would have been well aware of
7 my trip to Atlanta. He could have
8 gotten the place wrong. I believe
9 that's the trip he is talking about.

10 MR. PECK: Some people think fall
11 starts when football season
12 starts. Football season
13 starts in August. So that
14 could account for everything.
15 That's when I count fall
16 starting.

17 Q. What else were you told -- Strike that.

18 Are there records here, Mr. Cain,
19 that have to do with the plant
20 production and documents that were
21 generated back in the '50s and '60s here
22 at the Anniston plant?

23 A. Are there production records?

1 Q. Yeah.

2 A. Could you be more specific than
3 production records, because that's still
4 very vague.

5 Q. Well, let me just say are there records
6 located at the Anniston plant that
7 related to correspondence, production,
8 that type stuff that took place at the
9 Anniston plant in the '50s and '60s and
10 '70s? Did y'all have a record room
11 there where you keep old records?

12 A. That far back, I don't know. I have not
13 seen records from the '50s.

14 Q. Do you have records that are located
15 there in some kind of record room about
16 the plant site itself?

17 A. From what time period, sir? If you are
18 asking me about --

19 Q. Any time period.

20 A. If you are asking me about current
21 production, I can tell you I keep
22 records on current production
23 operations.

1 Q. Do you have sort of a dead file room
2 where you have got old files that are
3 located that have to do with past
4 operations at the Anniston plant?

5 A. I don't know. I haven't seen any such
6 files in the past.

7 Q. Do you know if there are any PCB related
8 records that are located there at the
9 Anniston plant?

10 MR. PECK: You are not talking
11 about remediation.

12 Q. I'm not talking about remediation. I'm
13 talking about historical records.

14 A. No. I haven't seen any such files and
15 any such documents.

16 Q. Do you know if y'all maintain files
17 there on remediation where you have got
18 correspondence back and forth between
19 EPA, ADEM, your folks there, like Craig
20 and people like that? Are they
21 maintained there at the Anniston plant
22 site?

23 A. I would assume that Craig Branchfield

1 maintains those communications.

2 Q. Those records?

3 A. Yes.

4 Q. And they are maintained there at the
5 Anniston plant site?

6 A. I don't know if they are there or in St.
7 Louis. I don't know.

8 Q. Does he have an office there; keep files
9 there, Craig Branchfield?

10 A. Yes, he did does.

11 Q. And he would be the one, if there are
12 records there, that would maintain them?

13 A. He would know, yes, sir.

14 Q. Tell me, Mr. Cain, if you can, what is
15 the nature of the consent order in
16 principle that you all are working on
17 about remediation now with the EPA?

18 MR. PECK: Object to the form of
19 the question; no foundation.
20 The document speaks for
21 itself.

22 A. Well, Craig Branchfield would be the
23 ideal source for the contents --

1 Q. Do you have an understanding of it,
2 though?

3 A. My understanding is that it involves, as
4 I mentioned, the characterization of the
5 11th Street ditch. It involves sampling
6 some properties.

7 Q. Do you mean properties off site?

8 A. Off site, yes, sir.

9 Q. What properties; residential,
10 commercial, what?

11 A. Residential properties.

12 Q. And do you know in what area those are
13 being sampled?

14 A. It would be in some of the immediate
15 areas around the plant, west Anniston.

16 Q. Anything outside the drainage basin?

17 A. I wouldn't know specifically. I can't
18 remember, sir.

19 Q. What else?

20 A. I can't remember any other -- anything
21 else.

22 Q. Was there anything mentioned about Snow
23 Creek, Choccolocco Creek?

1 MR. PECK: Same objection.

2 A. I can't remember the details.

3 Q. Would one of the details about
4 Choccolocco Creek be approval by the
5 agencies of this conservation corridor?

6 MR. PECK: Object to the form of
7 the question; no foundation.

8 A. Again, I can't remember.

9 Q. Craig said y'all spent two hundred
10 thousand dollars on that so far; in his
11 meeting or in his deposition. I will
12 pull it out for you.

13 Have y'all spent that with the
14 understanding if EPA approves that and
15 ADEM approves that?

16 MR. PECK: Object to the form of
17 the question; no foundation.

18 It's improper to ask one
19 witness to comment on the
20 testimony of another.

21 MR. STEWART: I'm not asking him
22 to comment on the testimony.
23 I'm asking him to tell me if

1 ADEM approved that
2 conservation corridor.

3 Q. (By Mr. Stewart) Do you understand
4 that?

5 A. I wouldn't know.

6 Q. Has anyone met with representatives of
7 the Governor's office to work that out?

8 A. I wouldn't know.

9 Q. This little fellow, Pete Conroy, who
10 runs around posing as an
11 environmentalist, has anybody talked to
12 him?

13 A. I don't know who Pete Conroy is. I
14 wouldn't know him if I saw him. I
15 wouldn't know if he's a little fellow or
16 a big fellow. I wouldn't know.

17 Q. He is a little fellow.

18 MR. PECK: In stature or physique?

19 MR. STEWART: Either way.

20 THE WITNESS: I have never met
21 him.

22 MR. STEWART: And he's about to
23 get a lot smaller.

1 Q. (By Mr. Stewart) So you don't know if
2 anybody from Monsanto has met -- Do you
3 know David Roberson? He is Mr. Rustin's
4 counterpart, as I understand it, in
5 Montgomery. He lobbies for y'all down
6 there. Do you know David?

7 A. I've met David.

8 Q. Did you ever meet with the Governor,
9 Mr. Cain, since you have been here in
10 Alabama?

11 A. With the Governor?

12 Q. Governor Siegleman?

13 A. No, sir. I don't have that kind of
14 pull.

15 Q. Or Siegleman, as he now calls himself?
16 Have you met with him?

17 A. No, sir.

18 Q. Do you know of any representatives from
19 Monsanto that have met with the
20 Governor?

21 A. I don't know, sir. I've never heard it.

22 MR. STEWART: Adam, it's about
23 twelve twenty-five. Do you

1 want to take a break for
2 lunch?

3 I can look at some
4 notes. I may not even come
5 back and talk to David. I
6 want to know what y'all want
7 to do.

8 MR. PECK: I mean, if it's like --
9 if you are talking
10 potentially twenty more
11 minutes, I guess we would
12 probably be able to push on
13 through. If you need some
14 time --

15 MR. STEWART: I just want to be
16 fair to him. He's been
17 sitting here answering
18 questions and cooperative and
19 everything.

20 MR. PECK: We can go off the
21 record.

22 (Discussion held off record.)

23 Q. (By Mr. Stewart) You were the telling

1 us -- before I got off on this
2 conservation thing, you were telling us
3 what else you understood was going to be
4 involved in the remediation thing under
5 the consent order. And you told us
6 testing in residential properties. And
7 you also told us, I believe,
8 characterization of that 11th Street
9 ditch.

10 A. Yeah.

11 Q. And anything else that you understood --

12 I believe we covered Snow Creek,
13 and you said you didn't know what was
14 going to happen on Snow Creek. Or do
15 you know?

16 A. That's correct.

17 Q. You don't know whether anything would be
18 required of you by the regulatory
19 agencies? By you, I mean Solutia.

20 A. That's correct. I don't know.

21 Q. And you don't know whether or not they
22 have approved or disapproved this
23 Choccolocco Creek thing?

1 A. I don't know.

2 Q. Why is it -- We asked Mr. Branchfield
3 this. Why is it there has not been any
4 money budgeted for the cleanup of
5 residential property? In the budget
6 that he presented there was no money for
7 cleanup.

8 A. I can't speak on behalf of Branchfield's
9 budget. Those are two separate budgets.

10 Q. That is his projections.

11 But I assume you have talked to
12 him about what is happening, as the
13 local plant manager here.

14 And has he told you --
15 Mr. Branchfield -- in the conversations
16 you have had with him or with his boss
17 why y'all have not budgeted anything for
18 residential cleanup?

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

21 A. I don't recall having that conversation
22 about what's in his budget and what is
23 not.

1 Q. Have you heard anybody say that y'all
2 are going to budget any money for
3 residential cleanup?

4 A. I don't recall that specific
5 conversation.

6 Q. And the only thing that I saw budgeted
7 in his budget was monies for the
8 conservation corridor on Choccolocco
9 Creek and perhaps the sand that was
10 there.

11 Do you know if there was any money
12 that has been budgeted for cleanup on
13 Choccolocco Creek?

14 MR. PECK: Object to the form of
15 the question; no foundation.

16 A. I don't recall seeing anything. If you
17 have seen Craig's budget, then --

18 Q. What about the -- There was some money
19 for a liner of Snow Creek; which he
20 explained to us was about a two point
21 eight million dollar concrete culvert to
22 be built there on Snow Creek.

23 A. I don't recall that.

1 Q. Do you recall anything else being
2 budgeted for Snow Creek?

3 MR. PECK: Object to the form of
4 the question; no foundation.

5 Q. Let me show you Exhibit One, which
6 Ms. Russo happened to have.

7 And as corrective measures for
8 Choccolocco Creek there is a half
9 million dollars there. And corrective
10 measures for WWTP. There is a million
11 and a half dollars there. Do you know
12 what that is?

13 A. No, sir. Let me look at this.

14 Q. I think that's the waste water treatment
15 plant.

16 A. If you ask me what that's an acronym
17 for, that's waste water.

18 Q. That's the stuff that's piled up -- that
19 the contractor piled up on the side of
20 the waste water treatment plant? Is
21 that what it is?

22 A. I don't know.

23 Q. And then on the first page here he's got

1 Snow Creek liner system. That's the
2 liner system I was talking about, two
3 point eight million; and the
4 conservation corridor, one point two
5 million.

6 A. Uh-huh (indicating yes).

7 Q. And then lake and Choccolocco Creek
8 monitoring he has got a hundred thousand
9 dollars. And then he's got Choccolocco
10 Creek CMS. What do you understand that
11 to be?

12 A. I have no idea.

13 Q. Do you see anything on that budget --
14 Now that you have got the budget, do you
15 see anything on that budget for the
16 residential property or the cleanup of
17 the creek?

18 MR. PECK: Object to the form of
19 the question; no foundation.

20 A. If you are asking me if I see anything
21 that says, "Residential sampling," the
22 answer is no.

23 Q. Or residential cleanup?

1 A. It's not --

2 Q. How far out do y'all budget?

3 MR. PECK: Object to the form of
4 the question. He or Craig?

5 Q. Normally do you have to put projections
6 on the Anniston plant for a five-year
7 budget; budget out five years; budget
8 out two years?

9 MR. PECK: Are you talking about
10 him budgeting?

11 A. Are you talking about me specifically?

12 Q. I'm talking to Mr. David Cain. I'm
13 asking him what he budgets.

14 A. I can't explain --

15 Q. At the plant is what I'm talking about.
16 I'm not talking about your personal
17 budget.

18 A. Exactly. I don't know how remediation
19 -- There is our budget for the plant. I
20 do my budget a year in advance.

21 Q. If Craig planned to clean anything up,
22 you would assume that he would at least
23 do it a year in advance?

1 A. No, sir. You are asking me to speculate
2 that Craig does the same budgeting the
3 same way that I do. And that's not
4 necessarily true.

5 Q. I think he said he did it five years
6 out.

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

9 Q. But I don't know. He did it some number
10 of years ago.

11 All I'm asking, Mr. Cain, is do
12 you understand that y'all have no
13 intention of cleaning up Snow Creek,
14 Choccolocco Creek, or cleaning up these
15 residential properties; you're just
16 going to do a little sampling. Is that
17 what you understand the ADEM folks --
18 like Steven Cobb, Jerry Hardegree --
19 have told y'all you could get away with
20 at the Anniston site?

21 A. No, sir. I disagree with you. My
22 understanding is that we will work
23 cooperatively with the agencies.

1 Q. Oh, I'm talking about working
2 cooperatively with the agencies.

3 Do you understand their history
4 here, ADEM's?

5 A. Could you be more specific; their
6 history?

7 Q. They sort of dropped the ball a couple
8 of times.

9 Steven said the other day they
10 sort of dropped the ball on the mercury.

11 Isn't that what Mr. Cobb said in
12 that mercury article in The Anniston
13 Star; they sort of dropped the ball on
14 that?

15 MR. PECK: Object to the form.

16 Q. I'm asking you if they are going to let
17 y'all at Solutia slide by by just doing
18 a lick and a promise on this major
19 problem you have here with the PCBs.

20 Is that what they told y'all you
21 are going to be allowed to do?

22 MR. PECK: Objection.

23 A. No, sir.

1 Q. The Governor's folks, Pete, came over
2 there and said, "Well, lord, this sounds
3 like a wonderful thing, and I think it's
4 a great solution. And I will go talk to
5 the Governor about it;" Pete Conroy?

6 A. No, sir.

7 Q. And that other sterling representative,
8 Mr. Ghee? Have you ever met with
9 Mr. Ghee, Doug Ghee?

10 A. Doug Ghee is a member of the Rotary with
11 me. I have met him in Rotary.

12 Q. Have you talked to him about this deal
13 that y'all are trying to work out to get
14 out of here as cheaply as you possibly
15 can, Mr. Cain?

16 A. No, sir.

17 Q. Tell me, if you would, who owns the
18 property where the Mars Hill church
19 meets.

20 A. Solutia owns the property.

21 Q. How much rent do they pay y'all?

22 A. It's a dollar a day.

23 Q. A dollar a day?

1 A. Uh-huh (indicating yes).

2 Q. Three hundred and sixty-five dollars a

3 year?

4 A. Yes, sir.

5 Q. For the rental of the church?

6 A. Yes, sir.

7 Q. Who paid for the security system y'all

8 put in out there?

9 A. Which security system?

10 Q. I thought you said you put --

11 A. The security system amounted to a big

12 fence.

13 Q. Who paid for that?

14 A. I paid for that.

15 Q. Solutia?

16 A. Yes.

17 Q. Have y'all provided them anything else?

18 A. No. I haven't.

19 Q. From your budget you have not provided

20 them any monies at all?

21 A. No.

22 Q. Would it be fair to say that the church

23 -- Have you got any ideas of the square

1 footage on that church?

2 A. I'm not any good at guessing square
3 footage.

4 Q. Why is it that that deal was made at
5 three hundred and sixty-five dollars a
6 year? Did somebody tell you why they
7 made that deal?

8 A. I believe that it was something that --
9 When I got here, I was instrumental in
10 getting the lease signed and wanted it
11 to be something that was just a token
12 amount.

13 These people were planning on
14 moving. And a dollar a day seemed very
15 reasonable. The building was sitting
16 idle.

17 Q. Did anybody tell you, Mr. Cain, what the
18 history of that relationship was between
19 that church group and Monsanto or
20 Solutia?

21 A. Yes, sir.

22 Q. Who told you that?

23 A. Several people. I mean, I met with

1 members from Mars Hill.

2 Q. Sandra Roberts?

3 A. I know her. She didn't tell me, though.

4 I met with --

5 Q. Melanie Tignor?

6 A. That doesn't ring a bell.

7 Q. Ms. Meeling?

8 A. I met with several people from that
9 church that had told me of the history
10 of the relationship.

11 Q. Between --

12 A. Monsanto and Mars Hill.

13 Q. That it was a good relationship?

14 A. Well, it wasn't exactly always good. I
15 mean, there were some bumps in the road
16 there.

17 Q. But it's improved since y'all have let
18 them have the church for nothing almost?

19 A. I think it's improved because of -- I
20 have reached out and tried to have a
21 relationship with that church.

22 Q. You have?

23 A. Yes, sir.

1 Q. Well, weren't they meeting in the church
2 before you got here?

3 A. Yes, sir, they were.

4 Q. And they weren't paying any rent at that
5 time?

6 A. No, sir.

7 Q. Who else told you, besides the members
8 of the church, about the relationship?

9 A. I spoke with Alan Faust about the
10 church.

11 Q. What did Alan tell you?

12 A. Alan just told me, you know, the history
13 of the church; the land was remediated
14 and how the church split and told me
15 about Bethel as well.

16 It was more or less just, "This is
17 how the church came to be, and this is
18 how the folks got to be there." I can't
19 even remember all the details of the
20 story.

21 Q. Did he tell y'all that y'all built a
22 church somewhere else for Bethel?

23 A. Yes.

1 Q. And tore the Bethel church down?

2 A. Yes. To a certain extent.

3 Q. Did he tell you why you didn't tear the
4 Mars Hill church down?

5 A. No. I can't remember.

6 Q. Did he tell you why the agreement was
7 made with Ms. Roberts and Ms. Meeling
8 and the members of that church for them
9 to stay there?

10 A. I recall that it was they had no place
11 to worship and that building was
12 available.

13 Q. And they had help from Monsanto?

14 A. No, sir. That was not the reason.

15 Q. Did they tell you that?

16 A. No, sir. I don't -- That congregation
17 is not -- when I first came here, it
18 wasn't exactly -- everybody in there
19 wasn't Monsanto friendly. So it --

20 Q. Some of them were; some of them weren't?

21 A. Some of them were; some of them weren't.

22 Q. What other buildings do you all have
23 that you are leasing now at three

1 hundred and sixty-five dollars a year
2 here in Anniston?

3 A. I don't know. That's probably the only
4 building I know of, that I signed my
5 name on the lease of.

6 Q. Do you have other buildings that you
7 purchased around the plant site?

8 A. Yes. There are other buildings that we
9 own around the plant site.

10 Q. What are those?

11 A. Well, the Laundromat on the corner, the
12 community ice house.

13 Q. What did y'all pay for the community ice
14 house?

15 A. I don't know.

16 Q. Where else?

17 A. Well, the pawn shop building there on
18 the corner. The cabinet place next door
19 to there. I think we own that. And
20 then the old Anniston Metal Works
21 building.

22 Q. Anything else you own in that vicinity,
23 that y'all have purchased recently in

1 that vicinity?

2 A. That's about all I can remember. Maybe.

3 I don't think there is.

4 MR. STEWART: Thank you, Mr. Cain.

5 MR. PECK: That's it.

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7 (AND FURTHER DEPONENT SAITH NOT.)

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1 I do hereby certify that the witness
2 whose attached deposition was taken before me
3 was by me first duly cautioned and sworn to
4 tell the truth in the cause aforesaid; that
5 the testimony contained herein was by me
6 reduced to writing in the presence of said
7 witnesses by means of stenography and
8 afterwards transcribed by means of
9 computer-aided transcription. The foregoing
10 is a true and accurate transcript of the whole
11 of the testimony given by said witness, as
12 aforesaid.

13 I do further certify that I am not
14 connected by blood or marriage with any of the
15 parties or their attorneys or agents and that
16 I am not an employee of any of them, nor
17 interested in the matter of controversy.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand and affixed my notarial seal at
20 Gadsden, Alabama, County of Etowah, this 9th
21 day of AUGUST 2001.

22 -----
23 Janet F. Russo
 Notary Public, Alabama-at-Large
 My Commission expires: 5-22-2004