

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

KATHLEEN McHUGH AND DEANNA SCHNEIDER,  
Individually and on behalf of all  
person similarly situated,

Plaintiffs,

v. Case No. 11-CV-724  
MADISON-KIPP CORPORATION, CONTINENTAL  
CASUALTY COMPANY, UNITED STATES FIRE INSURANCE  
COMPANY and ABC INSURANCE COMPANIES 1 - 50,

Defendants,

and  
MADISON-KIPP CORPORATION,  
Cross-Claimant,

vs.

CONTINENTAL CASUALTY COMPANY, COLUMBIA  
CASUALTY COMPANY, and UNITED STATES  
FIRE INSURANCE COMPANY,  
Cross-Claim Defendants,

and  
CONTINENTAL CASUALTY COMPANY and  
COLUMBIA CASUALTY COMPANY,  
Cross-Claim Defendants,

and  
LUMBERMANS MUTUAL CASUALTY COMPANY, AMERICAN  
MOTORISTS INSURANCE COMPANY, and JOHN DOE  
INSURANCE COMPANIES 1 - 20,  
Third-Party Defendants.

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DEPOSITION OF  
JAMES B. LENZ

Madison, Wisconsin  
September 28, 2012,  
10:00 a.m. to 4:45 p.m.

Kim M. Peterson  
Registered Professional Reporter

A P P E A R A N C E S

1 THE COLLINS LAW FIRM, P.C., 1770 North  
2 Park Street, Suite 200, Naperville, Illinois, 69563,  
3 smc@collinslaw.com, by MR. SHAWN COLLINS, appeared on  
4 behalf of the Plaintiffs.

5 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
6 125 South Wacher Drive, Suite 1250, Chicago, Illinois,  
7 60606-4473, nberger@vblhc.com, by MR. NORMAN B. BERGER,  
8 appeared on behalf of the Plaintiffs.

9 MICHAEL, BEST & FRIEDRICH, LLP, 100  
10 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202 ,  
11 jabusch@michaelbest.com, by MR. JOHN A. BUSCH, appeared  
12 on behalf of the Madison-Kipp Corporation.

13 MICHAEL, BEST & FRIEDRICH, LLP, 100  
14 South Pinckney Street, Suite 700, P.O. Box 1806, Madison,  
15 Wisconsin, 53701-1806, lhziemba@michaelbest.com, by MS.  
16 LEAH H. ZIEMBA, appeared on behalf of the Madison-Kipp  
17 Corporation.

18 TROUTMAN SANDERS, LLP, 55 West Monroe  
19 Street, Suite 3000, Chicago, Illinois, 60603-5758,  
20 christopher.white@troutmansanders.com, by MR. CHRISTOPHER  
21 WHITE, appeared on behalf of the Continental Casualty  
22 Company.

23 MEISSNER, TIERNEY, FISHER & NICHOLS,  
24 S.C., 111 East Kilbourn Avenue, 19th Flor, Milwaukee,

1 Wisconsin, 53202-6622, jbk@mtfn.com, by MS. JENNIFER A.B.  
2 KREIL, appeared on behalf of the United States Fire  
3 Insurance Company.

I N D E X

6 WITNESS	EXAMINATION	PAGE
7 JAMES B. LENZ	By Mr. Collins	4

E X H I B I T S

9 EXHIBIT NO.:	MARKED ID'D
10 1 - Subpoena .....	5 6
11 2 - Consulting agreement .....	82 82
12 3 - Memo dated April 7, 1994 .....	118 119
13 4 - Dames & Moore 2/1/96 meeting Power Point	
14 MK006604-6615 .....	135 135
15 5 - Memo dated March 19, 1996 - MK006682 .....	159 160
16 6 - Memo dated March 25, 1996 - MK006681 .....	178 179
17 7 - Draft dated July 12, 1996 - MK006463 .....	198 198
18 8 - Letter dated March 21, 1996 -	
19 MK006460-6462 .....	216 220
20 9 - Memo dated July 24, 2002 - MK006775 .....	223 223
21 10 - Memo dated August 31, 2006 - MKDNR001892 .....	229 230
22 11 - Email string - MK005710 .....	234 234
23 (The original exhibits were attached to the original	
24 transcript.)	
25 (The original transcript was sent to Mr. Collins.)	

P R O C E E D I N G S

1 JAMES B. LENZ, called as a witness  
2 herein by the Plaintiffs, after having been first  
3 duly sworn, was examined and testified as follows:

E X A M I N A T I O N

4 BY MR. COLLINS:

5 Q Would you state your name and spell it for the  
6 record, please.

7 A James B. Lenz. James, you know how to spell  
8 James, L-E-N-Z.

9 Q Mr. Lenz, we met just a couple minutes ago. I'm  
10 Shawn Collins, a lawyer for the -- a lawyer for  
11 the plaintiff class in a case against Madison-Kipp  
12 Corporation. You understand that, right?

13 A Yes.

14 Q Okay. And to my right here is Norm Berger. Norm  
15 and I are co-counsel in the case. You met Norm  
16 just a couple minutes ago as well. So that's who  
17 we are. Have you ever been deposed before?

18 A Yes. About, I don't know, 15 years ago.

19 Q Okay. All right. Have you had somebody explain  
20 the rules to you of a deposition?

21 A Yes.

22 Q Okay. The main one I'd ask you to observe is if  
23 you don't understand my question, tell me that,

1 and I'll do my best to ask a more understandable  
 2 question, okay?  
 3 A Okay.  
 4 Q All right. One other rule is answer audibly,  
 5 please.  
 6 A Yep. I just remembered that.  
 7 Q No, that's all right.  
 8 A I was nodding my head and then oh, yeah, I got to  
 9 answer verbally.  
 10 Q You understand why, right? She can't record a nod  
 11 of the head. Well, she's pretty good, she  
 12 probably can, but -- Anyway, answer audibly if you  
 13 would, please.  
 14 Okay. So you're here pursuant to a  
 15 subpoena, right?  
 16 A Correct.  
 17 Q You've seen the subpoena, right?  
 18 A Yes.  
 19 Q And you know that it asked you to bring certain  
 20 documents with you, right? Do you know about  
 21 that?  
 22 A No, I didn't bring any documents.  
 23 Q Okay. Let's -- Let's mark this then, okay.  
 24 (Exhibit No. 1 was marked for  
 25 identification.)

1 BY MR. COLLINS:  
 2 Q Okay. So Mr. Lenz, so this is a document we're  
 3 calling Lenz No. 1. Nothing personal about the  
 4 name of the exhibit. That's just so we know the  
 5 deposition we used it in, okay. So this is  
 6 Lenz 1.  
 7 My question to you, sir, is whether  
 8 you have seen that before this moment?  
 9 A This particular document I -- no.  
 10 Q You've not seen this before.  
 11 A (Witness nods.)  
 12 Q Okay. What -- What brings you here today? How  
 13 did you know to come here today?  
 14 A Counsel told me I had to come.  
 15 Q Are you represented regarding this deposition? Do  
 16 you have a lawyer?  
 17 A Yes, I do.  
 18 Q Who is it?  
 19 A Ringhand (sic).  
 20 Q Okay. And he's not here, right?  
 21 A He's not here, no.  
 22 Q Okay.  
 23 MR. BUSCH: I will tell you that in  
 24 his role as a former employee -- I'm here for the  
 25 company, but I think as a former employee we have

1 certain rights with respect to him, but go ahead  
 2 and answer the questions.  
 3 BY MR. COLLINS:  
 4 Q Okay. There isn't one now, but here goes the next  
 5 one. So -- So is this -- I gather then this is  
 6 the first time you are seeing or you're learning  
 7 that the subpoena asked you to bring documents,  
 8 and I'm quoting now, "all documents concerning any  
 9 environmental matters at the Madison-Kipp  
 10 Corporation site located at 201 Waubesa Street,  
 11 Madison, Wisconsin, 53704."  
 12 All right. You saw what I just read  
 13 from on the subpoena here?  
 14 A Yes.  
 15 Q Okay. Did you know before this moment that the  
 16 subpoena that brings you to this deposition asked  
 17 you to bring those documents?  
 18 A No.  
 19 Q All right. Do you have documents like that in  
 20 your possession?  
 21 A No. Everything was left at Madison-Kipp when I  
 22 left.  
 23 Q Okay. How about anything on a personal computer  
 24 at home, anything like that?  
 25 A I don't believe I have any documents on my

1 personal computer.  
 2 Q Okay. Do you have any -- any files at home in  
 3 which you might keep even employment-related  
 4 records from Madison-Kipp?  
 5 A I think I have a file that has different reviews  
 6 that I've had and different --  
 7 Q I'm not interested in those. Here's what I'd like  
 8 you to do. I'd like you to -- to think about,  
 9 since you really haven't had any time to think  
 10 about, whether you have in your possession  
 11 documents matching the description on the  
 12 subpoena.  
 13 And what I'm going to do after this  
 14 deposition is I'll contact your lawyer and I'll  
 15 ask him to work with you on that.  
 16 A Okay.  
 17 Q Okay? All right. So, you used to work at  
 18 Madison-Kipp Corporation, correct?  
 19 A Correct.  
 20 Q From when until when, please.  
 21 A From late June of 1980 to June 15th of 2011. Is  
 22 that right? Yep, that's correct.  
 23 Q Thirty-one years?  
 24 A Yes, correct.  
 25 Q Why did you leave?

1 A I was laid off.  
 2 Q Were you told why?  
 3 A Cost cutting reasons.  
 4 Q Okay. Were others laid off at the same time?  
 5 A Yes.  
 6 Q When you were laid off from Madison-Kipp  
 7 Corporation on or about June 15 of 2011, what was  
 8 your position there?  
 9 A I was a manufacturing engineer.  
 10 Q Was that your title?  
 11 A I think my title was senior manufacturing  
 12 engineer.  
 13 Q Okay. Let's -- I'm sorry.  
 14 A And -- Yeah, that's correct.  
 15 Q Okay. So let's -- let's -- you must have started  
 16 there when you were a pretty young man, I would  
 17 imagine, right?  
 18 A Yes.  
 19 Q How old were you when you started at Madison-Kipp?  
 20 A I'd have to do the math, but roughly 22, somewhere  
 21 in there.  
 22 Q Did you go to college?  
 23 A I went to UW-Madison.  
 24 Q Were you right out of college, basically?  
 25 A Yes. I've graduated in May and started there in

1 June.  
 2 Q Okay. So you graduated with what degree, please.  
 3 A Engineering mechanics.  
 4 Q Okay. You said from UW-Madison?  
 5 A UW-Madison.  
 6 Q Okay. So when you started at Madison-Kipp  
 7 Corporation what -- what was your job?  
 8 A I was a project engineer.  
 9 Q Um-hum. That was your title?  
 10 A Yes.  
 11 Q Okay. And how long did you hold that title?  
 12 A For roughly eight years.  
 13 Q So from '80 to roughly '88?  
 14 A '88.  
 15 Q Yeah? Okay. And so what did you do as a project  
 16 engineer? I'm just asking generally right now.  
 17 A Rebuilt equipment, installed new equipment,  
 18 updated electrical controls on equipment.  
 19 Q Okay. What kind of equipment?  
 20 A Mostly die casting and machining equipment.  
 21 Q Only. Was all of your 31 years at the  
 22 Madison-Kipp Corporation location on Waubesa in  
 23 Madison?  
 24 A Well, as they got other plants I -- I would do  
 25 work at other plants. So it wasn't totally at

1 Madison -- at the --  
 2 Q Fair to say that the Waubesa plant was your base?  
 3 A Was my base, yes.  
 4 Q Okay. And you lived in Madison?  
 5 A I live near Madison.  
 6 Q Near Madison, okay. All right. So in  
 7 approximately '88, 1988, then you changed  
 8 positions at Madison-Kipp?  
 9 A I became the facility engineer.  
 10 Q And was that for one facility, or more than one  
 11 facility?  
 12 A All facilities.  
 13 Q For all Madison-Kipp facilities. How many were  
 14 there in 1988?  
 15 A Oh, boy. I'm trying to remember the timing back  
 16 that far because there was a Johnson City plant in  
 17 Johnson City, Tennessee, and I don't remember -- I  
 18 don't believe that plant was still in existence at  
 19 that time.  
 20 Q If you would, please, tell me what you know for  
 21 sure. And then as to anything else if you're not  
 22 sure, tell me that you're not sure.  
 23 A It would have been just the Atwood Avenue facility  
 24 and the Fair Oaks facility.  
 25 Q Okay. So I -- I -- I referred to Madison -- the

1 Madison-Kipp facility on Waubesa, but that's not  
 2 how you refer to it, right?  
 3 A Yeah. My -- My office was on the Atwood Avenue  
 4 facility entrance.  
 5 Q Okay. All right. How long were you the facility  
 6 engineer?  
 7 A I kept that position the entire time I was there  
 8 the rest -- along with other duties until about  
 9 five years ago when -- when Kim Eggers started.  
 10 At that point I became a manufacturing engineer.  
 11 Q Okay. So you were the facility engineer until  
 12 approximately 2006?  
 13 A Correct.  
 14 Q Okay. And then who did you say started?  
 15 A Kim Eggers.  
 16 Q Spell last name, please.  
 17 A Oh, boy. I'm bad at spelling.  
 18 Q Do your best, please.  
 19 A E-G-G-E-R-S.  
 20 Q Okay. Man or woman?  
 21 A Man.  
 22 Q And Eggers took the facility engineer job?  
 23 A Well, the facility engineer went to some  
 24 maintenance personnel and I was also given  
 25 environmental at that time, and Kim Eggers took

1 over all environmental.  
 2 Q You said you were given environmental at that  
 3 time?  
 4 A I was -- In between your earlier question and that  
 5 question I -- I was also given environmental.  
 6 Q Okay. Because I don't remember my last couple of  
 7 questions, let me ask you when were you given  
 8 environmental?  
 9 A Let me figure this out. It would be somewhere  
 10 around '96 I was given environmental and facility  
 11 engineering.  
 12 Q And facility engineering, okay. You -- Prior to  
 13 '96 you already had facility engineering, right?  
 14 A Yes.  
 15 Q Okay. So what was added to it in about 1996 was  
 16 environmental, is that right?  
 17 A Yes.  
 18 Q Okay. So did something happen in 1996, some  
 19 event, some development, that -- that caught --  
 20 A The --  
 21 Q Let me -- I'm sorry. Let me finish. And then --  
 22 So another rule is if you'd let me finish my  
 23 question, and then my job is to let you finish  
 24 your answer before I step on it with a question,  
 25 okay.

1 So, here's the question. Did  
 2 something happen in the environmental arena in  
 3 approximately 1996 that caused environmental to be  
 4 added to your job duties?  
 5 A The environmental engineer left the company.  
 6 Q Who was that?  
 7 A Sam Sutopo.  
 8 Q You know what I'm going to ask.  
 9 A Yes.  
 10 Q Would you do your best?  
 11 A Oh, boy. S-U-T-O-P-O.  
 12 Q So Sam Sutopo left?  
 13 A Um-hum.  
 14 Q Okay. That mean yes?  
 15 A Yes.  
 16 Q Okay. Is Sam still around, do you know?  
 17 A I have no idea. I haven't seen him since he left.  
 18 Q All right. So Sam Sutopo was the environmental  
 19 engineer and left Madison-Kipp in about 1996.  
 20 A Correct.  
 21 Q Yes? And that's when environmental, basically  
 22 Sam's job, was added to yours?  
 23 A Correct.  
 24 Q Okay.  
 25 A Except for safety. Someone else carried safety.

1 Q All right. Why did Sam leave, do you know?  
 2 A Different opportunity.  
 3 Q Okay. Did he get fired?  
 4 A No.  
 5 Q Okay. These personnel moves in 1996, Sam leaving  
 6 and your taking on environmental, have anything to  
 7 do with the discovery in the 1990's of VOC's in  
 8 the soil and groundwater at Madison-Kipp?  
 9 A No.  
 10 Q You sure?  
 11 A Yes.  
 12 Q Okay. So let me roll back a little bit now. So  
 13 when you're the project engineer in 1980 to 1988,  
 14 to whom did you report?  
 15 A Boy, this is going to be a mess because the  
 16 turnover there was rather high, and I had so many  
 17 bosses that -- I typically only had a boss for a  
 18 year at a time.  
 19 Q Let me try to make it a little bit easier. All  
 20 right. So then what I want to know is the --  
 21 from -- in that '80 to '88 timeframe when you were  
 22 the project engineer, who was the last person to  
 23 whom you reported?  
 24 A Okay. From '80 to '88 was your question?  
 25 Q Yeah. Within that timeframe.

1 A That was Steve Busse.  
 2 Q All right. B-U-S-S --  
 3 A E.  
 4 Q Okay. That's -- That's the -- That's the guy you  
 5 were reporting to in '88 when you changed jobs?  
 6 A That's the person I reported to from '80 to '88.  
 7 Q The entire time.  
 8 A Yes.  
 9 Q Okay. Steve Busse. And what was his job?  
 10 A He was the facilities -- He was facility engineer  
 11 and engineering manager.  
 12 Q Okay. When you became facility engineer in  
 13 approximately 1988, to whom did you report?  
 14 A I can't remember for sure.  
 15 Q Okay. Well, let's talk about approximately eight  
 16 years into your tenure as facility engineer when  
 17 you took on the environmental responsibilities,  
 18 okay?  
 19 A Okay.  
 20 Q With regard to those responsibilities,  
 21 environmental responsibilities, to whom did you  
 22 report?  
 23 A I think it was Don Nelson, I think. Not positive  
 24 on that.  
 25 Q Okay. Did you have responsibility for



1 environmental matters at Madison-Kipp until the  
2 time you left in 2011?  
3 A They would come and consult with me occasionally,  
4 but I didn't have any environmental  
5 responsibility.  
6 Q Ever?  
7 A That's from that '90 -- or 2006 till I left.  
8 Q Okay. When Eggers came in.  
9 A As soon as Kim Eggers came in.  
10 Q Okay. So it sounds like then we're talking about  
11 a -- a 10-year period, 1996 to 2006, where you had  
12 environmental responsibility.  
13 A Correct.  
14 Q Fair to say?  
15 A Yes.  
16 Q Okay. Did you have a title at the company as  
17 regarding environmental matters?  
18 A Yes.  
19 Q What was your title?  
20 A That changed a lot, too. Most of the time it was  
21 environmental manager. It was plant engineering  
22 and environmental manager. Can I just get a drink  
23 of water quick?  
24 Q Yes. Of course you can.  
25 (Discussion off the record.)

1 BY MR. COLLINS:  
2 Q Okay. So from 1996 to 2006 you -- your title is  
3 plant engineering and environmental manager?  
4 A Correct.  
5 Q Okay. So during that period of time as  
6 environmental manager for Madison-Kipp, what --  
7 what did you do? What kind of things did you work  
8 on?  
9 A I worked on air issues, air permitting, stormwater  
10 permitting. Somewhere in that timeframe the SPCC  
11 permitting came out. The permitting with the city  
12 for sewer discharges, and because of my facility  
13 engineering responsibilities I was consulted on  
14 the groundwater contamination issues.  
15 Q Okay. The groundwater contamination issues that  
16 you say you were consulted about, what was the  
17 contamination? What were the chemicals  
18 contaminating the groundwater?  
19 A PCE.  
20 Q Anything else during that 10-year period?  
21 A No, not that I can recall.  
22 Q Okay. Now, there was PCE also in the soil at the  
23 plant, right?  
24 A Yes.  
25 Q So were you involved in -- in that contamination

1 as well?  
2 A Yes.  
3 Q Okay. During that period of time there was also  
4 some testing for PCE in -- in vapors, too,  
5 correct? And by the way, the period of time I'm  
6 talking about is 1996 to 2006.  
7 And just so the question is clear,  
8 during that period of time PCE was also found in  
9 vapor testing in or around the plant, true?  
10 A I can't recall any -- I wasn't that close to that  
11 project. I -- The only vapor testing I remember  
12 them doing was they put some sand points in the  
13 ground to monitor vapor pressure during injection  
14 of the BiOx.  
15 Q Okay. All right. So while you were the  
16 environmental manager for 1996 to 2006, was there  
17 anyone at the company who outranked you in the  
18 environmental arena regarding environmental  
19 matters?  
20 A The environmental portion of my job reported to --  
21 and it's probably going to be two different people  
22 over that timeframe. First it was Bud Hauser.  
23 Q H-A-U-S-E-R?  
24 A I believe so, yeah.  
25 Q Okay.

1 A And then it's -- then there was a slight gap after  
2 he left and then Mark Meunier started.  
3 Q Okay. I want to run some names by you, and tell  
4 me if you had any professional interaction with  
5 them while you were at Madison-Kipp. Lyle Crouse.  
6 Lyle is L-Y-L-E, Crouse is C-R-O-U-S-E.  
7 A Yes. He was my boss for a period of time.  
8 Q When?  
9 A Boy. I'd like to say almost the entire time he  
10 was there for my facility engineering portion of  
11 my job.  
12 Q Okay. Did you work with Mr. Crouse on any  
13 environmental matters?  
14 A Air permitting, you know. He signed a lot of the  
15 documents that you had to have signed by a company  
16 executive.  
17 Q Did you work with Mr. Crouse on any of the  
18 contamination issues; soil, vapor or groundwater?  
19 A I was consulted on about when they wanted to do  
20 the BiOx treatment doing excavation next to the  
21 plant. And I said that they couldn't dig to that  
22 depth right next to the plant.  
23 Q Spell BiOx again for me, please.  
24 A I don't know if I have that spelled right.  
25 B-I-O-X. I think that's right.

1 Q And what was it, to your understanding?

2 A It was some kind of -- It was a proprietary thing

3 that a company came and injected into the soil.

4 It was a hydrogen peroxide with some kind of other

5 chemical in there to make it not react as fast as

6 hydrogen peroxide itself would.

7 Q What was the point of the injections?

8 A To oxidize the PCE that was in the soil.

9 Q And so what does that mean? What does that mean

10 to oxidize PCE?

11 A Basically, burn it up so that it was not PCE and

12 it would break it down into a nonhazardous

13 chemical.

14 Q Okay. Was that done? Was that possess done?

15 A Yes.

16 Q Did it work?

17 A For the soil, yes, I believe it did.

18 Q Why do you believe it did?

19 A They did -- They came back and did more soil

20 borings and determined that it had got the level

21 in the soil below.

22 Q Okay. When -- When you were at Madison -- excuse

23 me, University of Wisconsin at Madison, your

24 degree, did you say, was in engineering mechanics?

25 A Correct.

1 Q Okay. Was it in anything else?

2 A No.

3 Q And that was a bachelor's degree?

4 A Correct.

5 Q Do you have any degrees beyond the bachelor's

6 degree?

7 A No.

8 Q Graduate degrees, doctor, anything like that?

9 A Nothing at all.

10 Q Okay. The -- Let's talk about any -- Let's talk

11 about any education you've had in the

12 environmental field while you were in college.

13 Did you have any course in environmental studies?

14 A No.

15 Q Do you hold any licenses in the State of

16 Wisconsin?

17 A Driver's license.

18 Q I'm sorry. Beyond a driver's license. Do you

19 hold any professional licenses, engineering or

20 otherwise, in the State of Wisconsin?

21 A No.

22 Q Do you hold any -- any professional licenses in

23 any other state?

24 A No.

25 Q Okay. Did you ever seek to become licensed

1 professionally in the State of Wisconsin?

2 A No.

3 Q Okay. So you're not a licensed engineer.

4 A Correct.

5 Q Why not?

6 A Just never did it.

7 Q Okay. All right. So you took no environmental

8 courses in college; is that correct?

9 A Correct.

10 Q All right. Prior to 1996 did you take any classes

11 or courses or training in the environmental field?

12 A I don't believe so.

13 Q Okay. I don't mean for this to be a rude

14 question, so forgive me, but given what you've

15 already told me in this deposition would you tell

16 me what you believe qualified you to be

17 environmental manager for Madison-Kipp in 1996?

18 Other than the fact that you -- you

19 had been at the company to that point for 16

20 years, what qualified you specifically as of 1996

21 to be the environmental manager?

22 A I believe what happened was is I did it in the

23 interim while they were looking for someone, and

24 they never found anybody else and just ended up

25 leaving me have that position.

1 Q Okay. What qualified you to do it in the interim?

2 A Engineering is engineering, you know. Back then

3 there wasn't a whole lot of environmental

4 engineering out there. Environmental engineering

5 was very new back then.

6 Q Okay. Prior to 1996 had you ever had any

7 experience with groundwater contamination?

8 A I mean, I knew in '94 because they asked me all

9 kinds of questions about the facility because I

10 had been there a long time, but -- they asked me

11 about groundwater contamination.

12 Q Let me ask you a better -- Thank you. Let me ask

13 you a better question. Had you ever been trained

14 in how to investigate or remedy a groundwater

15 contamination problem?

16 A No.

17 Q Had you ever been trained to investigate or remedy

18 any soil contamination problem?

19 A No.

20 Q How about a vapor contamination problem?

21 A No.

22 Q Okay. Do you have any special training in the

23 chemical properties of perchloroethylene, or PCE?

24 A No.

25 Q Were you ever given any training to help you

1 understand whether PCE is dangerous when it comes  
 2 in contact with human beings?  
 3 A Beyond reading the MSDS and reading the  
 4 environmental codes that say that it's the -- at  
 5 some particular level it becomes a hazard.  
 6 Q That would be the extent of the information that  
 7 you had about the dangers of PCE?  
 8 A Um-hum.  
 9 Q Yes?  
 10 A Correct.  
 11 Q Okay. Do you know who it was that decided that  
 12 you should be the environmental manager for  
 13 Madison-Kipp starting in 1996?  
 14 A I don't recall.  
 15 Q Okay. Well, did you -- did you ask for that job?  
 16 A I don't believe so.  
 17 Q Did someone come to you and say this is now part  
 18 of your job?  
 19 A Yep.  
 20 Q Who was that someone, please.  
 21 A I can't remember.  
 22 Q No?  
 23 A Okay. Long time ago.  
 24 Q All right. When it happened, did it seem like a  
 25 significant event to you?

1 A No.  
 2 Q Did you get more money because that was added to  
 3 your job responsibilities?  
 4 A I don't recall for sure, but I would guess so.  
 5 Q I'm not asking you to guess. Someone's probably  
 6 told you that, but I'm looking for what you know.  
 7 A I don't know that for a fact, no.  
 8 Q Okay. All right. So did you ever work with a guy  
 9 named Tom Caldwell?  
 10 A Yes.  
 11 Q Who was -- What was Caldwell's job at  
 12 Madison-Kipp?  
 13 A He was the -- He had various titles, but  
 14 president, CEO.  
 15 Q Of the company?  
 16 A Of the company.  
 17 Q Okay. And did you work with Caldwell on  
 18 environmental matters?  
 19 A He asked me questions about environmental things,  
 20 yes, and he would sign some of my documents that  
 21 needed signing by an executive.  
 22 Q Did you work with Caldwell on the groundwater or  
 23 soil or vapor contamination problem?  
 24 A He brought me in to meetings when they were  
 25 discussing it with the consultants.

1 Q Okay. You said a couple times in -- during this  
 2 deposition that you were consulted about aspects  
 3 of the contamination problem, did I hear you  
 4 correctly?  
 5 A Yes.  
 6 Q What do you mean by that? Especially the word  
 7 consulted, what does that mean?  
 8 A I wasn't officially in charge of that project and  
 9 wasn't -- I didn't do the day-to-day things on  
 10 that project.  
 11 Any time they had to do something that  
 12 related to the facility, whether it was punching  
 13 holes in the ground, because I knew where all the  
 14 underground utilities were, I knew where -- how  
 15 big all the footings were, where you could go next  
 16 to a building, where you couldn't, where there  
 17 were storm sewers. So anything that had to do  
 18 with drilling in the ground I got involved with so  
 19 that I could say you can poke a hole here, but you  
 20 can't go there.  
 21 Q Okay. You say you were not officially in charge  
 22 of the contamination project.  
 23 A Correct.  
 24 Q Right? Who was?  
 25 A It was -- At first it was Bud Hauser, and then

1 that was rolled over to Mark Meunier after Bud  
 2 left.  
 3 Q And how did you know that Hauser and later Meunier  
 4 were in charge?  
 5 A They were the ones meeting with the consultant.  
 6 Q Okay. Let's get an official pronunciation of  
 7 Mark's last name, please.  
 8 MR. COLLINS: Could you -- John, could  
 9 you help me with that?  
 10 MR. BUSCH: I call him Meunier.  
 11 MR. COLLINS: Meunier?  
 12 MR. BUSCH: Yeah.  
 13 MR. COLLINS: So if I'm screwing that  
 14 up I can blame you for that, right?  
 15 MR. BUSCH: Absolutely.  
 16 MR. COLLINS: Tell him Busch told  
 17 me to -- Okay. Meunier.  
 18 MR. BUSCH: It's not Meunier.  
 19 MR. COLLINS: Okay. Meunier.  
 20 Q Okay. Did you work with a Jack Schroeder, or  
 21 Schroeder?  
 22 A Yes.  
 23 Q How do we pronounce it?  
 24 A Schroeder.  
 25 Q Schroeder? Okay. Did you work with Schroeder at

1 Madison-Kipp on any aspect of the contamination  
2 problem?  
3 A Again, on the facility end of it.  
4 Q Okay. All right. Let's talk about the facility  
5 end of it since you keep bring that up, and I  
6 appreciate it. Let's get more specific about it  
7 now, okay.  
8 So with regard to the environmental  
9 contamination at Madison-Kipp, and I'm talking  
10 about PCE, at least, in soil and groundwater, at  
11 least, okay. That's what I'm talking about.  
12 A Um-hum.  
13 Q All right. So with regard to that contamination  
14 problem, and with regard to facilities and how  
15 questions about the facilities may bear on the  
16 contamination problem, what did -- how did you get  
17 involved?  
18 A They asked me, because I had been there a while,  
19 history of where I knew PCE had been used.  
20 Q Let's just cover that -- hit the topics generally  
21 now, and I may back up and ask you some more. So  
22 you -- you discussed with some folks at  
23 Madison-Kipp where at the facility PCE had been  
24 used, right?  
25 A Um-hum.

1 Q That was one topic, correct?  
2 A Um-hum.  
3 Q Correct?  
4 A Yes.  
5 Q Okay. Are there other topics?  
6 A Which way storm sewers went. As far as if there  
7 was a spill, what would happen to it.  
8 Q Other topics?  
9 A Location of utilities.  
10 Q Do you know why? Why somebody was asking you  
11 about the location of utilities?  
12 A Due to wanting to do -- finding the extent of the  
13 contamination so they wanted to do soil borings in  
14 some pattern.  
15 Q What utilities?  
16 A There are storm sewers, electrical lines, sanitary  
17 sewer, natural gas.  
18 Q Okay. Any others?  
19 A Off the top of my head that's pretty much all  
20 that's in the back parking lot.  
21 Q Okay. Did you have an understanding -- Did you  
22 just say that's in the back parking lot?  
23 A Correct, where they -- You were talking in  
24 relation to PCE.  
25 Q I was.

1 A So I'm assuming that's where you wanted to know.  
2 Q Okay. So when you say the back parking lot, what  
3 do you mean?  
4 A The parking lot to the north of the facility.  
5 Q Okay. Did -- Did anybody tell you or did you have  
6 an understanding as to why the location of  
7 utilities might be important in connection with  
8 the contamination problem?  
9 A They told me they wanted to drill holes, and I --  
10 I had to tell them where they could and could not  
11 drill holes.  
12 Q Okay. So it was important to know the location of  
13 utilities so nobody drilled a hole through any of  
14 the utility lines; is that right?  
15 A Correct.  
16 Q Okay. Was there any other reason, do you know  
17 about, why -- why people wanted to know the  
18 location of utilities?  
19 A Not that I can recall.  
20 Q Okay. Well, you said in connection with an  
21 earlier topic you said storm sewers, people wanted  
22 to know where the storm sewers were.  
23 A Right.  
24 Q And you said that that was important because if  
25 there was a spill that got into the storm sewer

1 you guys wanted to know where it would go, right?  
2 A Correct.  
3 Q Did you -- Did you have the same concern with  
4 regard to electrical lines and natural gas lines?  
5 A No.  
6 Q Okay. All right. So what other topics related to  
7 facilities and the contamination did you get  
8 involved in?  
9 A Off the top of my head I can't think of any  
10 others.  
11 Q Okay. If you think of any others through the  
12 course of the deposition let me know, please,  
13 okay?  
14 A Okay.  
15 MR. COLLINS: Okay. I need to take a  
16 break. It will be less than five minutes. I do  
17 apologize.  
18 MR. BUSCH: Not a problem.  
19 (Recess taken.)  
20 BY MR. COLLINS:  
21 Q Okay. So --  
22 A I thought of two more things relating to that.  
23 Q I knew we could put the break to good use. Two  
24 more things about what, Mr. Lenz?  
25 A Well, one was any time they wanted to do any I

1 would recommend contractors, as far as if they  
2 were going to dig in the ground or do anything  
3 or -- I would go out and get quotes from different  
4 people.

5 And then the next thing is I ran the  
6 filing system for the environmental, so I filed  
7 everything that had to do with anything  
8 environmental.

9 Q Okay. Let's talk about that filing for a second.  
10 Did -- Did the filing at Madison-Kipp include  
11 filing for any records relating to PCE; the  
12 purchase of PCE, the storage of PCE, the disposal  
13 of PCE?

14 A Not my filing.

15 Q All right.

16 A And that was -- I know -- There were two divisions  
17 to Madison-Kipp, and the division that I worked  
18 for only used PCE, as far as I can remember, until  
19 like '83 or '4, somewhere in there.

20 Q Okay. What were the two divisions of  
21 Madison-Kipp, please?

22 A One was the Lubricator Division, which I think was  
23 called Lubriquip at that time. I don't know.

24 They changed their name several times, too.

25 Q The Lubricator Division?

1 A Yeah.

2 Q Okay. What was the other division?

3 A The Die Casting Division.

4 Q Okay.

5 A Which changed its name several times, too.

6 Q Now, did both of these divisions operate out of  
7 the facility on -- I call it Waubesa. Did they  
8 operate out of that facility?

9 A Right. The -- The Lubricating Division operated  
10 out of the Waubesa end of the building, and the  
11 Die Casting Division operated out of the Atwood  
12 end of the building.

13 Q We're talking about the building here in Madison,  
14 right?

15 A Correct.

16 Q Same building; just different ends of it, right?

17 A Right.

18 Q Okay. Okay. And both -- for a period of time  
19 both divisions, Lubricator and Die Casting, used  
20 PCE for a period of time, right?

21 A Correct.

22 Q So tell me about that. Let's start with

23 Lubricator. When did Lubricator Division use PCE,  
24 please?

25 A In approximately '83 or '4 the Die Casting

1 Division gave the Lubricator Division a vapor  
2 degreaser. And then they had it, and I'm not  
3 certain when they got rid of it because the two  
4 divisions didn't talk to each other, so -- I  
5 didn't communicate with them. So I have no idea  
6 how long it was there after that.

7 Q Okay. So in 1983 or 1984 the Die Casting Division  
8 gave the Lubricator Division a vapor degreaser.

9 A Correct.

10 Q What do you mean gave? Did they kind of walk it  
11 down the length of the building and hand it to --

12 A It got moved from one position to another  
13 position.

14 Q Physically moved.

15 A Physically moved, yes.

16 Q Okay. All right. Here's what I'm trying to get  
17 at. You're trying to be helpful, and I appreciate  
18 that, let me say that. What I'm trying to get at  
19 is, if we can do it this way, let's -- Lubricator  
20 Division, they used PCE from what year to what  
21 year and -- and for what? Can you help me with  
22 that?

23 A I believe -- I can't say what the Lubricator  
24 Division used it for. I know they used it in  
25 their vapor degreaser from approximately 1983, '84

1 to -- I'm not certain when they got rid of it, but  
2 I know it was gone in -- Whenever they sold the  
3 Lubricator Division, it was definitely gone by  
4 then. The Lubricator Division moved out of the  
5 building.

6 Q And when was the Lubricator Division sold?

7 A Oh, boy.

8 Q Approximate, please.

9 A '91 or '2.

10 Q Okay. Do you know if the Lubricator Division used  
11 PCE before 1983 or 1984?

12 A Not that I know of.

13 Q Okay. You believe that the Lubricator Division  
14 started using PCE in 1983 or 1984 because that's  
15 when the Die Casting Division gave the Lubricator  
16 Division the vapor degreaser; is that right?

17 A Correct.

18 Q And the vapor degreaser is where, at least in the  
19 Lubricating Division, the PCE was used, correct?

20 A As far as I know, yes.

21 Q Okay. All right. So tell me what you know about  
22 the Lubricator Division's use of PCE in the vapor  
23 degreaser. Let's start with what was done in that  
24 vapor degreaser that used PCE? I'm talking about  
25 in the Lubricator Division now.

1 A It was used to clean parts post-manufacturing.  
 2 Q Okay. So after a part had been manufactured they  
 3 would dip it into the vapor degreaser?  
 4 A It would be placed in the vapor degreaser, yes.  
 5 Q Placed in how? Mechanically?  
 6 A There were baskets that the parts were put in,  
 7 approximately three-foot by three-foot.  
 8 Q Okay.  
 9 A And they would be picked up with a -- a small  
 10 hoist and set above the fluid and the -- the PCE  
 11 was heated. And so the vapors would come up, and  
 12 because the parts were cold the vapors would  
 13 condense on the parts and drip off and clean the  
 14 parts. So the parts never touched the PCE. They  
 15 touched the vapors of the PCE.  
 16 Q Understand. Okay. So the -- again, staying with  
 17 the Lubricator Division now, and staying with  
 18 this -- this degreasing operation that you're  
 19 telling us about now, was the vapor degreaser  
 20 above the floor? Sunk into the floor? Describe  
 21 that for us, please.  
 22 A Sat on the floor.  
 23 Q Sat on the floor, okay. So it was not in a pit?  
 24 A No. It was a tank that just sat on the floor.  
 25 Q Okay. And the vapor degreasing tank that you just

1 made reference to, is this what was brought to the  
 2 Lubricator Division by the Die Casting Division?  
 3 A Correct.  
 4 Q Okay. So describe the tank. Let's talk about the  
 5 size of it first.  
 6 A That was a long time ago. It's approximately  
 7 six-foot by four-foot.  
 8 Q Okay.  
 9 A And it was maybe eight-foot high with a hood on  
 10 the top that had a duct and a fan that blew  
 11 outside.  
 12 Q All right. And what was it made of, its walls?  
 13 A Steel. It was just plain steel.  
 14 Q Plain steel?  
 15 A It wasn't painted or anything, as far as I  
 16 remember. It was a big black box, is what I  
 17 recall.  
 18 Q All right. Did -- Did PCE escape in any fashion  
 19 the vapor degreaser in the Lubricator Division?  
 20 A The vent went out the window.  
 21 Q Okay. When the -- When -- You described parts  
 22 were lowered in a basket into the degreaser. You  
 23 described that operation, all right. The PCE was  
 24 already in the vapor degreaser prior to that time,  
 25 right?

1 A Correct.  
 2 Q All right. So how did it get into the vapor  
 3 degreaser?  
 4 A They carried it in buckets.  
 5 Q Okay. Who's they?  
 6 A The personnel that worked in that area.  
 7 Q Okay. Sometimes you?  
 8 A I never carried any, no. I lifted a bucket once  
 9 because I found out how heavy that stuff is,  
 10 but --  
 11 Q Okay. So personnel at the plant would carry PCE  
 12 into the vapor degreaser, right?  
 13 A Correct.  
 14 Q And the PCE was in buckets, right?  
 15 A Yep.  
 16 Q Okay. So when the personnel brought the --  
 17 brought the PCE to the vapor degreaser, what  
 18 would -- would they pour it into something?  
 19 A Just pour it in.  
 20 Q Pour it into what?  
 21 A The vapor degreaser was just a big, deep pan. And  
 22 there was like a foot, or something, of PCE in  
 23 that four-foot by six-foot pan.  
 24 Q Okay. So would they -- would these personnel with  
 25 the buckets full of PCE climb up a ladder and pour

1 it in over the top, or how would it get in?  
 2 A No. It was just right there. There were doors on  
 3 the front that they opened up to put the baskets  
 4 in. They just had the doors open and they just  
 5 poured it in. Be like pouring it into a bathtub.  
 6 Q Well, I understand, except bathtubs don't have  
 7 doors. So, I'm trying to figure out, did the  
 8 doors go all the way down to the very base?  
 9 A When the doors were closed the -- the doors went  
 10 down in the tank, and so it was completely  
 11 enclosed in when -- They weren't sealed at all,  
 12 but it was just doors that would close.  
 13 Q Okay. All right. So personnel would take buckets  
 14 of PCE and pour it right onto the floor of the  
 15 vapor degreaser, is that right?  
 16 A Into the tank of the vapor degreaser.  
 17 Q Into the tank.  
 18 A Yes.  
 19 Q Okay. Basically, the bottom of the vapor  
 20 degreaser, right?  
 21 A Um-hum.  
 22 Q Yes?  
 23 A Yes.  
 24 Q Okay. And how much PCE would be poured into the  
 25 vapor degreaser before someone would start

1 operating the degreaser?

2 A Without taking my calculator and calculating it,

3 I'm guessing 75 to a hundred gallons.

4 Q Okay. And this is pure PCE, right?

5 A Pure PCE, yep.

6 Q Okay. And so however many buckets it took to get

7 you 75 to a hundred gallons, that's what it took,

8 right?

9 A Yep.

10 Q How big were the buckets? How many gallons were

11 the buckets?

12 A Five or six-gallon buckets.

13 Q Okay. All right. And -- And where -- where did

14 these personnel get the PCE from? In other words,

15 where did they get their buckets filled with PCE?

16 A There was a storage tank.

17 Q Where? Outside or inside?

18 A It was outside.

19 Q Where, please?

20 A I need a map to point. I mean, it's kind of hard

21 to describe that position, but it was in the back

22 parking lot in a little cove or cut-out in the

23 notch in the building next to the stairwell.

24 Q Okay. All right. So was the -- the tank with the

25 PCE in it that the guys would take their buckets

1 to to fill it up, was it always in the same place

2 at the facility during your tenure there, or did

3 it ever move?

4 A It moved. When the vapor degreaser moved from Die

5 Cast to the Lubricator Division, the tank moved

6 with it.

7 Q To be closer to the vapor degreaser, I assume. Am

8 I right about that?

9 A Yes.

10 Q Was it ever in any other location other than the

11 two that you've just described?

12 A It was located in the -- what's known as the oil

13 shed.

14 Q Okay.

15 A When the Die Cast Division had it.

16 Q Okay. So that's three different places?

17 A Two.

18 Q Okay. So Die Cast Division it's in the oil shed,

19 right?

20 A Correct.

21 Q And then when the vapor degreaser moves from Die

22 Cast down to Lubricator the PCE tank goes with it,

23 right?

24 A Correct.

25 Q Okay. How -- How big was that PCE tank? What was

1 its capacity, do you know?

2 A I believe it was a 250-gallon tank.

3 Q Okay. Did it sit on the ground, or did it sit on

4 something else?

5 A If you know what a fuel oil tank looks like --

6 Q I do.

7 A -- it looks just like a fuel oil tank.

8 Q Okay. And how would it come to be filled with

9 PCE?

10 A It was delivered by a company that -- just like a

11 fuel oil tank would be.

12 Q Hook a hose up to it or something?

13 A Just fill nozzle, basically, just like when a fuel

14 oil company delivers fuel oil. They just

15 delivered PCE into the tank.

16 Q Okay. And how often would that happen?

17 A I don't -- As often as they needed it. I don't

18 know. I didn't order it. I didn't do any of

19 that.

20 Q Who -- Who would be the most knowledgeable person,

21 in your view, to have worked at Madison-Kipp and

22 to know about PCE purchases, storage, et cetera?

23 Is it you?

24 A I never purchased PCE.

25 Q Okay. Who would be the most knowledgeable person

1 about the purchase and storage of PCE?

2 A The only person that I remember that was a

3 purchasing agent being back that far was Jan

4 Adler.

5 Q A-D-L-E-R?

6 A Yes.

7 Q Man or woman?

8 A Man.

9 Q Okay. So periodically someone would come with

10 a -- with a PCE truck, connect the truck by hose

11 to the PCE tank at Madison-Kipp and fill the tank

12 up, correct?

13 A Correct.

14 Q Okay. Did you see this happen?

15 A I don't recall it happening, no.

16 Q You don't recall seeing it happen?

17 A I don't recall seeing it happen.

18 Q Do you recall ever learning that -- that in those

19 operations where the PCE tank at Madison-Kipp

20 would be filled that some PCE would spill out onto

21 the ground?

22 A I never saw any.

23 Q Did you ever hear about that happening?

24 A Yes.

25 Q You did? Who did you hear that from?

1 A Maintenance personnel.  
 2 Q Okay. You got any names for me, please?  
 3 A Guys that old. George Schler.  
 4 Q Schler?  
 5 A Schler.  
 6 Q You didn't know this was going to be a spelling  
 7 quiz, did you?  
 8 A No, I didn't.  
 9 Q Do your best with that last name, will you.  
 10 A S-C-H-L-E-R.  
 11 Q S-C-H-L-E-R?  
 12 A I believe so.  
 13 Q Is there a T in there somewhere or a D?  
 14 A I don't think -- I don't think there is.  
 15 Q So George was a maintenance guy?  
 16 A He was a maintenance guy.  
 17 Q You think he's retired now, or --  
 18 A Oh, yeah.  
 19 Q Yeah? Any other maintenance guys who told you  
 20 about PCE spilling when the -- when the PCE tank  
 21 at Madison-Kipp was being filled?  
 22 A I don't -- I don't remember any other direct  
 23 conversations.  
 24 Q Okay. Well, what were you told about how  
 25 frequently these kinds of spills would occur,

1 spills when the PCE tank had Madison-Kipp was  
 2 being filled? How often did that happen,  
 3 according to what you were told?  
 4 A I don't know if any ever happened when the tank  
 5 was being filled.  
 6 Q All right. I thought that's what you were telling  
 7 me. What did George --  
 8 A I thought you asked the question were there ever  
 9 any spills of PCE that I heard about.  
 10 Q All right. Well, that wasn't what I meant to ask,  
 11 but let's make that the question, okay. So my  
 12 question is were there ever any PCE spills of any  
 13 kind that you heard about?  
 14 A That I heard about?  
 15 Q Yeah.  
 16 A Yes.  
 17 Q How about that you witnessed?  
 18 A I never witnessed a spill.  
 19 Q Okay. So what PCE spills of any kind at  
 20 Madison-Kipp did you hear about?  
 21 A Back before the parking lot was paved they would  
 22 just throw buckets of it out the parking lot to  
 23 get rid of it.  
 24 Q Who -- Who threw the buckets of PCE out onto  
 25 the -- the area which became the parking lot?

1 A People that were cleaning the machine.  
 2 Q What machine?  
 3 A The vapor degreaser.  
 4 Q Okay. And now this was spent PCE?  
 5 A Yeah. Dirty.  
 6 Q In other words, PCE after the degreasing operation  
 7 had taken place.  
 8 A Correct.  
 9 Q So this is PCE laying, if you will, at the bottom  
 10 of the degreaser?  
 11 A Yes.  
 12 Q So what you were told was that -- that people at  
 13 the plant would scoop buckets of spent PCE out of  
 14 the bottom of the vapor degreaser and pour it  
 15 outside, right?  
 16 A Correct.  
 17 Q All right. Describe for me as best you can the  
 18 area where these buckets of spent PCE were poured.  
 19 A I don't know that.  
 20 Q What were you told about where they were poured?  
 21 A Right out the door next to the vapor degreaser.  
 22 Q All right. We're talking about outside the  
 23 building, right?  
 24 A Correct.  
 25 Q Out onto the ground, correct?

1 A Correct.  
 2 Q And it's now a parking lot?  
 3 A It's a driveway more than a parking lot there.  
 4 Q Okay. Now, who -- who told you that that had gone  
 5 on?  
 6 A It was general knowledge.  
 7 Q Okay. And -- Well, how did you learn about it?  
 8 By observation, by people talking at the plant?  
 9 How did you learn that this was going on?  
 10 A When the whole PCE contamination thing came up  
 11 people were talking, you know.  
 12 Q In your presence?  
 13 A Yeah.  
 14 Q Okay. That's a dumb way to ask a question, but  
 15 that's the way lawyers ask questions like that, so  
 16 I'm sorry about that. So this is something you  
 17 heard about in general conversation around the  
 18 plant after the -- the PCE contamination problem  
 19 arose; is that right?  
 20 A Correct.  
 21 Q Okay. And it arose sometime in the 1990's?  
 22 A I believe it was '94 when they found it over at  
 23 the Brass Works.  
 24 Q Okay. So in approximately 1994 am I correct that  
 25 that's when the discussion around the plant



1 started that you heard or you overheard where you  
 2 learned that -- that buckets of spent PCE had been  
 3 scooped out of the vapor degreaser and poured  
 4 outside; is that right?  
 5 A Um-hum.  
 6 Q Yes?  
 7 A Yes.  
 8 Q Okay. And what was your understanding about --  
 9 about for how long that kind of thing had been  
 10 going on?  
 11 A I had no idea how long it had been going on.  
 12 Q Did you ever ask?  
 13 A No, I don't believe so.  
 14 Q Again, I mean no disrespect, but I want to ask you  
 15 why did you never ask? If you were the  
 16 environmental manager at Madison-Kipp and one of  
 17 the things you --  
 18 A I wasn't in 1994.  
 19 Q Okay. But you became in 1996, correct?  
 20 A Yeah.  
 21 Q All right. And you were interim before 1996,  
 22 correct?  
 23 A Before 1996?  
 24 Q Yeah. Didn't you tell me earlier that before you  
 25 became the --

1 A I said I was interim between Bud Hauser and Mark  
 2 Meunier.  
 3 Q Okay. You were environmental manager at  
 4 Madison-Kipp Corporation for 10 years.  
 5 A Correct.  
 6 Q Approximately, correct?  
 7 A (Witness nods.)  
 8 Q Yes?  
 9 A Yes.  
 10 Q At any time did you ever ask anybody at the plant  
 11 how long people had been dumping buckets of spent  
 12 PCE scooped out of the degreaser outside?  
 13 A I don't recall ever asking that question.  
 14 Q You didn't? Did you ever make any effort to find  
 15 out how long that had been going on?  
 16 A No.  
 17 Q Did you ever try to find out who was involved in  
 18 doing that? In other words, who was doing it, who  
 19 was doing the dumping?  
 20 A I asked that question, yes.  
 21 Q You did?  
 22 A Yes.  
 23 Q Okay. What did you learn?  
 24 A I never --  
 25 Q What kind of employees were doing it?

1 A It was operators.  
 2 Q Operators. Operators of the vapor degreaser?  
 3 A Yes.  
 4 Q Okay. And how many such personnel are we talking  
 5 about? One, two, five, 10?  
 6 A Ten, 20.  
 7 Q Well, there's a big difference between 10 and 20.  
 8 How many operators of the vapor degreaser were  
 9 there --  
 10 A I have no clue.  
 11 Q Even while you were the environmental manager you  
 12 have no clue? You had no clue how many operators  
 13 of the vapor degreaser there were?  
 14 A The vapor degreaser was gone long before I was  
 15 environmental manager.  
 16 Q Well, I understand, but isn't it true that while  
 17 you were environmental manager the company that  
 18 you worked for was trying to find out how PCE got  
 19 into the soil and groundwater? Isn't that true?  
 20 A Yes.  
 21 Q Were you part of that process, that effort to find  
 22 out?  
 23 A No, not a lot. I was asked.  
 24 Q You were asked?  
 25 A They asked me because I had been there long

1 enough.  
 2 Q Okay. Who asked you?  
 3 A Mark Meunier. Well, back then it was Bud Hauser.  
 4 Q Okay.  
 5 A Bob Nauta.  
 6 Q He was an environmental consultant, right --  
 7 A Correct.  
 8 Q -- for the company? What did they ask you?  
 9 A They asked me what I knew about how the stuff was  
 10 disposed of and where it was disposed of.  
 11 Q And what did you tell them?  
 12 A I -- I knew no direct knowledge of it, and from  
 13 what I heard it was dumped outside.  
 14 Q Did you tell them what -- essentially what you're  
 15 telling me now?  
 16 A Yes.  
 17 Q All right. All right. See, I'm -- I'm -- I am  
 18 trying to find out what you know, including, you  
 19 know, what you heard around the plant, okay.  
 20 That's -- My clients, who are homeowners in the  
 21 immediate vicinity of the plant, are trying to  
 22 find out as well how the PCE got outside the  
 23 plant. That's why I'm asking these questions. I  
 24 know you appreciate that, right?  
 25 A Um-hum.

1 Q You know that's why I'm asking you these  
2 questions. Yes?  
3 A Yes.  
4 Q Okay. All right. So the general knowledge around  
5 the plant was that operators of the vapor  
6 degreaser would scoop the spent PCE out of the  
7 bottom of the vapor degreaser and walk it outside  
8 a door and dump it on the ground outside the  
9 building, correct?  
10 A Correct.  
11 MR. BUSCH: I object to the form. Go  
12 ahead and answer.  
13 BY MR. COLLINS:  
14 Q All right. And this was, according to the general  
15 understanding around the plant, this was multiple  
16 operators of the vapor degreaser, perhaps 10 or  
17 20, correct?  
18 A Correct.  
19 Q All right. And it was general understanding  
20 around the plant that this had gone on for some  
21 number of years, correct?  
22 A Correct.  
23 Q Was there ever any effort undertaken by you or  
24 anybody else that you know of to determine how  
25 much spent PCE was dumped out onto the ground by

1 that manner that you've been describing for me?  
2 A I know of no such effort to gather a quantity.  
3 Q Okay. Was there any effort made that you were  
4 aware of, by use of records concerning the  
5 purchase of PCE, for example, to determine how  
6 much PCE made its way onto the -- onto the ground  
7 outside the plant in that fashion?  
8 A I know of -- I know they were looking for records  
9 for how much was purchased, and I don't know if  
10 they ever found any or not.  
11 Q So someone was looking for records concerning how  
12 much PCE had been purchased at the plant, correct?  
13 A Correct.  
14 Q Who was that someone, please?  
15 A It was Bud Hauser --  
16 Q Okay.  
17 A -- was looking for those records.  
18 Q Anybody else?  
19 A Not that I recall.  
20 Q Okay. Do you know if Mr. Hauser ever found those  
21 records?  
22 A I don't know.  
23 Q Have you ever seen records regarding the company's  
24 purchase of PCE?  
25 A No.

1 Q Did you ever hear anyone estimate how much PCE got  
2 dumped out onto the ground in the fashion you've  
3 described for me?  
4 A Not that I recall.  
5 Q The -- The ground -- The -- The ground on which  
6 the PCE was dumped in the fashion you've been  
7 describing for me was later paved over, is that  
8 right?  
9 A Sometime before I started.  
10 Q Before you started.  
11 A Correct.  
12 Q So is it your understanding that this PCE dumping  
13 occurred before you started at the plant?  
14 A Correct.  
15 Q Okay. Do you know when the PCE dumping that  
16 you've been describing for me ended?  
17 A All -- I can't -- All I can say is what they were  
18 doing when I started.  
19 Q What were they doing when you started, which was  
20 about 1988 you said, right?  
21 A Yes, mid 1980.  
22 Q Where were they doing with spent PCE in mid 1980?  
23 A There was a tank in the -- in the plant that they  
24 dumped the waste in, and there was a guy that --  
25 called Max Ashline that would come and pump it

1 out.  
2 Q All right. So when you got there by mid 1980  
3 there was a -- a -- a tank inside the plant.  
4 A Inside the plant, yes.  
5 Q Correct? And this was a tank where spent PCE  
6 would be placed, right?  
7 A Correct.  
8 Q How did the spent PCE get from the vapor degreaser  
9 to the tank?  
10 A I never saw it happen.  
11 Q Okay. Well, did you ever, by any other means,  
12 learn? Discussion around the plant, anything like  
13 that?  
14 A I was told in buckets.  
15 Q Okay. Scooped out in -- in buckets like it had  
16 been previously?  
17 A Correct.  
18 Q And then walked over to the tank?  
19 A Yes.  
20 Q All right. How close was this tank to the vapor  
21 degreaser?  
22 A Fifty feet.  
23 Q Okay. Do you know why the change was made from  
24 dumping the PCE out the -- out the door onto the  
25 ground to putting it in this tank inside the

1 building?  
 2 A Not for certain.  
 3 Q What have you heard about why the change was made?  
 4 A I'm guessing it's because they paved the parking  
 5 lot and they had nowhere else to dump it.  
 6 Q Okay. And so then when it got into this tank Max  
 7 would come by and do what?  
 8 A Take it.  
 9 Q And was Max an employee at the plant?  
 10 A No.  
 11 Q Outside contractor?  
 12 A He was a septic tank person.  
 13 Q All right. And so Max would come with a truck?  
 14 A Yep.  
 15 Q And what would Max do?  
 16 A Suck the tank out.  
 17 Q How -- How -- By means of a hose?  
 18 A Correct.  
 19 Q Okay. He'd suction it out of this tank and into  
 20 his truck.  
 21 A Correct.  
 22 Q Okay. Did you ever see that going on?  
 23 A Yes.  
 24 Q Okay. How far away was Max's truck from the tank  
 25 that he was sucking spent PCE out?

1 A Just on the other side of the wall.  
 2 Q Five, 10, 20 feet?  
 3 A Twenty feet.  
 4 Q Twenty feet? Okay. Was PCE ever spilled? Did it  
 5 ever make its way onto the ground in that  
 6 operation?  
 7 A I have no firsthand knowledge.  
 8 Q Okay. Do you have any second or third-hand  
 9 knowledge? What were you told?  
 10 A Back then there were spills all the time and they  
 11 weren't worried about.  
 12 Q When you say back then, when do you mean?  
 13 A Early '80's.  
 14 Q Okay. So your understanding is that in the early  
 15 1980's there were PCE spills all the time, right?  
 16 A That's what I heard from other people.  
 17 Q Okay. Other employees at the plant?  
 18 A Other employees, um-hum.  
 19 Q Can you name any of them for me, please?  
 20 A The same George Schler.  
 21 Q Okay. George was a maintenance guy, right?  
 22 A He was a maintenance guy, correct.  
 23 Q Okay. Who else?  
 24 A Wally Largen.  
 25 Q You know what I'm going to ask you, right? How do

1 you spell it?  
 2 A L-A-R-G-E-N.  
 3 Q G what?  
 4 A G-E-N.  
 5 Q Wally?  
 6 A Correct.  
 7 Q Also a maintenance guy?  
 8 A Walter is his real --  
 9 Q Okay. Walter. Was Walter a maintenance guy?  
 10 A Correct.  
 11 Q Is he still working at the company, do you know?  
 12 A No.  
 13 Q Is he still alive, do you know?  
 14 A Yes, I think he is.  
 15 Q Retired?  
 16 A Yes.  
 17 Q In the area, do you know?  
 18 A I believe he's in Madison.  
 19 Q Okay. Okay. So we got -- we got George and we  
 20 got Walter who were maintenance guys who told you  
 21 things. And then who else told you -- told you  
 22 about how PCE was -- was dumped in the early  
 23 '80's?  
 24 A Marv Jelings. I know you're going to ask me how  
 25 to spell it.

1 Q The first name is?  
 2 A I imagine it's Marvin. I just knew him as Marv.  
 3 Q Okay.  
 4 A And J-E-L-I-N-G-S, I think. I don't know. I'm  
 5 the world's worst speller.  
 6 Q That's all right. Also a maintenance guy?  
 7 A Correct.  
 8 Q Okay. Anybody else who told you these things?  
 9 A Not that I recall.  
 10 Q Okay. As these maintenance people, George and  
 11 Walter and Marvin, were relating things to you,  
 12 were they telling you things they had either done  
 13 or seen done?  
 14 A Correct.  
 15 Q All right. And they told you that in the early  
 16 1980's PCE was -- was dumped regularly; is that  
 17 right?  
 18 A Um-hum.  
 19 Q Yes?  
 20 A It wasn't dumped.  
 21 Q Spilled?  
 22 A It was spilled, yes.  
 23 Q Okay. And they told you that it had been spilled  
 24 regularly at the company; is that right?  
 25 A Yes.

1 Q Okay. Now, what -- what kind of spills did they  
2 describe for you? What PCE spills, the regular  
3 PCE spills that these three maintenance workers  
4 described for you, tell me more specifically --  
5 A You're carrying a bucket and it sloshes and spills  
6 some on the floor.  
7 Q Okay. Any other kind of spills?  
8 A That's basically what they told me.  
9 Q Okay. Was PCE used for a time at the plant to --  
10 to clean parts or tools, you know, that had gotten  
11 dirty that had grime or grease on them? I'm not  
12 talking about the vapor degreaser now. I mean was  
13 PCE used as a -- as a common cleaning agent --  
14 A Yes.  
15 Q -- at the plant? Okay. Tell me about that.  
16 A Die cast operators would go and get a bucket with  
17 a few inches of PCE in the bottom and take a brush  
18 and clean their machines.  
19 Q All right. Where did the PCE go after it had been  
20 used to clean the machines?  
21 A It would drip off and go into the sumps underneath  
22 the machines.  
23 Q By means of a drain or some sort of hole in the  
24 floor?  
25 A It varied a lot based on what machine it was.

1 Some machines it was just soaked up by Floor Dry.  
2 Other machines had actual little trenches around  
3 them that would get collected.  
4 Q Where did the trenches lead?  
5 A They would just lead to a collection area where  
6 they'd come with a vacuum sucker and suck it up  
7 and put it in that same tank that Max Ashline  
8 hauled away.  
9 Q Did it ever go into floor drains, the PCE that had  
10 been used by die cast operators to clean their  
11 machines?  
12 A There were not any floor drains in the die casting  
13 area, and I'm not certain if they ever used the  
14 PCE in the areas where there are floor drains to  
15 clean those machines.  
16 Q Okay.  
17 A Because they weren't very dirty machines.  
18 Q What else have you heard, besides what you've told  
19 me so far in this deposition, about how PCE came  
20 to be spilled or dumped inside the facility or on  
21 the grounds outside the building?  
22 A I don't recall any other types of spills or uses.  
23 Q Okay. So we've got the -- the -- the dumping  
24 outside the door that you've described, correct?  
25 A Um-hum, yes.

1 Q Yes? All right. We've also got some spills that  
2 occurred later when -- when Max showed up and  
3 sucked the spent PCE out of the tank into his  
4 truck, correct?  
5 A Correct.  
6 Q And these were spills -- Where would the PCE that  
7 you observed to be spilling during that operation,  
8 where did that PCE go?  
9 A Typically spilled on the floor next to the tank,  
10 and it would just evaporate.  
11 Q Okay. We've also got spills from folks carrying  
12 the PCE in buckets, right?  
13 A Correct.  
14 Q To or from the vapor degreaser, right?  
15 A Correct.  
16 Q It would be spilled when they would -- when they  
17 would bring PCE to the vapor degreaser or en route  
18 to the vapor degreaser and PCE would be spilled  
19 out of the buckets -- spent PCE would be spilled  
20 out of the buckets when it was being taken from  
21 the vapor degreaser, correct?  
22 A I can't say that for sure. All I can say is that  
23 I was told that they would spill PCE out of  
24 buckets.  
25 Q Okay. So you've described two -- Well, the -- the

1 plant had a vapor degreaser at one time or another  
2 in two different locations, right?  
3 A Correct.  
4 Q Once Die Cast, later Lubricator, right?  
5 A Correct.  
6 Q Okay. And it was the -- it was the same tank,  
7 physically the same tank; just brought from one  
8 location to another at a certain time, right?  
9 A Correct.  
10 Q 1983 or '84.  
11 A Somewhere in there.  
12 Q Somewhere in there, right? Okay. Let's talk  
13 about when the tank was in Die Cast. I want to  
14 ask you now about the area immediately underneath  
15 and around the vapor degreaser when it was in Die  
16 Cast, okay?  
17 A Okay.  
18 Q Were there any drains in the floor underneath  
19 where the vapor degreaser was in Die Cast or in  
20 the area surrounding where the vapor degreaser was  
21 in Die Cast?  
22 A I think the closest drain was about 50, 60 feet  
23 away.  
24 Q In Die Cast?  
25 A In the -- where it was in the Die Cast area.

1 There was one drain over in the corner of the  
 2 plant.  
 3 Q Okay. And where did that -- that drain go to, the  
 4 one in Die Cast you just told me about? Where did  
 5 that lead to?  
 6 A That lead to the sanitary sewer.  
 7 Q Okay. And how about Lubricator now. Were there  
 8 any drains underneath or in the -- in close  
 9 proximity to the vapor degreaser?  
 10 A I don't recall any floor -- I don't have really  
 11 good knowledge of what was there when the vapor  
 12 degreaser was moved there. Only after I took over  
 13 responsibility for that portion of the building  
 14 there weren't any floor drains there.  
 15 Q Okay. Did PCE ever make its way into the floor  
 16 drains at the plant by any means? Spill, dump,  
 17 you know, pushed there with a broom, anything like  
 18 that?  
 19 A I have no direct knowledge of it.  
 20 Q Well, do you have any indirect knowledge of that  
 21 happening?  
 22 A No.  
 23 Q You described one location where vapor degreaser  
 24 operators would -- would pour spent PCE onto the  
 25 ground. You described that location, right, for

1 me? Yes?  
 2 A Yes.  
 3 Q Okay. Were there any other locations, other than  
 4 that one you've described for me in this  
 5 deposition, where someone told you or you somehow  
 6 learned that PCE, spent or virgin PCE, had been  
 7 dumped onto the ground?  
 8 A I learned through this whole discovery process  
 9 after 1994 that there was apparently a leak on the  
 10 tank that they had over from the Lubricator  
 11 Division from the storage tank.  
 12 Q Okay. Now, this is a 250-gallon tank?  
 13 A Correct.  
 14 Q Okay. This is the one where from time to time it  
 15 would get filled up with PCE?  
 16 A Well, both tanks did, yes.  
 17 Q So there was one in Lubricator and one in Die  
 18 Cast?  
 19 A Yes.  
 20 Q About the same size?  
 21 A Yes.  
 22 Q So each was about 250 gallons and each was used  
 23 for the storage of PCE, correct?  
 24 A Correct.  
 25 Q And in each maintenance workers would come there

1 and fill up their buckets with PCE, right?  
 2 A Correct.  
 3 Q All right. Tell me -- Describe for me how that  
 4 worked. Was there some sort of a spigot or -- or  
 5 valve or something? How did that work?  
 6 A There was some sort of spigot or valve on the  
 7 bottom of the tank, yes, that they would set a  
 8 bucket underneath it and fill it up.  
 9 Q Was it like a faucet or something?  
 10 A I believe so, yes.  
 11 Q Okay. Do you know or were you ever told that PCE  
 12 was spilled sometimes in the filling of the  
 13 buckets?  
 14 A I was told there were spills that happened there,  
 15 but I don't have any direct --  
 16 Q Okay.  
 17 A -- knowledge of a particular spill or anything.  
 18 It was just hearsay that I was told.  
 19 Q I understand, but were you told, for example, by  
 20 these three gentlemen who were maintenance workers  
 21 whom you've identified for me, George and Walter  
 22 and Marvin, that -- that PCE sometimes spilled  
 23 when the buckets were being filled up at the PCE  
 24 storage tank?  
 25 A Yes.

1 Q Yes? Okay. Were there any drains underneath or  
 2 in the vicinity of either of the PCE storage  
 3 tanks, either in Die Cast or Lubricator?  
 4 A The -- By -- What do you mean by drain?  
 5 Q Floor drains.  
 6 A Floor drains that went to the sanitary sewer?  
 7 Q Floor drains that went anywhere. If you would  
 8 answer that question, then my next one's going to  
 9 be where did they go.  
 10 A Okay. No, there's no floor drains by the -- where  
 11 the tank was for Die Cast.  
 12 Q Okay.  
 13 A And the one where it was for the Lubricator  
 14 Division drained out into a grassy area and  
 15 eventually would hit a storm sewer or a storm  
 16 pipe.  
 17 Q The Lubricator Division drain, was that a drain --  
 18 A The tank was outside.  
 19 Q Um-hum.  
 20 A And there was a concrete area, and then it was  
 21 grass for 75 feet before it would hit a storm  
 22 drain.  
 23 Q So the Lubricator Division PCE storage tank was  
 24 outside.  
 25 A Correct.

1 Q Is that right?

2 A Yeah.

3 Q All right. And it was -- And the Die Cast one was

4 in the oil shed.

5 A Correct.

6 Q And that's also outside, right?

7 A The oil shed's outside, correct.

8 Q Now, did -- did both PCE storage tanks, the one in

9 Lubricator and the one in Die Cast, sit on gravel?

10 Sit on grass? Sit on concrete?

11 A They were both on concrete.

12 Q Okay. Like a concrete pad or something?

13 A It's -- The oil shed has a concrete floor, and

14 where it was for the Lubricator Division it's on a

15 concrete pad, if you will.

16 Q All right. So the Lubricator Division concrete

17 pad had a -- had some sort of a drain in it?

18 A It sloped down to a grassy area.

19 Q Okay. So if anything were spilled on that

20 concrete pad and allowed to roll or to wash off,

21 it would -- and it rolled or washed off in the

22 direction of the slope, it would go to the grass?

23 A Correct.

24 Q Okay. That's Lubricator Division, right?

25 A That's correct.

1 Q Okay. So for these -- this PCE dumping and -- and

2 spilling that you've described for me, what is

3 your understanding of the -- the -- the attitude

4 at these times, the times of the spilling and

5 dumping, the attitude of the workers at the plant

6 regarding PCE and how it could be handled?

7 MR. BUSCH: Object to the form of the

8 question without time period, but go ahead and

9 answer.

10 BY MR. COLLINS:

11 Q Well, the time when -- when you were told that

12 this spilling and dumping went on. I mean, is it

13 fair to say that the attitude was is that this was

14 a common practice at Madison-Kipp, spilling and

15 dumping of PCE?

16 MR. BUSCH: Same objection. Go ahead

17 and answer.

18 THE WITNESS: At the time PCE was not

19 known as a hazardous chemical, and it was like

20 anything else at the time. You just -- You

21 spilled it, you dumped it.

22 BY MR. COLLINS:

23 Q Was PCE spilling and dumping at the times that

24 you've described it for me a common practice,

25 according to what you've been told and what you've

1 learned?

2 MR. BUSCH: Same objection. Go ahead

3 and answer.

4 THE WITNESS: Yes.

5 BY MR. COLLINS:

6 Q Okay. We've -- We've learned recently, in the

7 last few months, that for a time at the plant PCBs

8 were mixed with other oils and chemicals at the

9 company and then spread on -- onto the grounds at

10 the company to settle the dust down. Have you

11 ever heard of such a practice?

12 A Through hearsay, yes.

13 Q Okay. So you -- you have heard through others who

14 worked at the plant that that kind of thing went

15 on?

16 A Correct.

17 Q All right. Tell me what you've heard in that

18 regard. In other words, let's start with what

19 chemicals were mixed with PCBs in order to do this

20 spreading?

21 A I can't know for certain because that was before

22 my time.

23 Q What were you told? What chemicals were involved?

24 A Hydraulic oils, release agents from die casting,

25 which is -- I'm not even real certain what they

1 were using back then.

2 Q Okay. PCBs?

3 A The PCBs were all in the hydraulic oil.

4 Q Okay. What other chemicals, if any others,

5 besides the ones you've already told me about?

6 Cutting oils, for example?

7 A Possibly, yes.

8 Q Okay. So any other kinds of oils or chemicals?

9 A (Witness nods.)

10 Q Well, how about PCE, spent or virgin?

11 A I don't have a direct knowledge that it went

12 there, but it's possible.

13 Q Okay. Well, all right. I mean, lots of things

14 are possible. I'm wondering about what you were

15 told. Were you told that -- that PCE, spent or

16 virgin, was included with the oils that were mixed

17 with PCBs for purposes of spreading and settling

18 dust down?

19 A I was never told that, no.

20 Q Okay. Do you believe that that happened?

21 A It's possible.

22 Q Why do you believe it's possible?

23 A The attitude of the time. You just throw it

24 wherever the closest place to throw it is.

25 Q Throw what?

1 A Whatever you want to get rid of.  
 2 Q Including PCE?  
 3 A Yeah.  
 4 Q That was the attitude at the time?  
 5 A Yes.  
 6 Q Is throw it wherever?  
 7 A Yes.  
 8 Q Yes?  
 9 A Yes.  
 10 Q Okay. And you know that from discussions you've  
 11 had at the plant and what you learned in working  
 12 at the plant; is that right?  
 13 A By the time I worked at the plant that didn't  
 14 happen anymore.  
 15 Q I know, but you understood that it had happened --  
 16 A Correct.  
 17 Q -- based on your conversations with people who had  
 18 done it or witnessed it, right?  
 19 A Correct.  
 20 Q Okay. So tell me where, according to what you  
 21 have learned and what you've heard and what you  
 22 may have otherwise learned, where were these PCBs  
 23 and other chemicals and oils mixed? Was there a  
 24 place physically where you learned that they were  
 25 mixed in order so they could be later spread? Is

1 there some sort of a mixing area or location?  
 2 A None of that was there when I was there, and I  
 3 never asked that -- I never really asked that  
 4 question.  
 5 Q Okay. Well, tell me everything you can about what  
 6 you heard about that process where PCBs were mixed  
 7 with other, you know, oils, agents, et cetera, so  
 8 that they could be spread onto company property to  
 9 keep the dust down. Tell me everything that you  
 10 heard about that process.  
 11 A My understanding was that they just had a tank  
 12 that they would dump everything in to, and they  
 13 would go out and spread it on the gravel in the  
 14 parking lot to keep the dust down. After it was  
 15 paved, that's when Max Ashline started taking it  
 16 away.  
 17 Q Okay. So is it your understanding then that the  
 18 tank where these PCBs and these other oils were  
 19 mixed was the tank that later Max came and sucked  
 20 chemicals out?  
 21 A I don't know if it was the same tank.  
 22 Q Okay. But your understanding is there was a tank  
 23 at the plant where oils and other chemicals were  
 24 dumped, right?  
 25 A Correct.

1 Q And then it was out of that tank that the  
 2 chemicals were taken and spread on to the  
 3 gravel -- what was at the time a gravel parking  
 4 lot, right?  
 5 A Correct.  
 6 Q Okay. Don't you believe it's likely that among  
 7 the chemicals that were spread in that fashion was  
 8 spent PCE?  
 9 A It's likely.  
 10 Q Yeah. And so what I had heard, just in the work  
 11 that Norm and I have done so far in the case, is  
 12 that the spreading was done to settle the dust  
 13 down, to keep the dust down. You had heard that,  
 14 too?  
 15 A That's what I was told, yes.  
 16 Q Now, wasn't there another reason, though, to do  
 17 it? In other words, to -- the other reason being  
 18 to -- to get rid of these oils?  
 19 A True.  
 20 Q All right. So it was another mechanism by which  
 21 they were dumped or disposed of, right?  
 22 A Correct.  
 23 Q And according to what you learned about this  
 24 process of spreading PCBs and other chemicals on  
 25 to the gravel parking lot, over how -- how big an

1 area did this spreading go on, according to what  
 2 you heard?  
 3 A I never really asked how big an area.  
 4 Q Okay. How -- How large was the gravel parking  
 5 lot?  
 6 A As far as I know, it's the same size as it is now  
 7 paved.  
 8 Q Okay. Okay.  
 9 MR. COLLINS: I need to take five  
 10 minutes. Can we do that, please?  
 11 MR. BUSCH: Yeah.  
 12 MR. COLLINS: Are you doing okay,  
 13 Mr. Lenz?  
 14 THE WITNESS: Yes.  
 15 (Recess taken.)  
 16 BY MR. COLLINS:  
 17 Q Okay. So Mr. Lenz, are you okay to keep going?  
 18 A Yep.  
 19 Q Okay. So now if there was PCE in what was spread  
 20 on to the gravel parking lot, that's another way  
 21 PCE got outside the plant, right?  
 22 A That's possible, yes, true.  
 23 Q Okay. So beyond what you have told me so far in  
 24 the deposition, can you think of any other way  
 25 that PCE got spilled or dumped inside or outside

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1 the plant at Madison-Kipp?

2 A No. Those are the only uses I can remember way

3 back then.

4 Q Okay. Let's go back to the vapor degreaser a

5 little bit because there's one part of it I didn't

6 ask you about. I want to ask you about it now.

7 All right. So the vapor, some of it

8 moves upward from the parts. Because it's vapor

9 it's moving up, right?

10 A Right, correct.

11 Q Okay. And then what does it hit? Some of the

12 degreasers I'm familiar with it hits a -- a

13 condenser or hits something before it keeps going

14 up. Tell me how this one worked.

15 A There was no condenser in it.

16 Q No?

17 A No.

18 Q So there --

19 A Not that I remember.

20 Q You -- You said that there was a -- a vent?

21 A There was a vent that went outside.

22 Q Before we get to the vent, okay, are you telling

23 me there was nothing in between the -- the basket

24 of parts that were being cleaned and the vent?

25 A True.

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1 Q Okay. All right. So the vapor then moves upward

2 from the basket of parts, whatever vapor there is

3 left, and according to your description of this

4 vapor degreaser and how it worked it went to a

5 vent in the ceiling; is that right?

6 A It went to a vent out a window.

7 Q A vent out a window, okay. How high above the --

8 the basket of parts that were being cleaned was

9 this vent that you say went out the window?

10 A Above the floor?

11 Q Okay. Let's -- Above the floor, yeah.

12 A Ten feet, 12 feet.

13 Q Above the floor. And you said the wall of the

14 vapor degreaser was about -- the outside wall was

15 about eight feet off the floor?

16 A Yep.

17 Q So this vent is just a couple feet above the top

18 of the vapor degreaser; is that right?

19 A The whole thing was hooded and it just went to

20 one -- it was kind of a triangular hood that came

21 to just an elbow and went --

22 Q So the point of the hood was to collect and direct

23 the vapor?

24 A And to hold the vapor in so you didn't lose it.

25 Q Okay. So the -- the vapor that is sort of

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1 collected and gathered by the hood then goes out

2 this vent; is that right?

3 A Correct.

4 Q The hood is connected to a vent and it's directed

5 out the window?

6 A Correct.

7 Q And then what happens to it? Goes out the window.

8 Does it just disperse to the atmosphere, or is it

9 piped somewhere?

10 A Just goes right out into the atmosphere.

11 Q Okay. Okay. The -- Do you know what happened to

12 the PCE vapor once it went out that vent?

13 A As an engineer, I can tell you probably in the

14 wintertime it condensed and fell.

15 Q Okay.

16 A Summertime, a lot of it would evaporate and go up

17 into the air.

18 Q All right. So as an engineer you know that the --

19 that the hot vapor hits the cold air and

20 liquifies, right?

21 A Correct.

22 Q Turns into a liquid and it's going to drop.

23 A Correct.

24 Q It's going to hit the ground below it, right?

25 A Correct.

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1 Q Okay. And -- And what would the -- what would the

2 temperature, the outside air temperature have to

3 be approximately for that liquefaction to occur?

4 MR. BUSCH: Object to the form. Lack

5 of foundation. Go ahead and answer if you can.

6 THE WITNESS: I'd have to look at the

7 MSDS to get the vapor pressure and look at the

8 vapor pressure curves and figure that all out.

9 BY MR. COLLINS:

10 Q Okay. You can't just do that off the top of your

11 head for me right now?

12 A Well, I can guess since it's a liquid sitting at

13 atmospheric pressure it's probably around room

14 temperature.

15 Q All right. So anything below room temperature

16 would cause the PCE to liquefy?

17 A Yeah.

18 Q And then hit the ground, go to the ground, right?

19 A A percentage of it, correct.

20 Q Okay. So in Madison, Wisconsin, that's pretty

21 substantial chunk of the year where the outside

22 air temperature is less than room temperature,

23 right?

24 A Correct.

25 Q Room temperature, you mean 72?



1 A Yeah.

2 Q Thereabouts?

3 A Yeah.

4 Q Okay. Are you doing any consulting or any other

5 kind of work currently for Madison-Kipp or for

6 Madison-Kipp's lawyers in this litigation?

7 A Just this. That's all I'm doing.

8 Q Okay. Do you have any kind of consulting

9 arrangement with any of the lawyers here in this

10 room?

11 A Yes.

12 Q Okay. Which lawyers?

13 A Michael, Best & Friedrich. I don't know if it's

14 the -- tied to one person.

15 Q Okay.

16 MR. BUSCH: There it is.

17 BY MR. COLLINS:

18 Q Okay. So, I'm being handed a document here.

19 Here, let's -- How about that. Can we --

20 MR. BUSCH: Mark it.

21 MR. COLLINS: -- mark it and ask him

22 about it?

23 MR. BERGER: You want copies?

24 MR. BUSCH: I just brought one copy.

25 MR. COLLINS: I appreciate it. If I

1 can get quick copies, I'll do it. Otherwise, we

2 can just look over his shoulder and we can do it

3 after lunch.

4 (Exhibit No. 2 was marked for

5 identification.)

6 BY MR. COLLINS:

7 Q Okay. Mr. Lenz, let's -- since I'm just seeing

8 this now for the first time, let's you and I both

9 take a minute, or let me, at least, take a minute

10 and read this. Give me a second, if you would.

11 Okay. Okay. And Mr. Lenz, let me

12 know when I can ask you questions.

13 A Yeah, go ahead.

14 Q All right. So Lenz No. 2 is a one-page consulting

15 agreement. You have that in front of you, right?

16 A Right, correct.

17 Q Is that your signature at the bottom of it?

18 A Yes, it is.

19 Q Okay. How did this consulting agreement come

20 about? Did you approach somebody? Did somebody

21 approach you?

22 A I -- I initially told Mark Meunier that -- he

23 asked me about doing some work to find all the

24 records involved in this case.

25 Q Um-hum.

1 A And I said I didn't want to be involved, and he

2 said we really needed me. So I negotiated this

3 contract. Or my lawyer did.

4 Q What lawyer?

5 A My lawyer is Ring -- Ringhand.

6 Q Okay. Same guy you mentioned before?

7 A Right.

8 Q Okay. And how long have you known that lawyer,

9 Mark Ringsmuth?

10 A Yeah. Hold on a minute.

11 Q Okay. When did you first meet Ringsmuth?

12 R-I-N-G-S-M-U-T-H.

13 A Let me get the right spelling of that.

14 Q That's the right spelling.

15 A Oh, it is? Okay. Good.

16 Q Unless he misspells his own name.

17 A Okay. I met him about, I don't know, a month or

18 so before this.

19 Q Okay. I don't want to ask you about any

20 conversations you had with Mr. Ringsmuth, but what

21 I want to know is did you meet him because of this

22 contamination issue? Did it have anything to do

23 with this contamination issue? Can you just say

24 yes or no?

25 A Yes.

1 Q Did someone introduce you to Mr. Ringsmuth?

2 A He was recommended by a friend.

3 Q May I ask who, what friend?

4 A It was just a friend on the fire department.

5 Q Okay. Fair enough. So is it fair to say that

6 this -- that sort of the beginning of this

7 consulting agreement that you have with Michael

8 Best is Mr. Meunier --

9 A Meunier.

10 Q -- Meunier approaches you.

11 A Yep.

12 Q Okay. This agreement is dated December 5 of last

13 year, 2011.

14 A Right.

15 Q Did Mr. Meunier approach you before that date? I

16 assume he did.

17 A Yes.

18 Q Okay. How much before that date, approximately?

19 A A month? A week?

20 A A month or two.

21 Q And what did he say to you specifically, please,

22 as best you can remember.

23 A He wanted me to come into Madison-Kipp and find

24 all the records for this whole PCE issue.

25 Q Okay. Did he say why?

1 A Yeah. He told me that the neighbors had started a  
2 lawsuit.  
3 Q Okay. Did you say you shouldn't have laid me off  
4 six months earlier? I'm not -- I don't mean for  
5 that to be a joke. I mean, it's not a joke to get  
6 laid off, but --  
7 A I was trying to be cordial and a nice person,  
8 so --  
9 Q Okay. So your initial reaction was negative,  
10 right?  
11 A (Witness nods.)  
12 Q Why?  
13 A I didn't want to be involved because I knew it  
14 would take a lot of my time because my name's  
15 scattered all over all kinds of documents.  
16 Q Okay. You're being paid under this consulting  
17 agreement?  
18 A Correct.  
19 Q And it says \$50 an hour?  
20 A Correct.  
21 Q Is that what you have been paid for your time?  
22 A I haven't put an invoice in yet.  
23 Q Okay. Approximately how much time have you spent  
24 under this consulting agreement so far?  
25 A I got to add it up. Twelve to 15 hours.

1 Q Okay. And -- And what have you been doing during  
2 that 12 to 15 hours?  
3 A Part of it was at Madison-Kipp finding all the  
4 records, hundreds of documents. And then part of  
5 it was in preposition -- or preparing (sic) for  
6 this deposition.  
7 Q For this deposition, okay. And let's talk about  
8 your work at Madison-Kipp to look for records.  
9 What records were you looking for?  
10 A Anything related to the PCE.  
11 Q And who -- who told you to do that?  
12 A Who told me to do that?  
13 Q Well, I assume you didn't just wander over there  
14 on your own. I assume someone asked you to do  
15 that, right?  
16 A They asked me, I got this agreement, and then they  
17 set up a meeting and I came in and --  
18 Q Who was the meeting with? Set up what meeting?  
19 A It was with Mark Meunier, there was Leah, and you  
20 were there.  
21 Q You mean Mr. Busch?  
22 A Mr. Busch.  
23 Q To your immediate left here?  
24 A I'm terrible with names.  
25 MR. BUSCH: I was there.

1 BY MR. COLLINS:  
2 Q That's all right. Who else?  
3 A Jack Schroeder was there. Kim Eggers was there.  
4 I always keep calling him Jack. Wasn't Kim Eggers  
5 there?  
6 Q So you're the witness. I don't get to ask him the  
7 questions. I got to know what you know, okay. So  
8 who was at this meeting?  
9 A That was a year ago.  
10 Q I know you're doing your best to tell me. Take a  
11 minute, please, and tell me who was there. So far  
12 we got Meunier --  
13 A Yep.  
14 Q -- we've got Mr. Busch, Ms., is it Ziemba?  
15 MS. ZIEMBA: Ziemba.  
16 BY MR. COLLINS:  
17 Q Sorry. Okay. Miss Ziemba and yourself. Who  
18 else?  
19 A Kim Eggers. I know he was there for part of it, I  
20 thought. And the new president of Madison-Kipp,  
21 which I can't even remember his name right now.  
22 He popped in for five minutes to meet him. I met  
23 him while I was there.  
24 Q How recent of a president is he?  
25 A Since I left. So, I don't know the exact day he

1 started.  
2 Q Okay. You've met a gentleman named Reed Coleman,  
3 right?  
4 A Correct.  
5 Q Was Mr. Coleman at this meeting?  
6 A I don't recall him being there.  
7 Q Okay. Where was the meeting?  
8 A At the conference room at 201 Waubesa Street.  
9 Q At Madison-Kipp?  
10 A Correct.  
11 Q Okay. And that was before or after you signed the  
12 Lenz No. 2, the consulting agreement?  
13 A That was after.  
14 Q Okay. So who said what at that meeting?  
15 MR. BUSCH: I'm going to object as to  
16 conversations had in our presence. And I'm doing  
17 it because -- I'm going to claim the  
18 attorney/client privilege under the auspices of  
19 Sandra T.E. versus South Berwyn School District.  
20 And Shawn, you may want to challenge it at some  
21 point in time, but I don't want to --  
22 MR. COLLINS: Yeah. We're not going  
23 to resolve it here. Let's just make a record --  
24 MR. BUSCH: We'll make a record and  
25 we'll go forward.

1 MR. COLLINS: All right. So as to my  
2 question as to who said what at this meeting  
3 you're claiming privilege under the authority  
4 you've just identified, right?  
5 MR. BUSCH: Yes, I am.  
6 BY MR. COLLINS:  
7 Q Okay. Now, I want to ask him some more questions.  
8 We're going to go real slow here, Mr. Lenz, and  
9 give Mr. Busch a chance to -- to jump in.  
10 MR. COLLINS: So are you instructing  
11 him not to answer?  
12 MR. BUSCH: Yes. I'm instructing him  
13 not to answer, yeah.  
14 MR. COLLINS: Okay. I'm not sure you  
15 can even do that, but we'll -- we can fight about  
16 that later.  
17 MR. BUSCH: Yeah. That's what I  
18 thought we would do.  
19 BY MR. COLLINS:  
20 Q Okay. So as a result of this meeting, what did  
21 you do next under the consulting agreement?  
22 MR. BUSCH: Go ahead and answer it.  
23 THE WITNESS: Leah called me and asked  
24 me questions about where more documents were and  
25 what -- it was just all document gathering related

1 questions.  
2 BY MR. COLLINS:  
3 Q Okay. I want you to tell me now as specifically  
4 as you can what Leah said to you in that  
5 conversation that you're telling me about. What  
6 did she say to you?  
7 MR. BUSCH: Hold on for one second.  
8 BY MR. COLLINS:  
9 Q Hang on, Mr. Lenz. Let Mr. Busch finish his  
10 thinking before you answer.  
11 MR. BUSCH: I'm going -- I'm going to  
12 instruct him not to answer on that question  
13 because I think it -- it does go to the  
14 attorney/client privilege. I mean, we talked  
15 about what the topic was of the conversation,  
16 which I think is appropriate, but as far as  
17 specifics of it, I'm going to instruct him not to  
18 answer.  
19 MR. COLLINS: Okay.  
20 MR. BUSCH: That's kind of where I'm  
21 going to draw the line, Shawn.  
22 MR. COLLINS: That's fine. We're just  
23 making our record here. Then I'll move on to the  
24 next question.  
25 MR. BUSCH: Right.

1 BY MR. COLLINS:  
2 Q So there came a time, after your discussion with  
3 Leah, that you went to the company and looked for  
4 records, correct?  
5 A Correct.  
6 Q Okay. And what records specifically at the  
7 company were you looking for?  
8 A Anything related to the PCE contamination.  
9 Q Okay. All right. And -- And where at the company  
10 did you look for those records? Where physically  
11 did you look?  
12 A In the environmental paper files, and also there  
13 was a computer on the network, an area that was  
14 designated for computer files.  
15 Q And how did you know to look in those two areas?  
16 A Because I was the one that set up the filing  
17 system.  
18 Q Okay. And you've told me a little bit about that  
19 previously, right?  
20 A Correct.  
21 Q While you were the environmental manager you set  
22 that up system, right?  
23 A Correct.  
24 Q Okay. And so you're looking specifically for PCE  
25 records, correct?

1 A Correct.  
2 Q What kind of PCE records?  
3 MR. BERGER: You can answer.  
4 BY MR. COLLINS:  
5 Q Yeah. Specifically, unless Mr. Busch has  
6 something to say about it, specifically what kind  
7 of PCE records were you looking for?  
8 A Basically, it's everything post-1994 that had to  
9 do with the -- looking at the -- what the  
10 consultants were doing and any -- any document  
11 that had related to PCE.  
12 Q When did the company stop using PCE?  
13 A I don't know that because that was the other  
14 division.  
15 Q Okay. Well, by -- by 1994 it had stopped, hadn't  
16 it?  
17 A Yes.  
18 Q All right. So I guess maybe I'm misunderstanding  
19 your testimony, but let me just tell you where I  
20 think we're at so far and then you help me.  
21 I understand that when you're looking  
22 for PCE records you're looking for post-1994 PCE  
23 records; is that right?  
24 A That's what I kept in my environmental file, yes.  
25 Q Okay. But if the company stopped using PCE before

1 1994, what kind of records did you expect would be  
 2 available in your search?  
 3 A I wasn't -- I was looking for all records related  
 4 to DNR, consultants, any notes internally,  
 5 everything relating to the PCE.  
 6 Q Documents created after the discovery of PCE  
 7 contamination on the property.  
 8 A Correct.  
 9 Q Is that right? Did you ever look for documents  
 10 describing the purchase by the company of PCE? In  
 11 what quantities and when and how it may have been  
 12 disposed of?  
 13 A I never did.  
 14 Q You never did.  
 15 A No.  
 16 Q Do you know if anybody else ever did?  
 17 A Not -- I don't have knowledge of that, no.  
 18 Q Okay. Now, you said you were looking --  
 19 MR. BUSCH: Shawn, you said you wanted  
 20 five minutes before I --  
 21 MR. COLLINS: Right. Is it five  
 22 minutes you got to go?  
 23 MR. BUSCH: Five minutes.  
 24 MR. COLLINS: That will work fine,  
 25 John.

1 Q So you looked in environmental files, paper files,  
 2 as well as on the computer, right?  
 3 A Correct.  
 4 Q These were files that you had set up; is that  
 5 right?  
 6 A Correct.  
 7 Q Did you look in any places or in any files that  
 8 you had not set up?  
 9 A Me? No.  
 10 Q Okay. Well, did anybody?  
 11 A Not to my knowledge.  
 12 Q Okay. One of the folks in -- in the room at  
 13 this -- this meeting to kind of kick off this  
 14 consulting agreement was Eggers, did you say?  
 15 A I believe he was there, yes.  
 16 Q All right. Is Eggers a current employee?  
 17 A Yes, he is.  
 18 Q Okay. Do you know -- Do you happen to know if  
 19 there's anybody -- any other former Madison-Kipp  
 20 employee who has been similarly engaged with a  
 21 consulting agreement like this?  
 22 A Not to my knowledge, no.  
 23 Q Okay. All right. So let's stay with then work  
 24 you did under the consulting agreement. So for  
 25 these 12 to 15 hours that you've done and for

1 which you believe the -- you're going to get paid  
 2 by Michael Best, right?  
 3 A Correct.  
 4 Q Yeah. Why haven't you sent a bill?  
 5 A Haven't gotten around to it. I was going to wait  
 6 until it got big enough to --  
 7 Q Okay. Did anybody tell you not to?  
 8 A No.  
 9 Q So when did you do -- Other than your deposition  
 10 preparation, when did you do the work that you say  
 11 you've done under this consulting agreement? Was  
 12 it January, February of this year?  
 13 A I did the initial look, and then Leah called me  
 14 asking about more -- location of documents and  
 15 asking me questions about documents in relation of  
 16 each other. And then -- then they set up a -- I  
 17 had a deposition scheduled for last year. We met  
 18 like a week before that.  
 19 Q For last year?  
 20 A For last year's deposition prep. We met a week  
 21 before that for like four hours.  
 22 Q Who did you meet with?  
 23 A It was Leah and another attorney from Michael  
 24 Best. I don't recall his name.  
 25 MR. COLLINS: Okay. Okay. John, this

1 is a good spot to break.  
 2 MR. BUSCH: Thanks.  
 3 (Lunch recess taken.)  
 4 BY MR. COLLINS:  
 5 Q Okay. Okay. All right. So Mr. Lenz, is it  
 6 correct that during your 31 years at Madison-Kipp  
 7 Corporation, including the 10 years where you were  
 8 the environmental manager, you never looked for  
 9 documents concerning how much PCE was used or  
 10 stored by the company?  
 11 A That's correct.  
 12 Q Okay. And is it also correct that you are aware  
 13 of no one else at the company who ever looked for  
 14 those records?  
 15 A That's correct.  
 16 Q Did you ever talk with anyone about looking for  
 17 those records at any time, either before or after  
 18 you left the company?  
 19 A Nobody ever asked me to look for those records.  
 20 Q All right. If -- If someone did ask you to look  
 21 for those records, where would you look?  
 22 A I'd go talk to the Purchasing Department and find  
 23 out where they are. They had their own records  
 24 storage area.  
 25 Q Okay. Do you think the records would still exist?

1 A I have no idea. I doubt it.  
 2 Q Why? Why do you doubt it?  
 3 A There were several floods in that room.  
 4 Q In the purchasing records room?  
 5 A Yeah.  
 6 Q You mean literally water got in there?  
 7 A 201 Waubesa is down in a valley, and when it rains  
 8 really heavy in the fall the leaves plug up the  
 9 storm sewers and it floods right into the building  
 10 and floods that whole entire area where the  
 11 records are stored.  
 12 Q Did anyone ever tell you that the records of how  
 13 much PCE had been purchased or stored by the  
 14 company had been destroyed?  
 15 A No.  
 16 Q By flood or otherwise?  
 17 A All I knew is a whole bunch of boxes got  
 18 destroyed.  
 19 Q When?  
 20 A That was about seven, eight years ago. It really  
 21 flooded bad down there.  
 22 Q Seven, eight years ago. So 2003, '4, '5?  
 23 A Somewhere in there.  
 24 Q Okay. So it was the -- the -- whatever got  
 25 destroyed got destroyed well after Madison-Kipp

1 learned that it had a PCE contamination problem,  
 2 right?  
 3 A Yes.  
 4 Q Because that was --  
 5 A That was after '94.  
 6 Q Yeah. I mean, your understanding of when  
 7 Madison-Kipp learned of that problem was no later  
 8 than 1994, right?  
 9 A I don't know the exact date, but it's somewhere  
 10 around 1994.  
 11 Q Hmm?  
 12 A I don't know the exact date, but it's around '94.  
 13 Q Okay. That's when WDNR sent its letter to  
 14 Madison-Kipp.  
 15 A Correct.  
 16 Q All right. Who is the person that you would talk  
 17 to who you would expect to have the most reliable  
 18 information about how much PCE the company bought  
 19 and stored and used? Who would you talk to about  
 20 that?  
 21 A That -- That might be multiple people, as far  
 22 as -- Purchasing would know how much they bought.  
 23 Q Okay. So who would you talk to there?  
 24 A Jan Adler that I mentioned before.  
 25 Q Yeah, okay. Used, stored, disposed of, who would

1 you talk to about those issues?  
 2 A You'd have to talk to whoever was the supervisor  
 3 of that particular machine back then. I have no  
 4 idea how often they cleaned it, how often they --  
 5 the supervisor did all that. I'm not certain who  
 6 it was back then.  
 7 Q In all of your years at Madison-Kipp, 31 years,  
 8 including 10 years where you were the  
 9 environmental manager, did anyone ever say to you  
 10 it's important for us to know how much PCE got  
 11 dumped onto the ground by one means or another?  
 12 A No.  
 13 Q Did you ever think it was important to -- for the  
 14 company to figure that out?  
 15 A I -- No.  
 16 Q Did you ever think it was important for the  
 17 company to investigate and to learn all of the  
 18 different places where PCE had been spread or  
 19 spilled or dumped?  
 20 A Yes.  
 21 Q Okay. When did you conclude that it was important  
 22 for the company to do that?  
 23 A There were two phases; one was in 1994 when the  
 24 DNR sent the letter, and then the second was some  
 25 period of time when they figured out that there

1 must be a second source.  
 2 Q And when was that, approximately?  
 3 A It was when they drilled that well. I can't  
 4 remember the date. It was when they drilled that  
 5 well over on the east side of the building to find  
 6 out if the extent of the contamination had gone --  
 7 how far easterly the extent had gone.  
 8 Q Can you ballpark it for me? Was it in the '90's?  
 9 Was it later?  
 10 A It was probably around the end of the '90's,  
 11 beginning of the 2000's, somewhere in there.  
 12 Q Okay. So are you -- are you telling me then that  
 13 there were two times, 1994 and approximately the  
 14 end of the 1990's, where you concluded that it was  
 15 important for the company to investigate and try  
 16 to determine where PCE had been dumped or spilled  
 17 or spread, right? Is that right?  
 18 A No. I didn't conclude that.  
 19 Q Okay. Well, did anybody, to your knowledge, at  
 20 the company conclude that it was important for the  
 21 company to investigate and try to figure that out?  
 22 A I believe Dames & Moore came back and said there  
 23 has to be a second source. I don't know if it  
 24 was even -- Bob Nauta, because I know he switched  
 25 companies so many times I can't remember which one

1 is where, but Bob Nauta came back and said that  
 2 there has to be a second source, we need to do an  
 3 investigation.  
 4 Q I'm going to give you a document that was  
 5 marked -- You know Mike Schmoller, don't you?  
 6 A No.  
 7 Q Okay. Well, he works for WDNR. We started his  
 8 deposition here a few weeks ago and marked some  
 9 exhibits with his name on it just like we're doing  
 10 here with yours, okay.  
 11 So I'm going to show you one of them  
 12 now. It's Schmoller 4, okay. So we don't need to  
 13 remark it here. It's already been marked. Okay.  
 14 And I want to ask you some questions about this  
 15 document, and you let me know when you're ready  
 16 for me to ask the questions.  
 17 A Okay.  
 18 Q Okay. So Schmoller No. 4 is a letter from DNR to  
 19 Madison-Kipp dated July 18, 1994, correct?  
 20 A Yes.  
 21 Q And you've seen this letter before today, right?  
 22 A Yes.  
 23 Q You saw it back in 1994, didn't you?  
 24 A Yes.  
 25 Q Okay. What was Mr. Schroeder's position with the

1 company at that time? I'm asking you about  
 2 Schroeder because he's the guy the DNR sent this  
 3 to. What was his position at the time?  
 4 A He was the environmental manager.  
 5 Q Okay. So he was the environmental manager before  
 6 you, right?  
 7 A Correct.  
 8 Q Okay. Do you know -- I asked you earlier in this  
 9 deposition about your training or education in the  
 10 environmental field. Do you know if Schroeder had  
 11 any training or education in the environmental  
 12 field?  
 13 A I don't know what his education was.  
 14 Q Okay. Do you know of any training or education  
 15 that -- that Schroeder had had in the  
 16 environmental field?  
 17 A No.  
 18 Q Okay. Is Schroeder still around, do you know?  
 19 A I have no idea.  
 20 Q Okay. When's the last time you spoke to him?  
 21 Long time ago?  
 22 A Yeah. He quit like -- It wasn't too long after  
 23 this letter I think he quit.  
 24 Q Why did he quit?  
 25 A Better opportunity. I don't know.

1 Q Was it because of this letter, do you know?  
 2 A No, not that I know of.  
 3 Q Okay. All right. So you can see that the -- the  
 4 letter from the DNR tells Madison-Kipp that PCE  
 5 contamination has been found in a well, MW-3, and  
 6 that it exceeds the enforcement standard under  
 7 Wisconsin law. You see that?  
 8 A Correct.  
 9 Q All right. And you see the state's conclusion  
 10 there that the -- that groundwater  
 11 contamination -- that PCE groundwater  
 12 contamination is coming from Madison-Kipp's  
 13 property. Do you see that?  
 14 A Yes.  
 15 Q And the state tells Madison-Kipp that its job  
 16 under the law is to determine the horizontal and  
 17 vertical extent of the groundwater contamination  
 18 and clean it up, right?  
 19 MR. BUSCH: Object to the form.  
 20 Letter speaks for itself, but go ahead and answer.  
 21 BY MR. COLLINS:  
 22 Q Isn't that your understanding of what the state's  
 23 telling Madison-Kipp its obligation under the law  
 24 is?  
 25 MR. BUSCH: Same objection. Go ahead

1 and answer.  
 2 THE WITNESS: It says that  
 3 Madison-Kipp shall -- is responsible for any  
 4 hazardous substances and discharges that have  
 5 occurred.  
 6 BY MR. COLLINS:  
 7 Q And it further says you are required to determine  
 8 the horizontal and vertical extent of  
 9 contamination and clean up/properly dispose of the  
 10 contaminants. Do you see that?  
 11 A Yes.  
 12 Q Okay. And it says further, this is down now at  
 13 the bottom of page 1, it is important that an  
 14 investigation begins at your site as soon as  
 15 possible. The longer contamination is left in the  
 16 environment, the farther it can spread and the  
 17 more difficult and costly it becomes to clean up.  
 18 Do you see that?  
 19 A Yes.  
 20 Q Okay. By the time you left the company in the  
 21 middle of 2011, which is 17 years after this  
 22 letter was written, the company had not determined  
 23 the horizontal and vertical extent of the  
 24 groundwater contamination, had it? Isn't that  
 25 true?

1 MR. BUSCH: Object to form. Lack of  
2 foundation. Go ahead and answer.  
3 THE WITNESS: I can't say that.  
4 BY MR. COLLINS:  
5 Q Do you think it had?  
6 A I wasn't involved with this project at that point.  
7 Q Okay. Well, let me ask you then for the 10 years  
8 that you were the environmental manager at  
9 Madison-Kipp. Do you believe that at any point  
10 during that 10 years, 1996 to 2006, that  
11 Madison-Kipp had determined the horizontal and  
12 vertical extent of PCE contamination in the  
13 groundwater?  
14 A Even during my 10 years as environmental manager I  
15 was not in charge of this project.  
16 Q All right. So is the answer that you don't know?  
17 A That's my answer. I don't know.  
18 Q Okay. So just so I'm clear, to this day you do  
19 not know whether Madison-Kipp ever determined the  
20 horizontal and vertical extent of groundwater  
21 contamination; is that right?  
22 A That's true.  
23 Q Is it also true that to this day you don't know  
24 whether Madison-Kipp ever cleaned up or properly  
25 disposed of the contaminants in the groundwater?

1 A I can't say that a hundred percent has been  
2 cleaned up. I don't know that.  
3 Q Well, I'm just asking you if -- if you know  
4 whether to this day the groundwater has been  
5 cleaned up.  
6 A The groundwater? I know the groundwater has not  
7 been cleaned up.  
8 Q Okay. Okay. But I hear you telling me a couple  
9 different times, and I'm getting it, that you were  
10 not the person in charge of the, let's call it the  
11 groundwater contamination investigation and  
12 cleanup. Is that fair to say?  
13 A True.  
14 Q All right. And I know that, and we'll talk about  
15 it a little bit more later, but I know that the  
16 company hired an outside consultant, right?  
17 A Correct.  
18 Q Whether it's -- It's Bob Nauta. Basically,  
19 whatever company he happened to be working at,  
20 right?  
21 A That's true.  
22 Q Okay. But what I want to know is since it wasn't  
23 you, who within the company, employed by the  
24 company, was responsible for addressing the  
25 groundwater contamination?

1 A It was -- It was first Bud Hauser, and then after  
2 he left Mark Meunier took it over.  
3 Q Was Bud and then later Mark Meunier the employee  
4 within the company responsible for addressing the  
5 PCE problem altogether? In other words, not just  
6 groundwater, but all aspects of the PCE  
7 contamination problem?  
8 A Correct.  
9 Q Okay. It was not you.  
10 A It wasn't me.  
11 Q Were Hauser and Meunier senior to you at the  
12 company?  
13 A I believe they're both vice presidential level.  
14 Q Okay.  
15 A Did I work for them? Not directly.  
16 Q Well, I'd like you to give me, because I don't  
17 completely understand the organization, but how  
18 far up the chain from you were they, if they were  
19 up the chain from you?  
20 A They -- They were part of the executive staff.  
21 And typically, environmental reported to human  
22 resources. And so there was this dotted line  
23 where I really worked for someone else, but I only  
24 did environmental part time because we didn't have  
25 enough environmental to be full time. So they

1 would pull my resource when they needed me. Or  
2 else I was doing plant engineering and other  
3 things.  
4 Q So when you did environmental who were you  
5 reporting to?  
6 A Bud Hauser and Mark Meunier.  
7 Q Or Mark Meunier. Okay. Now, you said they were  
8 on the executive staff; is that right?  
9 A Yes. They were both vice presidents of human  
10 resources.  
11 Q Okay. Who else was on the executive staff?  
12 A It varied a lot. There was typically a --  
13 Q Let me give you timeframe so maybe it's easier,  
14 okay.  
15 A Okay.  
16 Q So this letter here, Schmoller No. 4, arrives in  
17 July of 1994, all right. So from -- from 1994 on,  
18 let's talk about the next eight, 10, 12 years  
19 or so, who was on the executive staff?  
20 A It changed all the time.  
21 Q Okay.  
22 A I mean, you had mentioned Lyle Crouse. Lyle  
23 Crouse was VP of operations.  
24 Q Is the executive staff people who are VPs?  
25 A VPs reporting to the president, which during this

1 timeframe would have been Tom Caldwell.  
 2 Q Okay. So was Tom Caldwell on the executive staff?  
 3 A Well, he ran the executive staff.  
 4 Q Okay. Because he was the president?  
 5 A President.  
 6 Q Okay. So Caldwell ran the executive staff, and --  
 7 and who else was on it? Lyle Crouse you said,  
 8 right?  
 9 A Yes.  
 10 Q Who else? Jack Schroeder?  
 11 A No.  
 12 Q Okay. Bud Hauser?  
 13 A Bud Hauser, yes.  
 14 Q Okay. Who else?  
 15 A During that timeframe? The rest of them were all  
 16 in charge of tooling and die casting and things.  
 17 There wasn't anybody that dealt with  
 18 environmental.  
 19 Q Well, I'm --  
 20 A If you want more names I can throw more names out  
 21 there, but --  
 22 Q Well, I don't -- I'm asking you who was on the  
 23 executive staff, to the best of your recollection.  
 24 Whether they worked directly on environmental  
 25 issues or didn't, who was on the executive staff

1 in 1994 and for the several years after that?  
 2 A Doug Humes was VP of operations after Lyle left.  
 3 Q Okay.  
 4 A '94. That's all the names I remember from back  
 5 then.  
 6 Q Okay. Here's what I'm trying to get at, all  
 7 right, is after the company gets this letter,  
 8 Schmoller No. 4 in July of 1994, okay, who is  
 9 making the decisions at the company about what  
 10 should be done about the PCE contamination  
 11 problem?  
 12 A It was the executive staff.  
 13 Q Okay. Is the executive staff, is it -- Is it fair  
 14 to say the executive staff at Madison-Kipp at this  
 15 time is upper management at the company?  
 16 A Yes.  
 17 Q Okay. So upper management is making the decisions  
 18 about the PCE contamination problem; is that  
 19 right?  
 20 A Yes.  
 21 Q All right. Has that been true at all times in  
 22 your -- in your tenure at Madison-Kipp  
 23 Corporation?  
 24 A For the most part. There was -- In the brief gap  
 25 between Mark Meunier and Bud Hauser I -- I -- I

1 took -- I read all the documents from -- that came  
 2 from Bob Nauta, and if there was -- I mean, a  
 3 lot of it was just reports that would be quarterly  
 4 reports, but anything that wasn't -- that had  
 5 something to be done I would go to the staff with.  
 6 Q Okay. But other than that, it was upper  
 7 management making the decisions about how to  
 8 handle the PCE contamination problem?  
 9 A Yes.  
 10 Q All right. Now -- So is it -- is it -- is it  
 11 upper management then making decisions about the  
 12 PCE contamination problem including, you know,  
 13 what the company is going to spend money on or not  
 14 spend money on to try to address the problem?  
 15 Were they making the money decisions?  
 16 A Yes.  
 17 Q Okay. If the company wanted to spend money on  
 18 something to address the PCE contamination  
 19 problem, did that have to be approved by the upper  
 20 management folks?  
 21 A Yes.  
 22 Q Okay. Was there any one person in particular  
 23 that, you know, had -- had more control of the  
 24 purse strings than anybody else? You know, the  
 25 man or the woman that had to give final say on

1 whether we were going to spend money to address  
 2 this contamination problem?  
 3 A It was typically always brought to the  
 4 presidential level.  
 5 Q Okay. And Caldwell was president for a while,  
 6 right?  
 7 A Correct.  
 8 Q Who was the -- And Caldwell was the president when  
 9 this letter hits in July of 1994, right?  
 10 A Correct.  
 11 Q And who was the president after him?  
 12 A Oh, what was his name? I don't recall, because  
 13 there was like three presidents right in a row  
 14 there for a while that were only there for short  
 15 periods of time.  
 16 Q All right. But it was the president that had the  
 17 final say in whether money was going to be spent  
 18 to address the PCE contamination problem, right?  
 19 A Correct.  
 20 Q Okay. So I've -- in -- in some of these  
 21 documents, we'll get to some of them here, I see  
 22 Reed Coleman's name. Where does he fit in in all  
 23 this?  
 24 A Reed Coleman is an owner and director of the  
 25 board.



1 Q Okay. So he's -- he's not on the executive staff,  
2 right? He's above the executive staff?  
3 A Yes.  
4 Q Okay. Now, he was involved, wasn't he, in -- in  
5 how the company was going to address the PCE  
6 contamination problem?  
7 MR. BUSCH: Object to form. Lack of  
8 foundation. Go ahead and answer.  
9 BY MR. COLLINS:  
10 Q Is that right?  
11 A I wasn't privy to any of those meetings. I'd  
12 guess so if I had to guess, but --  
13 Q Well, were you ever in a meeting about the PCE  
14 contamination problem that Mr. Coleman was in?  
15 A I don't recall one.  
16 Q Did you ever talk to Reed Coleman about the PCE  
17 contamination problem, any aspect of it? How  
18 facilities related to it, anything like that?  
19 A I can't remember a specific incident, but I would  
20 probably have to say yes, I did.  
21 Q All right. Why do you say that?  
22 A Just because people talk, you know.  
23 Q Wasn't Mr. Coleman an active owner and director of  
24 the company? Did he have an office at the  
25 facility?

1 A Yes.  
2 Q Okay. Would you see him around the facility from  
3 time to time?  
4 A Not very often.  
5 Q Okay. Did Mr. Coleman, to your knowledge, get  
6 involved with how people at Madison-Kipp should  
7 talk to outsiders, WDNR, the neighbors, the media,  
8 about the PCE contamination problem?  
9 A Not that I know of.  
10 Q Okay. So if the -- if the president is the guy  
11 who has to finally approve whether or not to spend  
12 money on the PCE contamination problem, do you  
13 know if the president had to talk to Mr. Coleman  
14 about that first before he could give final  
15 approval?  
16 MR. BUSCH: Object. Lack of  
17 foundation. Go ahead and answer.  
18 THE WITNESS: I don't know the answer  
19 to that.  
20 BY MR. COLLINS:  
21 Q Okay. Okay. Is -- Is Tom Coldwell still with the  
22 company, do you know?  
23 A No.  
24 Q Do you know where he is?  
25 A No. I don't recall. Somebody told me about two

1 months ago, but I don't remember where it is.  
2 Q Okay. Do you remember when the last time was you  
3 called to Caldwell?  
4 A It was probably 10 years ago I saw him at a trade  
5 show. He -- He was working for a different die  
6 caster at the time.  
7 Q Okay. So he was, even at that time, was no longer  
8 with Madison-Kipp.  
9 A Right.  
10 Q Correct?  
11 A (Witness nods.)  
12 Q Okay.  
13 A I think he left in like 2001.  
14 Q Okay. I can -- I can tell you -- I told you we  
15 took Mike Schmoller's deposition, the DNR guy  
16 currently responsible for the Madison-Kipp site.  
17 Schmoller told me in the deposition that the --  
18 the horizontal and vertical extent of the  
19 contamination has still not been determined. He  
20 told me that a couple weeks ago. So that's 2012.  
21 So that's 18-plus years after the DNR's letter,  
22 which is Schmoller No. 4.  
23 If you assume for a second that what  
24 Schmoller told me was true, that the horizontal  
25 and vertical extent of contamination still hasn't

1 been defined 18 years after this letter, do you  
2 have any explanation for why?  
3 MR. BUSCH: Object to the form.  
4 Commenting on someone else's testimony, but go  
5 ahead and answer.  
6 THE WITNESS: I have no idea. We were  
7 following what the consultant and the DNR said to  
8 do.  
9 BY MR. COLLINS:  
10 Q Are you aware of any instances where the DNR said  
11 to Madison-Kipp you're not doing what you're  
12 supposed to do, you're moving too slowly, you're  
13 not spending enough money, you haven't done what  
14 you're supposed to do under the law? Are you  
15 aware of any instances where DNR ever said that to  
16 Madison-Kipp?  
17 MR. BUSCH: Object to form. Multiple.  
18 Go ahead.  
19 THE WITNESS: I don't recall any.  
20 BY MR. COLLINS:  
21 Q Okay. Did you ever deal directly with anybody at  
22 DNR?  
23 A I need you to be more specific. I dealt with  
24 people at DNR all the time.  
25 Q Did you deal with anybody at WDNR over the PCE

1 contamination problem?

2 A I was at a few meetings with Dino Tisoris when they

3 were talking about remediation and what they were

4 going to do.

5 Q Um-hum.

6 A That's it. Dino was about the only guy that I

7 knew that worked on it.

8 Q Okay. Did you ever hear that Dino or anybody at

9 DNR was complaining that Madison-Kipp wasn't

10 moving quickly enough to investigate and remediate

11 the PCE contamination?

12 MR. BUSCH: Object to form, hearsay.

13 Go ahead and answer.

14 THE WITNESS: I never heard that.

15 BY MR. COLLINS:

16 Q Never heard that, okay. So did you ever have

17 conversations with Dino Tisoris about the PCE

18 contamination problem?

19 A Not without Bob Nauta being there.

20 Q Okay. Did you ever tell Dino or anybody at WDNR

21 what you told me here in this deposition today

22 about how PCE had come to be spilled and dumped

23 and spread both inside the building and on the

24 ground outside the building? Did you ever tell

25 anybody at DNR that?

1 A No.

2 Q Do you know if anybody at Madison-Kipp ever told

3 that to the folks at DNR?

4 A No.

5 Q Okay. Were you ever involved in any discussions

6 where someone was expressing a concern about how

7 far the PCE contamination might spread?

8 A I remember conversations about it getting into the

9 city well.

10 Q So that concern was expressed, right?

11 A And there was --

12 Q Is that right?

13 A Yes.

14 Q Okay.

15 A And there was -- when they were trying to get the

16 southernmost distance that it had gone they were

17 talking about where it had crossed Atwood Avenue

18 and we couldn't find a place to drill a well.

19 Q We're talking about groundwater contamination,

20 right?

21 A That's groundwater, true.

22 Q And how far it had gone?

23 A Yes.

24 Q Okay. Okay. Okay.

25 (Exhibit No. 3 was marked for

1 identification.)

2 BY MR. COLLINS:

3 Q Okay. So Lenz No. 3 is an April 7, 1994

4 single-page memo. Do you see that?

5 A Yes.

6 Q And it's from Jack Schroeder to Lyle Crouse, copy

7 to Tom Caldwell, correct?

8 A Correct.

9 Q All right. Now, based on your earlier testimony

10 my understanding is all three of those folks,

11 Schroeder, Crouse, Caldwell, were all in upper

12 management at the time of this memo, right?

13 A No. Jack Schroeder was --

14 Q Was not?

15 A No.

16 Q Okay. He was the environmental manager?

17 A Environmental manager.

18 Q Right. But Crouse was upper management, right?

19 A Yes.

20 Q And -- And Caldwell was the president, right?

21 A Correct.

22 Q Okay. All right. So if we look at the first

23 paragraph of -- of the letter, there's reference

24 to a Mike Halsted of WDNR. Do you see that?

25 A Yes.

1 Q Did you ever have any contact with Halsted?

2 A Not that I recall.

3 Q Okay. The last sentence of that paragraph says

4 the Madison Brass Works site investigation has

5 been conducted thus -- excuse me. Let me start

6 again. The Madison Brass Works site investigation

7 that has been conducted thus far indicates

8 contamination originates off site. Do you see

9 that?

10 A Yes.

11 Q Okay. There is in the -- in the documents, in

12 history of this problem, some discussion about

13 an -- initially about where the PCE contamination

14 came from and whether it came from on

15 Madison-Kipp's property or someplace else.

16 Do you recall any discussion at the

17 company about the company believing that the

18 contamination had originated on someone else's

19 property and not on Madison-Kipp's property?

20 A Can you say that over again?

21 Q Sure. Were there discussions at the company,

22 Madison-Kipp, where people at the company were

23 blaming some other company or somebody else's

24 property, at least initially, for the PCE

25 contamination saying it came from someplace else?

1 A Yes. I remember conversations about that because  
 2 the way the water flow direction that I was told  
 3 about, it was coming from the Kupfer Iron Works  
 4 direction.  
 5 Q Who told you that?  
 6 A I think I heard that from Jack Schroeder.  
 7 Q Okay. The environmental manager, right?  
 8 A Yeah.  
 9 Q Okay. Did you have any ability to study documents  
 10 or scientific facts and make your own  
 11 determination about where the contamination was  
 12 coming from?  
 13 A No.  
 14 Q Okay. Did anybody at the company ever say that  
 15 our objective is to prove that the contamination  
 16 is coming from someplace other than Madison-Kipp,  
 17 that that's what we're out to try to prove?  
 18 A Not that I know of.  
 19 Q Okay. Here's another document. This is Schmoller  
 20 27. Already marked. And Schmoller 27 is an --  
 21 excuse me, is a memo dated October 18, 1994 to Tom  
 22 Caldwell and Lyle Crouse from Jack Schroeder. Do  
 23 you see that?  
 24 A Yes.  
 25 Q All right. So here we see the environmental

1 manager writing a memo to two members of upper  
 2 management, right?  
 3 A Correct.  
 4 Q About the PCE contamination problem, right?  
 5 A Yes.  
 6 Q All right. Did -- Did you do that when you became  
 7 environmental manager? Did you author documents  
 8 and send them to the -- to upper management about  
 9 the PCE contamination problem?  
 10 A I don't recall any, but I may have in that gap  
 11 between Bud Hauser and -- and Mark Meunier.  
 12 Q Okay. Were you ever told while you were  
 13 environmental manager that you needed to keep  
 14 upper management informed about various aspects of  
 15 the PCE contamination problem?  
 16 A That was part of my job.  
 17 Q To communicate with upper management?  
 18 A If they weren't copied on it.  
 19 Q Okay. But what I'm wondering is is how is it that  
 20 you knew that you were supposed to report to upper  
 21 management about the PCE contamination problem?  
 22 Did someone tell you you were supposed to keep  
 23 upper management informed about the PCE  
 24 contamination problem?  
 25 A It's a small company. We all talk.

1 Q Well, I understand that, but there were a number  
 2 of issues you were working on that you didn't keep  
 3 upper management informed of, correct?  
 4 A Correct.  
 5 Q Okay. So why is it that -- how is it that you  
 6 knew you were supposed to keep upper management  
 7 informed of the PCE contamination problem that you  
 8 were working on?  
 9 A Part of my job.  
 10 Q Well, how did you know it was part of your job, is  
 11 what I'm trying to get at? Someone tell you that?  
 12 A I don't recall anyone saying that.  
 13 Q Is that just what you understood from what you  
 14 observed about the way this PCE contamination  
 15 problem was being handled? That it was a concern  
 16 of upper management so you better keep them  
 17 informed?  
 18 A Yes.  
 19 Q Okay. So let's look at Schmoller 27, please. All  
 20 right. So in the middle of the first paragraph  
 21 there's a couple sentences. One says no obvious  
 22 source was found, and the recommendation by D&M  
 23 was to have a few soil samples gathered around the  
 24 area by hand auger. This would be tested by PID  
 25 detector in their office and would not be

1 reportable to DNR. Do you see that?  
 2 A Yes.  
 3 Q Do you know why these guys are talking about tests  
 4 that wouldn't be reportable to DNR? Why was  
 5 reportable to DNR an issue?  
 6 MR. BUSCH: Object to form. Lack of  
 7 foundation. Go ahead and answer if you can.  
 8 THE WITNESS: I wasn't involved with  
 9 this. I don't know.  
 10 BY MR. COLLINS:  
 11 Q You weren't involved in this?  
 12 A Not in this letter.  
 13 Q Well, do you see your name on it?  
 14 A Well, I'm on here because they asked me about  
 15 where to drill them.  
 16 Q Okay. Well, I don't understand why you're telling  
 17 me you weren't involved if your name's on the  
 18 letter and --  
 19 A I'm not involved in any --  
 20 Q -- you're being consulted about -- Okay. Let's  
 21 start with a fresh question, okay?  
 22 A Okay.  
 23 Q Let's get to the part where your name is mentioned  
 24 here, okay. Second paragraph it says it should be  
 25 noted that according to Lenz our property line

1 ends about one to two feet from the northern wall  
 2 of engineering offices. Do you see that?  
 3 A Yes.  
 4 Q Okay. Did someone ask you for that information  
 5 about where the property line ends?  
 6 A Yes.  
 7 Q Why was that important, to know where the property  
 8 line ends?  
 9 A Because you can't drill holes on property that's  
 10 not yours.  
 11 Q Okay. Well, but why were -- why was the company  
 12 even looking in an area that was close to its  
 13 property line so that that question became  
 14 important?  
 15 MR. BUSCH: Object to form. Lack of  
 16 foundation. Go ahead and answer.  
 17 THE WITNESS: They were looking to see  
 18 where the contamination source was.  
 19 BY MR. COLLINS:  
 20 Q Okay. Well, do you know what made them think that  
 21 it might be near the property line?  
 22 A This was downhill from the storage tank that was  
 23 located next to the building back previous years.  
 24 Q Okay. Well, why -- why was that relevant? Did  
 25 someone conclude that the contamination in that

1 area was from the leaking or spilling at the  
 2 storage tank?  
 3 MR. BUSCH: Object to form. Lack of  
 4 foundation. Go ahead and answer.  
 5 THE WITNESS: Because of the  
 6 groundwater flow direction that they believe  
 7 existed in that area, this would have been uphill  
 8 from that area, which is where they suspected the  
 9 source to be.  
 10 BY MR. COLLINS:  
 11 Q Okay. You see there's a -- there's a couple of  
 12 handwritten notes at the bottom of this Schmoller  
 13 27. The -- The last of them says -- I believe  
 14 says concentrate from under building via floor  
 15 drain. Do you see that?  
 16 A Yes.  
 17 Q Okay. Do you know why anyone was concerned about  
 18 whether there was concentrate under the building  
 19 via the floor drain?  
 20 A No.  
 21 Q Okay. Was there ever talk about testing the soil  
 22 immediately underneath the building for TCE  
 23 contamination? Excuse me. I meant to say PCE  
 24 contamination.  
 25 A I don't recall any.

1 Q Did you think there should have been some testing  
 2 of the soil immediately underneath the building,  
 3 at any location under the building, for PCE  
 4 contamination?  
 5 MR. BUSCH: Object to form. Lack of  
 6 foundation. Go ahead and answer.  
 7 THE WITNESS: It's an impervious  
 8 surface. You wouldn't think that there would be  
 9 contamination there.  
 10 BY MR. COLLINS:  
 11 Q Okay. So your understanding -- what was the --  
 12 what was the -- what was the surface --  
 13 A Concrete.  
 14 Q -- that's impervious? Okay. Is it your  
 15 understanding that -- that PCE spilled or dumped  
 16 on a concrete floor can't bleed through the  
 17 concrete floor? Is that your understanding?  
 18 MR. BUSCH: Object to the form. Lack  
 19 of foundation. Go ahead and answer.  
 20 MR. COLLINS: Well, that's what I'm  
 21 trying to get at is the foundation.  
 22 MR. BUSCH: Right, yeah.  
 23 THE WITNESS: You can have some that  
 24 could go through a crack in a floor, but to the  
 25 extent that it's going to get all the way across a

1 road to a second source, that's highly unlikely.  
 2 BY MR. COLLINS:  
 3 Q I'm not talking about across the road now, but --  
 4 So you -- you were not concerned about the  
 5 possibility that PCE may have gotten through the  
 6 concrete floor, into the soil underneath the  
 7 concrete floor at Madison-Kipp; is that right?  
 8 A That wasn't my decision in this.  
 9 Q Okay. Well, whose decision was it at the company  
 10 to not test underneath the concrete floor for the  
 11 presence of PCE contamination in the soil?  
 12 A I don't believe Dames & Moore ever recommended  
 13 going under the floor.  
 14 Q Okay. Okay. So let's keep looking at this  
 15 Schmoller No. 27. The last paragraph says I  
 16 reminded D&M that our goal is to conduct just  
 17 enough investigation to support the theory to the  
 18 DNR that the source of contamination is from off  
 19 site so that our cost for investigation is held to  
 20 a minimum. Do you see that?  
 21 A Yes.  
 22 Q What do you know about that goal?  
 23 A Costs have always been a concern in the whole  
 24 project.  
 25 Q Okay. Well, Schroeder's your immediate

1 predecessor, right?  
 2 A No.  
 3 Q Who was your immediate predecessor?  
 4 A Sam Sutopo.  
 5 Q Okay. So it went from Schroeder to Sutopo?  
 6 A No.  
 7 Q Schroeder was the environmental manager in October  
 8 of '94, right?  
 9 A Yes.  
 10 Q Who was the next environmental manager?  
 11 A Some guy that wasn't there very long. I don't  
 12 recall his name. He was only there about nine  
 13 months, a year, and then Sam Sutopo started and he  
 14 was only there nine months, a year.  
 15 Q And then it was you?  
 16 A Then it was me.  
 17 Q Okay. So let me just make sure I got the -- I got  
 18 the lineup here. So in -- in July of 1994  
 19 Schroeder is the company's environmental manager,  
 20 right?  
 21 A Correct.  
 22 Q Okay. And then shortly after the company gets the  
 23 letter from DNR Schroeder leaves the company; is  
 24 that right?  
 25 A Some point in time, yes.

1 Q So he's not the environmental manager anymore,  
 2 right?  
 3 A Correct.  
 4 Q And he is succeeded as environmental manager by  
 5 some guy whose name you can't recall.  
 6 A Right.  
 7 Q Right? But who was only on the job for a few  
 8 months before he left, right?  
 9 A About nine months to a year, I believe, right.  
 10 Q And then he left the company, too, right?  
 11 A Right.  
 12 Q Okay. And so then the guy whose name we can't  
 13 remember who was there for only nine months as  
 14 environmental manager, he is succeeded by Sam --  
 15 A Sutopo.  
 16 Q -- Sutopo. Okay. And so Sam Sutopo becomes the  
 17 environmental manager next, right?  
 18 A Right.  
 19 Q All right. He was only there for a few months as  
 20 well, right?  
 21 A Nine months, a year, something like that.  
 22 Q Nine months or a year, right?  
 23 A Yep.  
 24 Q And then it's you.  
 25 A And then it's me.

1 Q You become the environmental manager, right?  
 2 A Correct.  
 3 Q So in the span of two years there's four  
 4 environmental managers at the company, right?  
 5 A How many years did you say?  
 6 Q Well, I'm talking about 1990 -- mid '94 to mid  
 7 '96.  
 8 A Yes.  
 9 Q Right? There's Schroeder, some guy's name you  
 10 can't remember, Sutopo, and then you.  
 11 A Yep.  
 12 Q Why is that, do you know? Why so many  
 13 environmental managers in two years?  
 14 A I don't know.  
 15 Q Okay. Is it -- Is it fair to say that -- that at  
 16 this time, in the 1990's, the company is not  
 17 taking environmental issues very seriously?  
 18 MR. BUSCH: Object to the form.  
 19 BY MR. COLLINS:  
 20 Q That's true, isn't it?  
 21 A They took all environmental things seriously.  
 22 Q Well, they didn't think dumping and spilling PCE  
 23 all over the place regularly was an environmental  
 24 issue? Because you told me that happened. So did  
 25 they not think that was an environmental issue?

1 MR. BUSCH: Object to the form of the  
 2 question. I think the timing is off, but go ahead  
 3 and answer.  
 4 BY MR. COLLINS:  
 5 Q Well, okay. Well, then explain it to me. I mean,  
 6 if that happened, how could that happen at a  
 7 company that was taking environmental issues  
 8 seriously?  
 9 A That was at least 10 years prior.  
 10 Q Okay. So when did the company become a company  
 11 that took environmental issues seriously?  
 12 A It was around 1990 when Tom Caldwell started.  
 13 Q So let's go back to this sentence I read you at  
 14 the bottom of Schmoller 27.  
 15 So we have the environmental manager  
 16 at the company reminding the consultant hired to  
 17 deal with the PCE contamination problem that the  
 18 company's goal is to conduct just enough  
 19 investigation to be able to tell DNR that the real  
 20 source of the contamination is somebody else and  
 21 not the company, right? That's what the  
 22 environmental manager is saying to the company  
 23 president, right?  
 24 MR. BUSCH: Object to the form. Go  
 25 ahead and answer.

1 BY MR. COLLINS:  
 2 Q Isn't that what he's saying?  
 3 A That's what the letter says, yes.  
 4 Q And the environmental manager is saying that the  
 5 reason we're doing that is so that our costs for  
 6 investigation is held to a minimum, right? Yes?  
 7 A That's what the letter says.  
 8 Q And he's saying that to the president of the  
 9 company and the guy who decides how much gets  
 10 spent or not spent to address the TCE (sic)  
 11 problem, right?  
 12 A Yes.  
 13 Q Okay. Now, are you -- are you still telling me  
 14 that this is a company that took environmental  
 15 matters seriously, a company where the  
 16 environmental manager is writing that to the  
 17 president of the company. Are you still telling  
 18 me that that's a company that took environmental  
 19 issues seriously?  
 20 MR. BUSCH: Object. Asked and  
 21 answered. Argumentative. Go ahead.  
 22 THE WITNESS: At the time this letter  
 23 was written we did not know that the contamination  
 24 was from us. So they were trying to not spend any  
 25 more money than they had to because we didn't know

1 we were the source of contamination.  
 2 BY MR. COLLINS:  
 3 Q Well, but that's not what this letter says, right?  
 4 Shouldn't the goal of the investigation be to  
 5 learn the truth about where the contamination is  
 6 coming from?  
 7 MR. BUSCH: Object to the form of the  
 8 question. Letter speaks for itself.  
 9 BY MR. COLLINS:  
 10 Q Isn't that what the goal should be, to find out  
 11 what the truth is about where it's coming from and  
 12 not to reach some prearranged goal about where  
 13 it's coming from?  
 14 MR. BUSCH: Object to the form.  
 15 Argumentative. Go ahead and answer.  
 16 THE WITNESS: In an ideal world, yes.  
 17 BY MR. COLLINS:  
 18 Q Okay. This wasn't an ideal world, was it?  
 19 A (Witness nods.)  
 20 Q Do you think that what Schroeder is saying here to  
 21 the president of the company and another member of  
 22 upper management, vice president of the company,  
 23 is acceptable?  
 24 MR. BUSCH: Object. Immaterial. Go  
 25 ahead and answer.

1 THE WITNESS: Today's standard, no.  
 2 BY MR. COLLINS:  
 3 Q Okay. Was it acceptable in October of 1994?  
 4 A I don't know. I wasn't environmental manager  
 5 then, so --  
 6 Q Well, would it have been acceptable when you were  
 7 environmental manager? Because you were less than  
 8 two years later.  
 9 A Not if I'm signing my name to it, no.  
 10 Q You wouldn't sign your name to that, would you?  
 11 A No.  
 12 Q Okay. Why wouldn't you? That's not right, is it?  
 13 That's not right to -- to be doing that, is it?  
 14 MR. BUSCH: Object to the form. Lack  
 15 of foundation. Go ahead.  
 16 THE WITNESS: I agree it's not right.  
 17 BY MR. COLLINS:  
 18 Q Okay. Thanks.  
 19 (Exhibit No. 4 was marked for  
 20 identification.)  
 21 BY MR. COLLINS:  
 22 Q Lenz No. 4 is a multi-page document. The first  
 23 page is entitled Environmental, Dames & Moore  
 24 meeting February 1, 1996. I want to ask you some  
 25 questions about it, but if you want to flip

1 through it first, please do, and then just let me  
 2 know when you're ready to go.  
 3 A Okay.  
 4 Q Okay. This refers to a Dames & Moore meeting on  
 5 February 1 of 1996. You've had a chance now to  
 6 flip through the document. You were at that  
 7 meeting, weren't you?  
 8 A I don't know. I don't believe so.  
 9 Q Okay. On the first page there's reference to an  
 10 HS and E manager. Do you see that?  
 11 A Yes.  
 12 Q What's that a reference to, do you know?  
 13 A Health, safety and environmental manager.  
 14 Q Okay. Who was the health, safety and  
 15 environmental manager at Madison-Kipp Corporation  
 16 in February of '96?  
 17 A I would guess it was Sam Sutopo, but --  
 18 Q Okay. It could have been you, right?  
 19 A No.  
 20 Q Didn't you say in 1996 --  
 21 A I was never the health and safety manager.  
 22 Q You were the environmental manager.  
 23 A I was the environmental and facility engineer,  
 24 facility manager.  
 25 Q Okay. All right. So let's flip to the second

1 page then, please, of this document. It says --  
 2 Do you see it says today's situation. References  
 3 scattered environmental problems, and the second  
 4 bullet point says DNR is asking what is MKC doing.  
 5 Do you see that?  
 6 A Yes.  
 7 Q Okay. So this document is about a meeting that is  
 8 to occur some 19 months after the DNR's letter in  
 9 July of 1994, correct? And the letter was in July  
 10 of 1994, correct, from DNR?  
 11 A Yes.  
 12 Q I don't want to get hung up on math. I'm not  
 13 great at it either, but it's -- it's at least a  
 14 year-and-a-half --  
 15 A Correct.  
 16 Q -- after that letter, correct?  
 17 A Correct.  
 18 Q All right. And -- And if you're not the  
 19 environmental manager at that time you're just a  
 20 couple months away from being the environmental  
 21 manager, right, in February of '96?  
 22 A To the best of my recollection, yes.  
 23 Q Okay. Isn't it true that in 1996 WDNR was not  
 24 pleased with Madison-Kipp's performance in  
 25 addressing the PCE contamination problem that it

1 had told the company a year-and-a-half earlier to  
 2 investigate and clean up?  
 3 MR. BUSCH: Object to the form. Lack  
 4 of foundation.  
 5 BY MR. COLLINS:  
 6 Q Isn't that true?  
 7 A I don't know that from what this says.  
 8 Q I'm not -- I'm not -- I'm not trying to tie it  
 9 specifically to this. I mean, this says DNR is  
 10 asking what is MKC doing, okay. And what I'm  
 11 asking you is, whether it's from this document or  
 12 otherwise, whether your knowledge comes from the  
 13 document or otherwise, isn't it true that in 1996  
 14 you learned that WDNR was not happy with  
 15 Madison-Kipp's progress in dealing with the PCE  
 16 contamination problem?  
 17 A I don't know that.  
 18 Q You never learned that?  
 19 A I never spoke to the DNR.  
 20 Q Okay. Well, you don't have to speak directly to  
 21 the DNR to learn that, do you? I mean, did you  
 22 ever talk to anybody else at the company about  
 23 what DNR wanted or expected or was saying to the  
 24 company?  
 25 A Yes.

1 Q Okay. Well, did you ever learn by any of those  
 2 means that DNR was dissatisfied with  
 3 Madison-Kipp's progress in addressing the PCE  
 4 contamination problem?  
 5 A I can't say I know that, no.  
 6 Q Who at the company while you were environmental  
 7 manager would have been most knowledgeable about  
 8 whether DNR was dissatisfied with Madison-Kipp's  
 9 progress in addressing the PCE contamination?  
 10 Would it have been upper management?  
 11 A Yes.  
 12 Q Okay. And who specifically at upper management  
 13 would you talk to if you wanted to know the answer  
 14 to that?  
 15 A At what timeframe?  
 16 Q Well, the mid and late 1990's.  
 17 A I would say Bud Hauser.  
 18 Q Okay. Who was a vice president, right?  
 19 A Correct.  
 20 Q Okay. How about Caldwell?  
 21 A I don't know if he was kept up to date for  
 22 day-to-day or not. I don't know.  
 23 Q Okay. All right. Let's flip to the next page,  
 24 please, which starts with a question. It says how  
 25 did we get here. Do you see that?

1 A Yes.  
 2 Q By the way, have you ever seen this document  
 3 before today? I should tell you that this was  
 4 produced by us by Madison-Kipp. I didn't, you  
 5 know, make this up or find this on the Internet  
 6 somewhere. This was produced to us by  
 7 Madison-Kipp.  
 8 A I don't recall seeing this before.  
 9 Q All right. So the question is how did we get  
 10 here. And the first bullet point says no solid  
 11 leads on what happened to contaminate the  
 12 property. Do you see that?  
 13 A Yes.  
 14 Q All right. That's a false statement, isn't it?  
 15 MR. BUSCH: Object to the form of the  
 16 question. Go ahead and answer.  
 17 BY MR. COLLINS:  
 18 Q If you want to know why -- I'll tell you why I'm  
 19 asking that is you told me it was common knowledge  
 20 all of the different ways that PCE was allowed to  
 21 be spilled, dumped and spread, and you told me  
 22 that was common knowledge.  
 23 So if that's common knowledge, how  
 24 could that statement possibly be true that they  
 25 have no solid leads on how the property got

1 contaminated? I mean, you just told me about five  
2 or six of them.

3 I mean, do you -- do you have reason  
4 to believe that the folks in upper management  
5 didn't know what you knew about how the property  
6 came to be contaminated?

7 A I don't know what the upper management knew and  
8 didn't know.

9 Q Well, you don't believe that that was a true  
10 statement in February of '96, do you, that they  
11 had no solid leads on what happened to contaminate  
12 the property? You don't believe that was true in  
13 February of '96, do you?

14 MR. BUSCH: Object to the form.  
15 Definition of property.

16 BY MR. COLLINS:

17 Q You can answer.

18 MR. BUSCH: Go ahead.

19 THE WITNESS: Okay. Well, you didn't  
20 say so, so --

21 MR. BUSCH: I'm sorry. Unless I tell  
22 you not to --

23 BY MR. COLLINS:

24 Q Fair enough. You don't believe that was a true  
25 statement in February of '96, do you?

1 A If they would have asked me I would have said no.  
2 Q You would have said it's not a true statement,  
3 correct?

4 A True.

5 Q Okay. Well, then the next question is is in 1996,  
6 and now, again, we're 18 months after the state  
7 said it's your legal obligation to investigate and  
8 clean up, did -- did anybody have the job to  
9 develop these solid leads?

10 I mean, if somebody still believed  
11 that there were no solid leads, did anybody have  
12 that job? How did our property get contaminated?  
13 Did anybody have the job of running that question  
14 down?

15 MR. BUSCH: Object to the form. The  
16 document doesn't say our property.

17 THE WITNESS: I don't know the answer  
18 to that question.

19 BY MR. COLLINS:

20 Q You certainly didn't have that job, right?  
21 A No.

22 Q In fact, you never had that job even when you were  
23 environmental manager, right?  
24 A Of?  
25 Q Of -- Of generating solid leads to determine how

1 the property came to be contaminated, right? You  
2 never had that job, correct?

3 MR. BUSCH: Same objection. Go ahead  
4 and answer.

5 THE WITNESS: I was asked to talk to  
6 some hourly employees to find out what they knew.

7 BY MR. COLLINS:

8 Q Okay. Who asked you to do that?

9 A I was asked by -- I don't know. It was somebody  
10 in upper management.

11 Q All right. I'd like you to tell me who, if you  
12 can determine that either by memory or process of  
13 elimination or who you were dealing with at the  
14 time or -- Who do you think was the most likely  
15 the person who asked you to determine that?

16 A I'd say most likely it was Bud Hauser.

17 Q Okay. So what do you believe Hauser asked or  
18 directed you to do in that regard?

19 A Go find out where the source of this contamination  
20 could have come from.

21 Q And did he say then get back to me, or what else  
22 did he say?

23 A Let me know what you find out.

24 Q Okay. When did Hauser ask you this?  
25 A I don't know for sure.

1 Q Well, were you environmental manager when he asked  
2 you that?

3 A I was asked about, because I had been there a long  
4 time, where I knew contamination was.

5 Q Are you talking about the same Hauser direction  
6 now?

7 A Yes. Yes.

8 Q Okay. Well, I understand that, but can you -- can  
9 you estimate for me when that was? I'm not asking  
10 you for a date necessarily, unless have you one,  
11 but how about a year when Hauser asked you to do  
12 that?

13 A Well, I think it would have been in 1994 when we  
14 started getting these letters.

15 Q Okay. So even before you were environmental  
16 manager, right?

17 A Yes.

18 Q Okay. Okay. And did he tell you why he was  
19 asking you to do that, as opposed to somebody else  
20 at the company?

21 A I had a good rapport with the maintenance guys.  
22 Q Okay. And Hauser knew that?  
23 A Yes.

24 Q Okay. So did Hauser tell you why it was important  
25 that you do this?



1 A They were looking for the source of contamination.  
 2 Q Okay. Was it all prompted by DNR's letter in July  
 3 of '94?  
 4 A Yes.  
 5 Q Okay. So then you did what you were told to do,  
 6 right? You went and talked to some maintenance  
 7 people, right?  
 8 A Yes.  
 9 Q Okay. And who did you talk to? I mean, earlier  
 10 in this deposition you mentioned three guys'  
 11 names.  
 12 A Yes.  
 13 Q Okay. Was it those guys?  
 14 A Yes.  
 15 Q Okay. Did you talk to anybody else?  
 16 A Not that I remember.  
 17 Q Okay. And the guys whose names I have are --  
 18 A George, Wally and Marv.  
 19 Q George, Wally and Marv, okay. They had been long  
 20 time maintenance guys?  
 21 A They were there at least -- they started at least  
 22 in 1970, if not prior.  
 23 Q All right. Why did you -- Were you the guy that  
 24 decided to -- that those were the three you'd talk  
 25 to, or did somebody tell you you needed to talk to

1 those guys?  
 2 A I decided who to talk to.  
 3 Q Why did you pick those guys?  
 4 A Because I knew they were maintenance guys that got  
 5 around. Weren't necessarily in one spot all the  
 6 time.  
 7 Q And they had been around awhile?  
 8 A Yes.  
 9 Q Okay. So you talked to each of them, right?  
 10 A Yeah.  
 11 Q Separately? Together?  
 12 A I don't recall.  
 13 Q Okay. And then after you talked to them did  
 14 you -- did you write up any sort of a report or  
 15 memorandum about what they told you?  
 16 A No.  
 17 Q Why not?  
 18 A I'm not big on writing reports.  
 19 Q Well, this is pretty important stuff, wasn't it?  
 20 A I just went to Bud Hauser and told him what I  
 21 know.  
 22 Q Okay. Did Hauser tell you don't write anything  
 23 down?  
 24 A No.  
 25 Q Okay. Did you talk to anybody else other than

1 those three maintenance guys about -- Well,  
 2 first -- Let me back up. I'm sorry. So what was  
 3 the basic question you asked each one of them, the  
 4 maintenance guys?  
 5 A The basic question was we found contamination in  
 6 this area, where do you think that came from.  
 7 Q How did it get there, huh?  
 8 A Yeah.  
 9 Q Okay. And is what they told you basically what  
 10 you told me this morning?  
 11 A Yes.  
 12 Q I mean, did they tell you something more that  
 13 maybe we didn't talk about yet today?  
 14 A Not that I recall.  
 15 Q Okay. So they told you about the -- dumping the  
 16 spent PCE out the back door, right?  
 17 A That was later.  
 18 Q Okay. Well, what did -- So -- Well, then I  
 19 apologize, but let me -- what did these guys tell  
 20 you? Hauser told you to go talk to maintenance  
 21 guys. You went and selected those three guys.  
 22 What did they tell you?  
 23 A The question was where did the contamination come  
 24 from that the water direction says is leading to  
 25 Brass Works.

1 Q Okay.  
 2 A And that led it to that narrow strip along the  
 3 building there. And I asked the guys where  
 4 contamination would come from in that area there.  
 5 Q Okay. What did they tell you?  
 6 A That's when they -- they actually reminded me that  
 7 that tank was moved over there in the building,  
 8 and that -- that if they spilled some there it  
 9 would drain that way.  
 10 Q The PCE tank.  
 11 A Yes.  
 12 Q Okay. And this was the one for which division?  
 13 A The -- The Lubricator Division.  
 14 Q Lubricator Division, okay. So did each of them  
 15 tell you the same thing?  
 16 A Basically, yeah.  
 17 Q Okay. That PCE over on that narrow strip likely  
 18 came from this PCE tank in the Lubricator  
 19 Division, right?  
 20 A Right.  
 21 Q Did they tell you how it -- the PCE got out of the  
 22 tank in the Lubricator Division?  
 23 A No. Nobody could remember.  
 24 Q I'm sorry?  
 25 A Nobody could remember an actual spill.

1 Q Okay.

2 MR. BUSCH: Shawn, whenever it's

3 convenient, if I could have a three-minute break.

4 MR. COLLINS: Of course. Let me just

5 ask a couple more and then let's take a break,

6 okay.

7 Q So you went back and reported to Mr. Hauser?

8 A That's what I recall, yes.

9 Q What these guys told you, right?

10 A Um-hum.

11 Q Yes?

12 A (Witness nods.)

13 Q Okay. What did -- What did Hauser do with the

14 information, do you know?

15 A No.

16 Q Did you ever hear about that information that you

17 had conveyed to Hauser being used in any fashion?

18 Did you ever see it in a document anywhere? Did

19 you ever hear any discussion about it around the

20 plant?

21 A No.

22 Q Okay. Did you ever ask Hauser subsequently what

23 did we do with that information that I learned

24 from the maintenance guys?

25 A No.

1 Q Okay. Did Hauser ever ask you at any later time

2 to investigate, to talk to maintenance people or

3 investigate by any means how contamination got on

4 any other area of company property?

5 A After they suspected a second source I was asked

6 to find out information over there.

7 Q Okay. Let's pause it right there, okay. Let's

8 take a little break.

9 MR. BUSCH: Thanks.

10 (Recess taken.)

11 BY MR. COLLINS:

12 Q All right. Are you ready to keep going?

13 A Yep.

14 Q All right. Okay. So when we broke here you were

15 telling me that there was concern about a possible

16 second source for the contamination which led to

17 some additional work by you, right?

18 A (Witness nods.)

19 Q Yes?

20 A Yes.

21 Q Okay. Second source for what?

22 A They hadn't found the extent of the contamination

23 and the groundwater directions and stuff didn't

24 make sense, so they decided to drill a second --

25 another -- I can't say second, another well over

1 on the east side of the building, and they found

2 higher numbers than they were finding in other

3 spots. So at that point they said there has to be

4 a second source.

5 Q Okay. And so how does that involve you then?

6 A So then I was asked -- Well, I was environmental

7 manager at the time.

8 Q Okay.

9 A And they said, you know, go investigate and find

10 out where this could have possibly come from.

11 Q Okay. So when was this request made of you? It's

12 while you were environmental manager, right?

13 A Yes.

14 Q So can you ballpark the year? Did you say --

15 Earlier in this deposition did you say late

16 1990's?

17 A It was whenever that well nest on the east side of

18 the property in that alley was drilled.

19 Q Okay. So --

20 A I can't give you a date.

21 Q -- someone came to you and said what?

22 A Instead of finding lower numbers in that well they

23 found higher numbers, which meant there had to be

24 a second source that we hadn't located yet.

25 Q Who said that to you?

1 A It was probably Dames & Moore.

2 Q Okay. Did somebody then ask you to conduct some

3 sort of investigation?

4 A Yeah. Go out and talk to different employees,

5 older employees, and find out what happened over

6 in that area.

7 Q Who said to do that?

8 A I don't know. At that -- It was either Mark

9 Meunier or Bud Hauser. It's all based on the

10 timing. I don't remember.

11 Q Okay. So what did you do?

12 A I again went out and talked to -- I talked to a

13 bunch of people, but at least the same three.

14 Q Okay. Can you think of anybody else in addition

15 to those three that you spoke to?

16 A Bob Keenan, who was maintenance supervisor.

17 Q Okay. Can you think of anybody else?

18 A No.

19 Q Okay.

20 A I have a hard time remembering people's names from

21 back that far.

22 Q Okay. Well, what did you learn this time?

23 A That's when I found out that they were throwing --

24 they would clean that -- that vapor degreaser and

25 throw the stuff out the door.

1 Q Okay. And did -- did Keenan tell you that as  
2 well?  
3 A Yes.  
4 Q Okay. So at least four people told you that?  
5 A Yes.  
6 Q Okay. All right. I think I -- what I'm about to  
7 ask you I think I asked you before this morning,  
8 and I apologize. George --  
9 A George, Wally and Marv.  
10 Q Yeah. Tell me the best you can about where these  
11 guys are. If I wanted to talk to any one of them,  
12 how would I go about doing that? Are all of them  
13 still alive, do you know?  
14 A Best of my recollection they're all alive.  
15 Q How about Bob Keenan?  
16 A He's really old now.  
17 Q Okay.  
18 A He retired right about this time, so --  
19 Q Okay. And would you look in the Madison area for  
20 these folks?  
21 A George Schler, I think, lives in Waterloo, Wally's  
22 in Madison, and I don't know where Marv lives.  
23 Q How do you know Wally's in Madison? You know that  
24 for sure?  
25 A I think so. He lived just three, four blocks from

1 Madison-Kipp.  
2 Q How do you know he's still there?  
3 A I think he's still there.  
4 Q Okay. Do you know what street he lived on?  
5 A No.  
6 Q Okay. And Marv?  
7 A I don't have a clue where he lived.  
8 Q Okay. So you talked to at least those four guys  
9 and they told you about PCE, spent PCE being  
10 dumped out the door, right?  
11 A Yeah.  
12 Q Okay. Did they tell you about anything else?  
13 A No.  
14 Q Okay. With that information, what did you do?  
15 A That's when we -- I don't know if I told that or  
16 Bud or whoever, it was either Mark Meunier or Bud  
17 told that to Dames & Moore, and then they started  
18 doing more geoprobes looking for more.  
19 Q When you went and talked to at least those four  
20 guys, Keenan and the three maintenance guys, did  
21 somebody from the company go with you? Hauser --  
22 A Not that I remember.  
23 Q -- Meunier? Okay. So did you report back to  
24 Hauser or Meunier what these guys had told you?  
25 A Yeah.

1 Q Yes?  
2 A Yes.  
3 Q Did you put anything in writing to them about it?  
4 A Not that I recall.  
5 Q Okay. Just verbal?  
6 A Yes.  
7 Q Okay. And do you know what those guys did with  
8 that information, Hauser or Meunier?  
9 A They must have told Dames & Moore because  
10 Dames & Moore acted on it.  
11 Q Okay. Was Meunier a member of the upper  
12 management as well?  
13 A Yes. He was vice president of human resources.  
14 Q Executive staff?  
15 A Yes. And he still is, yeah.  
16 Q Okay. How often do you talk to Meunier these  
17 days?  
18 A I saw him last week because he had some questions  
19 on this latest issue that they have going now with  
20 the DNR and was looking for more records.  
21 Q What's the latest issue with the DNR that he told  
22 you about?  
23 A He got some letter from the EPA that's looking for  
24 records that our air permit requires us to keep.  
25 Q Okay. Was Meunier the guy who -- who told you

1 last year that you were being let go?  
2 A Yes.  
3 Q Okay. And then is he the guy who first contacted  
4 you and asked you to help the company?  
5 A Yes.  
6 Q Okay. Let's leave it at that.  
7 A Yeah.  
8 Q I don't know that anything needs to be said.  
9 A I don't want to say that on the record anyways.  
10 Q I'm not going to ask you either. So -- But I want  
11 to ask you about this much of the conversation.  
12 So he contacts you, and why does he say the  
13 company wants your help? Because what?  
14 A He couldn't find all the records.  
15 Q Well, did he tell you why the company's looking  
16 for records?  
17 A He told me that -- Well, I heard it on the news,  
18 first of all, that the neighbors were suing  
19 Madison-Kipp and --  
20 Q No, I understand, but I'm wondering what Meunier  
21 said to you in this conversation about why the  
22 company needed your help.  
23 A They said soon the opposing lawyers are going to  
24 ask for a records request and I got to start  
25 gathering it all because I know there's a lot of

1 them.

2 Q Okay. Did he characterize the lawsuit at all?

3 A No.

4 Q Okay. Now, between that conversation and the one

5 you had with him recently about the air permitting

6 issue, how many -- approximately how many other

7 conversations have you had with him about the --

8 you know, that in some fashion touched on the PCE

9 contamination problem?

10 A There were just some conversations about setting

11 up dates, like setting up a date for the first

12 initial meeting and --

13 Q Okay. Anything else?

14 A Not that I recall.

15 Q Since this lawsuit was filed have you talked to

16 any other Madison-Kipp employees or former

17 employees about any aspect of this PCE

18 contamination problem?

19 A Can you define any aspect?

20 Q Well, I'm -- I mean for it to be real broad. I'm

21 wondering if you've ever talked to anybody at

22 Madison-Kipp about whether the company behaved

23 responsibly concerning the contamination.

24 A No.

25 Q Have you ever talked to anybody about how all the

1 PCE got in the soil and the groundwater and the

2 vapor?

3 A Between the two? No.

4 Q Okay. Okay. Well, what -- what have you talked

5 to Madison-Kipp employees or former Madison-Kipp

6 employees about relating to the contamination

7 since the lawsuit was filed?

8 A Stephanie Lauth, the executive secretary, asked me

9 some questions about records.

10 Q What's the last name?

11 A Lauth. L-A-U-T-H.

12 Q You said she's the executive secretary?

13 A Yes.

14 Q So whose secretary does that make her?

15 A The president's. Really, she's secretary for the

16 whole executive staff. She's going to yell at me.

17 Executive assistant. She's not a secretary.

18 Slaps me every time I --

19 Q And what did -- She contacted you?

20 A She was looking for some of the computer records.

21 Q Okay. Computer records of what?

22 A Of PCE stuff.

23 Q Can you be more specific?

24 A Anything related to PCE.

25 Q Anything.

1 A Yes. My record system was in a -- in a Access

2 2000 database, which nobody had anymore. So she

3 asked me how she can retrieve those.

4 Q Okay. When was that conversation? After the

5 lawsuit was filed?

6 A Yeah.

7 Q This year? Last year?

8 A Last year.

9 Q Okay. So she's a secretary for the president of

10 the company?

11 A Yes. Yes.

12 Q Is she the secretary for anybody else? Vice

13 presidents?

14 A Yes.

15 Q Coleman?

16 A No.

17 Q Does he have his own secretary?

18 A Yes.

19 Q Who's that?

20 A Mental block. I'll think of it in a minute.

21 (Exhibit No. 5 was marked for

22 identification.)

23 BY MR. COLLINS:

24 Q Okay. I want to ask you about it when you're

25 ready, so tell me.

1 A Okay. Okay.

2 Q All right. Lenz No. 5 is a one-page memo from

3 Reed Coleman to Thomas Caldwell and Richard Riesen

4 or Riesen.

5 A Riesen.

6 Q Riesen? All right. Concerning -- The subject is

7 the environmental situation, and its date is

8 March 19, 1996. Do you see this?

9 A Yes.

10 Q Have you seen this before today?

11 A I don't believe so, no.

12 Q All right. Do you -- You have read it now,

13 though, right?

14 A Yes.

15 Q Quickly, but you've read it, right?

16 A Yes.

17 Q All right. Do -- Does any of the subject matter

18 sound familiar to you in terms of what Mr. Coleman

19 is -- how he's characterizing the environmental

20 problem? Does that sound familiar to you in terms

21 of things that were going around the company at

22 this time?

23 A Can you say it one more time?

24 Q Yeah. Let me ask a couple of different questions

25 first. Okay. So Thomas Coldwell is the president

1 of the company at the time of this memo, right?

2 A Correct.

3 Q All right. Who is Richard Riesen in March of

4 1996?

5 A He was the vice president of finance.

6 Q Okay. And so he's -- he's upper management. He's

7 on the executive staff, right?

8 A He was actually parallel with Tom Caldwell and

9 reported directly to Reed Coleman and was on the

10 board of directors.

11 Q Okay. So even though he's a vice president he's

12 on the same level of the corporate hierarchy as

13 the president; is that right?

14 A I don't know if it's -- Maybe I have his title

15 wrong. He was the same level as Caldwell, but he

16 might have been CFO. I don't know.

17 Q Okay. He's an important guy.

18 A Important guy, yeah. We'll go with that.

19 Q All right. And your understanding at this time is

20 that both of these guys, Caldwell and Riesen,

21 report to Coleman, correct?

22 A Correct.

23 Q Okay. The very first line of the memo mentions a

24 Dave Hanson. Do you see that?

25 A Yes.

1 Q Who's Dave Hanson?

2 A He works -- He worked -- either works or did work

3 for Michael Best.

4 Q He's a lawyer?

5 A Yes.

6 Q Okay. All right. So what is -- I mean, to your

7 understanding, what's -- what's Mr. Coleman doing

8 here with this memo?

9 MR. BUSCH: Object to the form. Lack

10 of foundation. Document speaks for itself. Go

11 ahead and answer.

12 THE WITNESS: I have no idea. It's

13 whatever it says here.

14 BY MR. COLLINS:

15 Q All right. Did -- You know, while you were at the

16 company at any time, environmental manager or

17 otherwise, did you know that Mr. Coleman was

18 involved in advising others at the company about

19 how to talk about this environmental situation?

20 A The company was always trying to be hush-hush

21 about the environmental situation because of the

22 scrutiny that we got from the neighborhood and the

23 media. So --

24 Q You think that's why Mr. Coleman is writing this?

25 A Could be. He's posturing.

1 Q Okay.

2 MR. COLLINS: Could you read the

3 witness's answer back, please, Kim?

4 (The record was read as follows:)

5 Answer. "The company was always

6 trying to be hush-hush about the environmental

7 situation because of the scrutiny that we got from

8 the neighborhood and the media."

9 BY MR. COLLINS:

10 Q Why was the company trying to be hush-hush?

11 A Because anything that we did ended up on the news,

12 and it gave the company a bad image.

13 Q Okay. Well, how did you know what you just told

14 me? That is, that the -- the company wanted to

15 keep things hush-hush. Who told you that?

16 A I was told that by Mark Meunier.

17 Q Okay. Were you told it by anybody else?

18 A I may have been.

19 Q Can you think of anybody else who told you that,

20 gave you that message?

21 A It was just kind of common knowledge not to talk

22 about it.

23 Q Yeah, okay. But how -- I'm sorry. I'm -- You

24 finish up. Then I'll ask the next question.

25 A We were just told not to talk about environmental

1 stuff out in public.

2 Q Who besides Meunier -- I'm still butchering his

3 name. What is it again, please?

4 MR. BERGER: Meunier.

5 THE WITNESS: It's Meunier. It's like

6 a mean guy. Meunier.

7 BY MR. COLLINS:

8 Q Meunier?

9 A Meunier. Yeah, kind of.

10 Q Okay.

11 MR. BERGER: Meunier.

12 THE WITNESS: There's a U in there.

13 BY MR. COLLINS:

14 Q All right. So who besides Mr. Meunier told you

15 that -- that the company was not supposed to be

16 talking about the environmental problem?

17 MR. BUSCH: Object to the form. I

18 don't think he said the company wasn't supposed to

19 be.

20 BY MR. COLLINS:

21 Q What did Meunier tell you?

22 A Me, being a -- I wasn't supposed to talk about

23 environmental issues outside the company.

24 Q Meunier said that, right?

25 A Yes.

1 Q Okay. Did he -- Did Meunier tell you who  
2 specifically he didn't want you talking to?  
3 A I wasn't supposed to talk to the media.  
4 Q Okay.  
5 A Or any neighbors.  
6 Q How about DNR?  
7 A I -- I can talk to DNR.  
8 Q Okay. Were there any neighbors in particular that  
9 you were told were, you know, particularly nosy or  
10 problematic or people that you really didn't want  
11 to be talking to? Were any of them identified?  
12 A Ann Chiconne.  
13 Q Yeah. You remember that name, huh?  
14 A Oh, yeah.  
15 Q How come?  
16 A 138 South Marquette.  
17 Q All right. What -- What was her birthdate?  
18 Anybody else besides Miss Chiconne?  
19 A No. That's the only one I really remember.  
20 Q So who told you that -- So what was told to you  
21 about Chiconne?  
22 A Well, she called all the time.  
23 Q Yeah.  
24 A And if Mark wasn't there, I was the second in  
25 command to take the complaint.

1 Q Okay. And so -- I mean, were you directed  
2 specifically not to talk to her?  
3 A No. I was to talk to her and take her complaint  
4 and report it back to Mark and Mark was going to  
5 deal with anybody. I wasn't to -- You know, I  
6 would say, whatever the complaint was, I was going  
7 to investigate it and -- and have the company  
8 report back.  
9 Q Okay. Were there any other of the -- of the  
10 residents you can think of that had the same  
11 status as Chiconne?  
12 A I can't even remember any of the other names.  
13 Q Okay. Did anyone else in addition to Meunier tell  
14 you don't talk to outsiders about the  
15 environmental situation?  
16 A Not that I remember.  
17 Q Okay. And you say that that direction was -- that  
18 directive was generally understood around the  
19 company, right?  
20 A Um-hum.  
21 Q Yes?  
22 A Yes. Sorry.  
23 Q All right. Okay. So -- All right. Let's look at  
24 Lenz No. 5, please.  
25 A Okay.

1 Q Okay. Do you remember ever seeing a revised set  
2 of common points that -- that Hanson had faxed  
3 over?  
4 A No.  
5 Q Were you ever given in writing or otherwise a  
6 script or anything that -- that you should say if  
7 you had to talk to somebody outside the company  
8 about the PCE contamination?  
9 A No.  
10 Q All right. Now, the first bullet point says, all  
11 right, we should make clear that these substances  
12 were in common use in industry for many, many  
13 years, that any manufacturing site producing the  
14 kinds of products produced by Madison-Kipp over a  
15 hundred-year period would be expected to have used  
16 the substances and to have used them in such a way  
17 that minor amounts by volume would have found  
18 their way into the soil. Do you see that?  
19 A Yes.  
20 Q All right. I want to focus you on the words that  
21 say minor amounts by volume. You see those words?  
22 A Yes.  
23 Q All right. That's not true, is it, that what was  
24 in the soil was minor amounts by volume?  
25 A I believe back on that date that wasn't known.

1 Q Well, if -- wouldn't you agree with me then if it  
2 wasn't known what the -- what the volume was,  
3 that -- that people at the company shouldn't be  
4 directed to say that the volume is minor? Do you  
5 see what I'm asking you?  
6 A Yes.  
7 Q All right. I mean, isn't it true that if the  
8 company didn't know yet what the amounts were it  
9 shouldn't be saying they're minor, correct?  
10 MR. BUSCH: Object to the form, having  
11 him comment on this in the first place, but go  
12 ahead and answer.  
13 THE WITNESS: I can't comment on  
14 someone else's thoughts at the time.  
15 BY MR. COLLINS:  
16 Q I'm not asking you to. Was it -- Was it honest to  
17 say that the contamination was minor in amount?  
18 MR. BUSCH: Object to the form.  
19 Characterization. Go ahead and answer.  
20 THE WITNESS: I have no idea what  
21 minor is. Minor's a --  
22 BY MR. COLLINS:  
23 Q All right. Would you have used that word to  
24 describe the amounts of contamination in the soil?  
25 Would you have used the word minor to describe the

1 amount of contamination that found its way into  
2 the soil?  
3 A Again, minor is not a specific term. Compared to  
4 the Valdez breaking out, you know, it is minor.  
5 Q So are we to believe then that so long as the  
6 contamination is less than the Valdez, the  
7 environmental manager at Madison-Kipp for 10 years  
8 believes it's not that big a deal.  
9 MR. BUSCH: Object to the form.  
10 Argumentative.  
11 BY MR. COLLINS:  
12 Q I'm -- I'm going with what you just told me.  
13 MR. BUSCH: I'm just making my  
14 objection, Shawn.  
15 BY MR. COLLINS:  
16 Q Look, I appreciate -- you're trying hard to answer  
17 my questions, and I'm very grateful to you for it,  
18 okay. I just -- I bristle a little bit on behalf  
19 of my clients when somebody gives me an answer  
20 like you just did, which I think is not your basic  
21 nature, which is to suggest this wasn't that big a  
22 deal. That's a comment. You don't need to  
23 respond to it. I'm explaining my reaction to your  
24 answer, okay.  
25 So here's the -- here's the question.

1 Would you have used, you, Jim Lenz, have used the  
2 word minor to describe the amount of soil  
3 contamination, PCE soil contamination, in March of  
4 1996 at Madison-Kipp?  
5 A Without reading all the rest of the documents and  
6 the chronological history of what went on and  
7 where we were with sampling and everything at that  
8 point in time, I can't say I would use the word  
9 minor or major or any other word.  
10 Q You didn't know enough to characterize the amount,  
11 is that what you're saying?  
12 A I don't know where in history I am at this point  
13 in March of 1996. I can't remember that. I don't  
14 know if it was just -- because we -- we had just  
15 gone through a document that we were just testing  
16 a small ditch. I don't know where we are in  
17 history at this point.  
18 Q Is there ever a time on up through today where you  
19 would have described the amount of PCE  
20 contamination in the soil as minor?  
21 A I don't -- No.  
22 Q Okay. The third bullet point down on this memo  
23 says we should make sure that the right people say  
24 that Madison-Kipp has not in any way either in the  
25 past or in the present acted illegally in the use

1 or control of these substances. Do you see that?  
2 A Yes.  
3 Q Do you know who the right people are?  
4 A No.  
5 Q Okay. Do you believe that that's a true  
6 statement, that Madison-Kipp has not in any way  
7 either in the past or in the present acted  
8 illegally in the use or control of PCE?  
9 MR. BUSCH: Object to form. Lack of  
10 foundation.  
11 BY MR. COLLINS:  
12 Q Do you believe that's a true statement?  
13 MR. BUSCH: Calls for a legal  
14 conclusion. Go ahead and answer.  
15 THE WITNESS: I would say that's a  
16 true statement.  
17 BY MR. COLLINS:  
18 Q That -- That you don't think anyone has ever acted  
19 illegally?  
20 A Not with the PCE that's referenced in this.  
21 Q Okay. Well, how about with any other chemical?  
22 A Not that I know of. I don't know of every  
23 chemical that was ever used.  
24 Q Okay. You believe that the -- the spilling and  
25 the dumping and the spreading of the PCE as you've

1 testified to in this deposition was within the  
2 law?  
3 A Yes.  
4 Q Why do you believe that? Who told you that?  
5 A At the time that that spilling and dumping and all  
6 that occurred there was not a law that said you  
7 couldn't do that.  
8 Q How do you know? Who told you that?  
9 A I would say I know that based on the fact of when  
10 PCE was determined to be a substance that caused  
11 harm.  
12 Q When was that?  
13 A I don't -- can't remember. It was obviously prior  
14 to 1994.  
15 Q The -- The law, the spill law that's referenced in  
16 Schmolter 4, that's the July 1994 letter from the  
17 DNR, do you know when that was enacted?  
18 A No.  
19 Q Okay. Well, I'm trying to understand how you know  
20 what it is that you're telling me. You're saying  
21 none of this spilling or dumping or spreading was  
22 illegal. Are you saying that at no time when it  
23 was spilled or dumped or spread was there any law  
24 in the State of Wisconsin that forbid such  
25 conduct?

1 MR. BUSCH: Object to the form. Once  
2 again we're getting into legal conclusions, but go  
3 ahead and answer if you can. If you know.

4 THE WITNESS: I don't believe it was  
5 illegal at the time.

6 BY MR. COLLINS:

7 Q Okay. Okay. The last bullet point says, this is  
8 on Lenz No. 5, finally, we should indicate that  
9 levels of these substances in their current  
10 locations do not present a public health risk at  
11 the present time, and that we plan to use the most  
12 effective means to neutralize the substance  
13 concentrations in such a way that there will be no  
14 future public health risk. Do you see that?

15 A Yes.

16 Q Well, you know based on the letter that DNR sent  
17 in July of 1994 that that's not true, right?

18 MR. BUSCH: Object to the form.

19 BY MR. COLLINS:

20 Q Didn't the DNR say that the concentrations of PCE  
21 in the groundwater exceed the enforcement  
22 standards in Wisconsin law?

23 A Yes.

24 Q Okay. Do you have an understanding of what the  
25 enforcement standard is or what it's designed to

1 do?

2 A Protect public health.

3 Q Okay. So the DNR was saying in July of 1994 that  
4 contamination on your property exceeds the level  
5 determined by the State of Wisconsin to protect  
6 public health, right?

7 A Correct.

8 Q All right. So given that, isn't it true that  
9 what's in that last bullet point is false? Do not  
10 present a public health risk at the present time.

11 MR. BUSCH: Object to the form. Calls  
12 for a legal conclusion. Go ahead and answer.

13 THE WITNESS: I think at the time this  
14 letter was written that the extent of the  
15 contamination was not known and there was no --  
16 nothing at this time that the public was going to  
17 be at risk from.

18 BY MR. COLLINS:

19 Q Well, this doesn't say based on what we know right  
20 now, does it? It isn't qualified in that way, is  
21 it?

22 MR. BUSCH: He didn't answer it that  
23 way.

24 BY MR. COLLINS:

25 Q Mr. Lenz, you wouldn't have written --

1 A It says at this present time.

2 Q It states as a fact that the levels of the  
3 substances existing at that time don't present a  
4 public health risk. They don't say based on what  
5 we know at this time. They say they don't present  
6 a public health risk at this time, right? And yet  
7 you have the State of Wisconsin saying yes, they  
8 do and you need to clean it up. Isn't that right?

9 MR. BUSCH: Object to form. The  
10 letter speaks for itself.

11 BY MR. COLLINS:

12 Q Well, it does, which -- which -- Is there -- Is  
13 there any confusion in your mind about what the  
14 July 18, 1994 letter is telling Madison-Kipp?

15 A No.

16 Q Okay. Well, would you agree that some of these  
17 statements in here that Mr. Coleman is directing  
18 to Caldwell and Riesen are either ill informed or  
19 misleading under the circumstances?

20 MR. BUSCH: Object to form. Lack of  
21 foundation. Go ahead and answer.

22 THE WITNESS: I can't come to that  
23 conclusion.

24 BY MR. COLLINS:

25 Q Well, isn't it -- isn't it -- wasn't it years

1 after Mr. Coleman is writing this, years after  
2 this that you learned from maintenance workers  
3 that PCE contamination had been dumped out the  
4 door for many years? Isn't that true?

5 A That's after this letter.

6 Q It is after the letter.

7 A Yes.

8 Q Right. So given that, the company -- would you  
9 say that by the time of this letter, March of  
10 1996, the company had fully investigated the PCE  
11 contamination on its own property?

12 A No.

13 Q Okay. So given what you just told me to be true,  
14 that it hadn't fully investigated, do you believe  
15 that a letter like this assuring people that  
16 there's no risk to the public health is proper?

17 MR. BUSCH: Object to the form. This  
18 isn't a letter to the public. Go ahead and answer  
19 if you can.

20 BY MR. COLLINS:

21 Q Well, do you think a memo like this to anybody  
22 containing the kind of assurances that Lenz No. 5  
23 does is proper given that, as you just told me, by  
24 the date of this memo the company had not fully  
25 investigated the extent of PCE contamination on



1 its own property?

2 A Yes.

3 Q You think this is proper.

4 A No.

5 Q Okay. You think it's improper.

6 A I think for the time this is setting a goal to say

7 we're going to clean up this to the best way we

8 can to protect future health.

9 Q Well, it doesn't just say that, does it? Doesn't

10 it say there's no problem here, there's no risk to

11 the public here?

12 A The last sentence says we're going to use this in

13 the most effective way to neutralize the substance

14 in concentration in such a way that there's no

15 future public health risk. That's the conclusion

16 of the whole letter.

17 Q What's that?

18 A That they're going to clean it up in a way that

19 there's no future public health risk.

20 Q Okay. Is that what happened? That's not what

21 happened, is it?

22 A I don't know that.

23 Q You don't? Do you know that vapor contamination

24 has been found in and underneath homes in the

25 neighborhood?

1 A I've heard that.

2 Q Okay. Do you believe it to be true?

3 A That they found vapors? I have no idea what the

4 concentrations are.

5 Q Okay. You said the groundwater hasn't been

6 cleaned up, right?

7 A Correct.

8 Q Okay. Okay. If there are PCE vapors in people's

9 homes right next to the plant and those vapors are

10 from Madison-Kipp, then that goal wasn't achieved,

11 was it?

12 A Correct.

13 Q The PCE vapors that you have heard about being

14 detected in people's homes, you wouldn't want

15 those in your home, would you?

16 A No.

17 Q Yeah. Okay. All right.

18 (Exhibit No. 6 was marked for

19 identification.)

20 BY MR. COLLINS:

21 Q Let me know when you're ready with 6, please.

22 A Okay.

23 Q You've had a chance to read it?

24 A Yes.

25 Q All right. Can you tell me, do you -- Can you

1 give me any information about why Mr. Coleman is

2 writing a memo to upper management people about

3 how to deal with newspaper and television

4 inquiries about the PCE contamination?

5 MR. BUSCH: Object to form. Lack of

6 foundation. Go ahead and answer.

7 THE WITNESS: I suspect he wanted to

8 tell them how to present this to the media.

9 BY MR. COLLINS:

10 Q Well, I understand that. I think that's a fair

11 reading of this here, but you can see that the

12 upper management people on this, it's written to

13 Crouse, but then it's also copied to Riesen,

14 Hauser and Caldwell, right?

15 A Right.

16 Q And they're all upper management guys, right?

17 A Correct.

18 Q Is that the entire upper management group as of

19 this point in time, March of '96?

20 A Yeah. I think they had one more guy on the

21 tooling side, but --

22 Q Okay. So, I mean, I agree with your

23 characterization of what -- of what Coleman seems

24 to be doing here. What I'm wondering is is can

25 you shed any light on why it's Coleman that's

1 doing it, the owner -- one of the owners of the

2 company? Why is he writing this kind of a memo?

3 Can you enlighten me on that?

4 A Because he's concerned about the reputation of the

5 company.

6 Q Okay. Isn't it fair to say that on this PCE

7 contamination problem that Mr. Coleman, according

8 to what you knew and heard and understood, was the

9 ultimate decision maker?

10 MR. BUSCH: Object to the form. Lack

11 of foundation.

12 THE WITNESS: I have no idea.

13 BY MR. COLLINS:

14 Q Do you believe that Mr. Caldwell, the president at

15 this time, discussed with Mr. Coleman how the PCE

16 contamination problem and the company's addressing

17 it was proceeding?

18 MR. BUSCH: Same objection.

19 BY MR. COLLINS:

20 Q Did you ever hear that that kind of thing

21 happened?

22 A Not directly, no.

23 Q Well, indirectly did you hear that that kind of

24 thing --

25 A Well, it's obvious by these letters that he must

1 be keeping him informed.  
 2 Q Okay. But apart from this letter -- I'm assuming  
 3 you would tell me you did not see this memo before  
 4 today, right?  
 5 A I never saw this before.  
 6 Q So apart from this memo, wasn't it your  
 7 understanding that -- that the upper management  
 8 folks were keeping Mr. Coleman posted?  
 9 A Yes.  
 10 Q All right. What's that understanding based on?  
 11 A He's the owner of the company. He -- He's the one  
 12 writing the check.  
 13 Q Okay. Now, was that -- that's -- that's not just  
 14 based on the fact that he happened to be an owner  
 15 and has that right, but isn't it based on your  
 16 understanding based on what you knew and heard and  
 17 experienced in working for 31 years at the  
 18 company?  
 19 MR. BUSCH: Same objection. Lack of  
 20 foundation. Go ahead and answer.  
 21 THE WITNESS: Reed Coleman was always  
 22 very concerned about the image of the company in  
 23 the public eye.  
 24 BY MR. COLLINS:  
 25 Q Okay. How do you know that?

1 A He would just express that all the time, that he  
 2 wanted -- he was very proud of Madison-Kipp and he  
 3 wanted to present it in a positive way.  
 4 Q And I'm not -- I'm not doubting you on that. I'm  
 5 just wondering how you know what you just told me.  
 6 Did you hear Coleman say it? Did he write memos  
 7 to employees? Did that filter down through the  
 8 corporate chain? How did you know that?  
 9 A Just a sense I got by being with the man and  
 10 listening to him in various meetings and --  
 11 Q Okay. What's the sense you got about how tight he  
 12 was with the dollar?  
 13 MR. BUSCH: Object to the -- Go ahead.  
 14 I object to the form of that question. It's  
 15 improper, but go ahead.  
 16 BY MR. COLLINS:  
 17 Q There's a lot of different ways to say it, but you  
 18 said you got a sense of the man and his position  
 19 on the company's image, right?  
 20 A Yes.  
 21 Q All right. Now I'm asking if you have a sense of  
 22 the man and how he felt about financial matters  
 23 and particularly spending money. What's your  
 24 sense of that?  
 25 A Spending money on what?

1 Q Well, things like an environmental cleanup and  
 2 investigation.  
 3 A They were always watching the dollars, and they  
 4 would want to do it in the most cost effective way  
 5 possible.  
 6 Q Okay. And you heard that that was Mr. Coleman's  
 7 view; is that right?  
 8 A Yes.  
 9 Q Who told you that?  
 10 A That was -- The whole company view was everything  
 11 was to be done in the most cost effective manner.  
 12 I was required to get three quotes on everything  
 13 to make sure it was done in the most cost  
 14 effective manner.  
 15 Q Okay. Did you having any role in -- in the  
 16 company hiring Dames & Moore?  
 17 A No.  
 18 Q Did you get any quotes for that?  
 19 A No.  
 20 Q How come? That's environmental, right?  
 21 A I wasn't in charge of environmental at that time.  
 22 Q Okay. But isn't it true that throughout your  
 23 10-year stint as environmental manager the company  
 24 hired Dames & Moore or Bob Nauta, wherever he  
 25 happened to be, for a large variety of

1 environmental projects?  
 2 A I believe this is the only project that Bob Nauta  
 3 worked on.  
 4 Q The PCE contamination project?  
 5 A Yes.  
 6 Q Yeah? How did the company come to hire him, do  
 7 you know? How was he selected? By what process,  
 8 do you know?  
 9 A I have no idea.  
 10 Q Okay. Let's talk about politics for a little bit  
 11 and what role that may have played in all of this.  
 12 Did you ever hear that the company was --  
 13 Madison-Kipp was politically well connected?  
 14 MR. BUSCH: Object to the form. Calls  
 15 for hearsay. Go ahead and answer.  
 16 THE WITNESS: Yes.  
 17 BY MR. COLLINS:  
 18 Q Okay. Tell me what you heard about that.  
 19 A I knew that Reed Coleman was a Republican and that  
 20 he had ties to the Republican party and used to be  
 21 well connected years ago.  
 22 Q Okay. Can you give me anything else you might  
 23 have heard about the company's being politically  
 24 well connected?  
 25 A That's about all I know. I couldn't even give you

1 a name.

2 Q All right. So the political connections you heard

3 about were Mr. Coleman's, right?

4 A Yes.

5 Q Former Chairman of the Republican party in

6 Wisconsin?

7 A Well, okay.

8 Q No, I'm not asking you to agree with me. Formerly

9 involved with the Republican party in the State of

10 Wisconsin?

11 A Could be. I didn't know that.

12 Q What was the nature of his political connections

13 as you heard about them?

14 MR. BUSCH: Object to form. Calls for

15 hearsay. Go ahead and answer.

16 THE WITNESS: I really don't know

17 anything more than what I just told you.

18 BY MR. COLLINS:

19 Q Okay. Well, who -- who told you what you just

20 told me?

21 MR. BUSCH: Same objection. Go ahead

22 and answer.

23 THE WITNESS: I don't remember.

24 BY MR. COLLINS:

25 Q Okay. But it's something you learned, right?

1 A Yes.

2 Q While working at the company?

3 A Yes.

4 Q Okay. And did you ever learn or hear, come to

5 believe, that Mr. Coleman's political connections

6 were playing any role in how the PCE contamination

7 problem was being addressed?

8 MR. BUSCH: Object to form.

9 THE WITNESS: No.

10 MR. BUSCH: Calls for hearsay. Go

11 ahead and answer.

12 THE WITNESS: No.

13 BY MR. COLLINS:

14 Q Did you ever hear that anyone at Madison-Kipp had

15 gone to the governor's office to explain the

16 company's position or to complain about the things

17 the DNR was asking the company to do to address

18 the PCE contamination problem?

19 MR. BUSCH: Object. Calls for

20 hearsay. Go ahead.

21 THE WITNESS: No.

22 BY MR. COLLINS:

23 Q You never heard that anybody had gone to the

24 governor's office; is that right?

25 A Correct.

1 Q All right. Did you ever hear that any lawyer

2 engaged by the company had gone to the governor's

3 office to address any aspect of the PCE

4 contamination?

5 MR. BUSCH: Object. Calls for

6 hearsay. Go ahead and answer.

7 THE WITNESS: No.

8 BY MR. COLLINS:

9 Q Did you ever hear that the -- how the Wisconsin

10 DNR was treating Madison-Kipp, in terms of what it

11 was requiring Madison-Kipp to clean up or not

12 clean up, was influenced by anybody's political

13 connections?

14 MR. BUSCH: Object to form. Calls for

15 hearsay. Go ahead and answer.

16 THE WITNESS: I didn't hear anything.

17 BY MR. COLLINS:

18 Q Never heard anything about that.

19 A No.

20 Q Okay. Did you ever come to believe that the DNR

21 was not requiring Madison-Kipp to do PCE

22 investigation or cleanup that DNR had the right to

23 insist that Madison-Kipp do?

24 A No.

25 Q Did you ever wonder about why DNR wasn't being

1 more forceful with Madison-Kipp in requiring

2 investigation or cleanup of the contamination

3 problem?

4 MR. BUSCH: Object to form. Assumes

5 facts not in evidence. Go ahead.

6 THE WITNESS: No.

7 BY MR. COLLINS:

8 Q Okay. All right. Let's go back to Lenz No. 4,

9 please, which is this Dames & Moore environmental

10 February 1, 1996.

11 MR. BUSCH: You want to take a break?

12 THE WITNESS: I'm good.

13 BY MR. COLLINS:

14 Q Anytime you want. You say so and you can have a

15 break, okay. All right. So you got this document

16 in front of you then?

17 A Yes.

18 Q Okay. You see on the fourth page of this it's

19 titled Available Options. Do you see that?

20 A Yes.

21 Q And you see one of the options is option 2, tell

22 DNR results and ask for a meeting. Do you see

23 that?

24 A Yes.

25 Q Okay. If you could go deeper into the document

1 then, two pages, to one that's discusses  
 2 advantages and disadvantages of option number 2.  
 3 A Yes.  
 4 Q Do you see that?  
 5 A Correct.  
 6 Q Okay. And under one of the advantages is the  
 7 second -- rather the first bullet point is do not  
 8 commit to anything. Do you see that listed as an  
 9 advantage?  
 10 A Yes.  
 11 Q All right. Do you recall learning or hearing  
 12 within the company that one of the company's goals  
 13 was to not commit to anything by way of  
 14 investigation or cleanup of the PCE problem?  
 15 MR. BUSCH: Object to the form of the  
 16 question. Are you referencing off of this, or are  
 17 you just asking that question in general?  
 18 BY MR. COLLINS:  
 19 Q I'm asking the question. Do you recall the  
 20 question?  
 21 A No. Yeah, can we --  
 22 Q Yeah. Let me --  
 23 A I was going back to read what option 2 was again,  
 24 so --  
 25 Q All right. So did you ever hear or learn that one

1 of the goals of Madison-Kipp in addressing this  
 2 PCE contamination problem was to do as little as  
 3 possible?  
 4 A No.  
 5 Q Did you ever hear that one of the company's goals  
 6 was to spend as little money as possible?  
 7 A Yes.  
 8 Q Okay. Who did you hear that from, please?  
 9 A Tom Caldwell. I probably heard it from several  
 10 people.  
 11 Q Who besides Caldwell?  
 12 A I -- I know I heard it from Tom. The rest would  
 13 be a guess.  
 14 Q Okay. Well, tell me what you heard from Tom  
 15 Caldwell on that subject, please.  
 16 A There were numerous conversations, and when they  
 17 were going through alternatives they would always  
 18 say well, we want to do this in the most cost  
 19 effective way possible.  
 20 Q Caldwell told you that?  
 21 A Yes.  
 22 Q All right. And he told you that when he was  
 23 president of the company.  
 24 A Yes.  
 25 Q So why is the president of the company telling you

1 that on -- on -- in numerous conversations, as you  
 2 were telling me?  
 3 A To make sure I was spending the money wisely.  
 4 Q And these numerous conversations you're telling me  
 5 about where Caldwell told you to spend the money  
 6 in that fashion, these were conversations about  
 7 the PCE contamination problem, right?  
 8 A Yes.  
 9 Q So give me a for instance about -- about -- give  
 10 me a context about when he would tell you to --  
 11 the money should be spent in a cost effective way.  
 12 Was there a particular --  
 13 A Well, when they did the first remediation using  
 14 the BiOx, which is what these letters are all  
 15 referencing, there were several options. One,  
 16 they wanted to dig all the soil out and remove it.  
 17 I don't remember what the -- The other option's  
 18 the BiOx, and I thought there was a third one. I  
 19 think that was vapor extraction or something. And  
 20 the -- they wanted to do that -- I remember him  
 21 saying well, let's do this in the most cost  
 22 effective way possible to clean it up.  
 23 Q Okay. Do you recall during your tenure that there  
 24 was a concern over PCE contamination of vapor off  
 25 site, off of the company's property?

1 MR. BUSCH: Object. Asked and  
 2 answered. Go ahead.  
 3 THE WITNESS: It was shortly before I  
 4 left, maybe somewhere around -- around beginning  
 5 of 2011, I heard about the vapors, that they were  
 6 finding them in neighbors' basements. And that  
 7 was the first time I ever heard of it, and I no  
 8 longer was in charge of environmental stuff, so --  
 9 BY MR. COLLINS:  
 10 Q The first you heard of PCE vapor contamination  
 11 associated with Madison-Kipp was in 2011?  
 12 A PCE vapors in neighbors' basements.  
 13 Q Okay. How about PCE vapors on the company's  
 14 property? Did you ever hear about those?  
 15 A No.  
 16 Q Did Mr. Caldwell ever tell you we're not spending  
 17 money on this or that?  
 18 A No. It was always spend money wisely and give me  
 19 all my options.  
 20 Q Okay. Did Mr. Caldwell ever -- and he made the  
 21 final decision about what option would be chosen?  
 22 A Normally, because some of them had up-front costs  
 23 versus long-term costs.  
 24 Q Okay. Do you know if Mr. Caldwell had any  
 25 environmental background?

1 A No.

2 Q Do you know if he had ever dealt with a serious

3 environmental contamination problem before this

4 one?

5 A Not that I know of.

6 Q Okay. Did you think that he was qualified by any

7 reason, other than the fact that he held the

8 checkbook, to be making these decisions about what

9 the company would and wouldn't spend money on to

10 address a serious environmental contamination

11 problem?

12 A He's the boss. You do what the boss says.

13 Q I got that. And he's got his hands on the

14 checkbook, I got all that, but apart from him

15 being the boss and apart from him having his hand

16 on the checkbook, did he have any other

17 qualifications that you can think of to be the guy

18 deciding whether to spend money or not spend money

19 on environmental remediation or cleanup?

20 A Other qualifications? No.

21 Q Did he ever tell you he dealt with anything like

22 this before?

23 A Not that I recall.

24 Q Okay. Did he ever tell you that he had to report

25 to anybody else about the options you were

1 presenting him for how to spend money?

2 A Not that I recall.

3 Q Did he ever tell you that he was talking to

4 Coleman about any of this?

5 A He must have because I knew Coleman knew about it

6 because I'd, in passing, see him in the hall and

7 he'd ask me questions about how things were going.

8 Q Who would ask you questions in the hall about how

9 things were going?

10 A Both Coleman and -- and Tom Caldwell.

11 Q Caldwell? And they'd ask you questions about some

12 aspect of the PCE contamination problem?

13 A Right.

14 Q And when they asked you these questions they would

15 seem to be knowledgeable about what was going on,

16 right?

17 A Yes.

18 Q So you got the clear impression that -- that

19 Coleman and Caldwell were paying close attention,

20 right?

21 A Yes.

22 Q Okay. And you would expect so because of the

23 seriousness of the problem; is that right?

24 A Correct.

25 Q Did the -- Did you ever come to believe or -- or

1 to hear that this PCE contamination problem

2 threatened the company's financial health?

3 A I never heard it phrased that way.

4 Q Okay.

5 A But the company has never been in a very good

6 financial situation, leading to my layoff.

7 Q Okay. And I'm not -- I'm not smiling about that.

8 I don't think that's funny for anybody, but -- I

9 mean, did you ever hear or learn or come to

10 believe that spending money on this PCE

11 contamination problem could cause serious

12 financial jeopardy for the company?

13 A I never heard it mentioned that way, no.

14 Q Well, did you ever hear it mentioned in any other

15 way that this PCE contamination problem, you know,

16 might be a -- a financial threat or a financial

17 drain or a financial problem for the company?

18 A I knew that it was -- they expressed that

19 financially there were times of the year that --

20 just -- just the way the company cycled there were

21 times of the year they could spend money and there

22 were times of the year they couldn't. And I know

23 there were times when we tried to postpone things

24 for several months so we could get to a better

25 financial time of the year, but --

1 Q Because of the seasonal nature of the business?

2 A Seasonal nature of the business.

3 Q Okay. Do you know if the company budgeted for,

4 you know, what it -- what it was willing to spend

5 on dealing with the PCE contamination problem?

6 A I never saw the budget.

7 Q Did the company do budgeting?

8 A Yes.

9 Q Did you contribute to that process at all when you

10 were environmental manager?

11 A Capital budget, I mean, asking what I thought we

12 were going to spend in equipment and whatever,

13 cleanup, or everything for a year.

14 Q Okay. So you were -- you were asked while you

15 were environmental manager what you thought the

16 company would have to spend to address the PCE

17 contamination problem for a certain budget period?

18 A I don't know if I ever filled it in on PCE, but

19 any other environmental issues.

20 Q Well, who filled it in for PCE if it wasn't you?

21 A I think Mark Meunier, Bud Hauser did that because

22 they were more direct talking to Dames & Moore or

23 Bob Nauta.

24 Q Okay. So let's go back to the -- Lenz No. 4. You

25 have it right in front of you. That's the page

1 I'd like you to look at. The next bullet point  
 2 down below the do not commit to anything says try  
 3 to direct the DNR to MKC goals. Do you see that?  
 4 A Yes.  
 5 Q Do you know what -- Did MKC have goals that were  
 6 articulated to you for this PCE contamination  
 7 problem?  
 8 A I don't understand what directed to me means. You  
 9 mean goals -- that they had a goal that they  
 10 directed me to, or what -- Rephrase that how  
 11 you --  
 12 Q All right. Did anybody ever tell you that the  
 13 company had goals relating to the PCE  
 14 contamination problem?  
 15 A Well, beyond goals of -- I mean, sure there were  
 16 goals. Goals to not spend any more money than we  
 17 had to, goals to get it cleaned up so we don't --  
 18 you know, goals to have good public image on this.  
 19 Q Okay. Who told you what the goals were? I mean,  
 20 these goals you just mentioned to me, how do you  
 21 know they were the company's goals?  
 22 A They were just general knowledge. I mean, they  
 23 did a pretty good job of communicating goals.  
 24 Q Who? Upper management?  
 25 A Upper management.

1 Q Okay. Communicating them to you and others,  
 2 right?  
 3 A Right. They had -- They had quarterly meetings  
 4 with all the employees.  
 5 Q And the first goal that you mentioned in your  
 6 testimony was don't spend any more money than you  
 7 have to, right?  
 8 A Right.  
 9 Q Okay. Did you mention that first because that was  
 10 the -- the one most emphasized at the company?  
 11 A No, because we were just talking about money.  
 12 Q Okay. Okay. Okay.  
 13 (Exhibit No. 7 was marked for  
 14 identification.)  
 15 THE WITNESS: Okay.  
 16 BY MR. COLLINS:  
 17 Q Okay. So Lenz No. 7, this is a -- it's indicated  
 18 to be a draft of a Dear Neighbors letter. You see  
 19 that?  
 20 A Yes.  
 21 Q Okay. Have you seen this document before today?  
 22 A Not that I recall, but I may have. I saw most of  
 23 the mailings that went out to the neighbors.  
 24 Q Okay.  
 25 A But I don't know if I saw the draft.

1 Q Did a letter like this go out to the neighbors?  
 2 A I believe one did around that timeframe when we  
 3 were doing remediation in the back parking lot.  
 4 Q Okay. So, you see the fax line up top?  
 5 A Yep.  
 6 Q It says Wood C-O-M-M. Do you see that?  
 7 A Yep.  
 8 Q And then you see there's kind of some -- up in the  
 9 upper right-hand corner there's some handwritten  
 10 scribble that says from something Woods. Do you  
 11 see that?  
 12 A Yes.  
 13 Q Okay. What's -- What's the reference to Wood  
 14 there, do you know?  
 15 A That's -- That says from Jim Wood --  
 16 Q Okay.  
 17 A -- in the corner. And that's Woods Communication,  
 18 which is a public relations company.  
 19 Q Okay. So this is an outside vendor, right?  
 20 A Outside vendor that would help with our public  
 21 relations, correct.  
 22 Q Okay. And did you play any role in hiring Woods  
 23 Communication or Wood Communication?  
 24 A No.  
 25 Q Somebody else did that?

1 A Usually it was Tom Caldwell directly.  
 2 Q Okay. Now, did -- did Wood do work for the  
 3 company on the PCE contamination problem?  
 4 A I'm not certain.  
 5 Q Okay. Well, do you know of anything that Wood  
 6 Communication did work for the company on?  
 7 A They did several public relations-type things, and  
 8 for a while I thought they were involved in the  
 9 editing process of all the stuff that went out to  
 10 the neighbors.  
 11 Q Okay. Including things that went out to the  
 12 neighbors on the PCE contamination?  
 13 A I believe so, yes.  
 14 Q Okay. All right. So the second paragraph of this  
 15 document, Lenz No. 7, says first let me assure you  
 16 there is no threat to your health and safety as a  
 17 result of our operations. Environmental, health  
 18 and safety regulatory agencies have visited our  
 19 facilities and certified that we are meeting and  
 20 actually do better than state and federal  
 21 regulations which are designed to protect public  
 22 health and safety, as well as air and water  
 23 quality. Do you see that?  
 24 A Yes.  
 25 Q Now, if that sentence was communicated to anybody

1 in July of 1996 it would be false, isn't that  
2 correct?  
3 MR. BUSCH: Object to form. Lack of  
4 foundation. Go ahead.  
5 THE WITNESS: At the time I don't  
6 think there was any knowledge that would have made  
7 that false.  
8 BY MR. COLLINS:  
9 Q Well, in July of 1994 the company got its letter  
10 from the state about exceedances of enforcement  
11 standards, right?  
12 A Correct.  
13 Q Okay. So given that letter, isn't it false to  
14 say -- to say to anybody that regulatory agencies  
15 have visited our facilities and certified that  
16 we're actually doing better than state  
17 regulations. That would be a false statement  
18 considering what the state said to Madison-Kipp in  
19 July of 1994, wouldn't it?  
20 MR. BUSCH: Object to form. Lack of  
21 foundation. Go ahead and answer.  
22 BY MR. COLLINS:  
23 Q Schmoller No. 4, which is the letter from the  
24 state to Madison-Kipp --  
25 A Yeah, I know.

1 Q Okay. Says groundwater monitoring at Well MW-3  
2 contains concentrations of PCE which exceed the  
3 enforcement standard as listed in Wisconsin  
4 Administrative Code.  
5 So given that the state said that to  
6 Madison-Kipp in July of 1994, this statement, if  
7 it was communicated to anybody, that regulatory  
8 agencies have certified that Madison-Kipp is  
9 actually doing better than state regulations on  
10 water quality, that is false, isn't it?  
11 MR. BUSCH: Object to form. Lack of  
12 foundation. Go ahead and answer.  
13 THE WITNESS: Well, first of all,  
14 from -- Jim Wood is not an environmental expert.  
15 So being a draft, I don't think he -- you can say  
16 that this is a letter that's going to go to  
17 anybody and say anything and has been word-smithed  
18 yet.  
19 BY MR. COLLINS:  
20 Q Mr. Lenz, that's why I asked the question the way  
21 I did. I said if that statement was communicated  
22 to anybody, particularly to neighbors --  
23 A Since there are no wells --  
24 Q -- it would be false, right?  
25 A -- that anybody's drinking out of -- but I would

1 agree, yes, they can't say that it was certified.  
2 Q Well, especially as to water quality, right?  
3 A No one's drinking that water.  
4 Q Well, but the groundwater -- I mean, do you --  
5 A Fifty years from now there might be a problem.  
6 Q Okay. Let me just ask you this. If that  
7 statement were communicated to neighbors in July  
8 of 1996, would that have been acceptable to you?  
9 A As written, no.  
10 MR. COLLINS: Okay. Let's take a  
11 break, please, okay.  
12 (Recess taken.)  
13 BY MR. COLLINS:  
14 Q All right. New exhibit, Schmoller 9. It's  
15 already been marked, so -- Okay. Do you know what  
16 a groundwater plume is? Have you ever heard the  
17 term?  
18 A Yes.  
19 Q Okay. So Schmoller 9 is a -- a -- is taken from  
20 the DNR's website, and it is a depiction prepared  
21 by the City of Madison engineering folks about  
22 nine -- excuse me, eight months ago -- excuse me,  
23 seven months, to describe the -- the PCE  
24 concentrations and the plume in the deep  
25 groundwater. Do you see that?

1 A Yes.  
2 Q Okay. To your knowledge, at any time when you  
3 were at Madison-Kipp did anyone attempt to draw a  
4 groundwater plume to reflect the contours or the  
5 estimated contours of the PCE contamination in the  
6 groundwater?  
7 A Did someone at Madison-Kipp?  
8 Q Yeah.  
9 A No.  
10 Q Did anybody anywhere, to your knowledge, inside  
11 Madison-Kipp or outside?  
12 A I mean, there was all kinds of things Bob Nauta  
13 drew, but I never saw anything like this.  
14 Q Did you ever see Nauta or anybody at any of his  
15 companies, did you ever learn that any of them  
16 had -- had drawn a groundwater plume?  
17 A No.  
18 Q Okay. If what is depicted on Schmoller 9 is  
19 anywhere near accurate, then wouldn't you agree  
20 that Madison-Kipp has failed in its responsibility  
21 to clean up the PCE contamination in groundwater?  
22 MR. BUSCH: Object to the form.  
23 Assumes this is correct and -- one, and number  
24 two, calls for a legal conclusion, but go ahead  
25 and answer.

1 THE WITNESS: From what I remember of  
 2 meetings with Nauta that groundwater is very, very  
 3 difficult to clean up.  
 4 BY MR. COLLINS:  
 5 Q Okay. I'm asking you a different question. We  
 6 can go back to the July 1994 letter, but don't you  
 7 recall that said clean up the contamination in the  
 8 groundwater?  
 9 A Yes.  
 10 Q And that that's your legal obligation DNR's  
 11 telling Madison-Kipp, right?  
 12 A Yes.  
 13 Q All right. So if, what we're looking at on  
 14 Schmoller 9, if this is accurate, then  
 15 Madison-Kipp has failed in the obligation that DNR  
 16 told it it had in July of 1994.  
 17 MR. BUSCH: Object to form. Calls for  
 18 a legal conclusion. Go ahead and answer.  
 19 BY MR. COLLINS:  
 20 Q True?  
 21 A No.  
 22 Q No. So you think you could have a plume of  
 23 groundwater contamination like that depicted on  
 24 Schmoller 9 and the company could have complied  
 25 with its obligation to clean up groundwater

1 contamination?  
 2 A It's not uncommon at all for the DNR to let  
 3 natural attenuation clean up a site and close it.  
 4 Q Okay. When did DNR tell Madison-Kipp that it was  
 5 okay to use natural attenuation to clean up the  
 6 groundwater?  
 7 A I don't know that they ever said that.  
 8 Q Okay. So you're saying what's on Schmoller 9  
 9 is -- is, in your mind, acceptable 18 years after  
 10 DNR's letter saying clean up the groundwater. I  
 11 just want to know if it's acceptable to you.  
 12 MR. BUSCH: Object to form. Lack of  
 13 foundation, but go ahead and answer.  
 14 THE WITNESS: I don't think I have the  
 15 technical knowledge to say that it's possible to  
 16 clean that up.  
 17 BY MR. COLLINS:  
 18 Q Okay. Do you think you were qualified to be  
 19 Madison-Kipp's environmental manager for 10 years?  
 20 A Yes.  
 21 Q You do?  
 22 A (Witness nods.)  
 23 Q But you don't believe you're qualified to know how  
 24 to clean up the plume of contaminated groundwater  
 25 coming from Madison-Kipp, is that also true?

1 A Yes.  
 2 Q You don't know how to clean up soil either, PCE  
 3 contamination in soil, true?  
 4 A That I do know. Soil's easier to clean up.  
 5 Q Okay. Well, is the soil cleaned up at  
 6 Madison-Kipp?  
 7 A I haven't been involved with this for the last  
 8 five years, so I don't know what they've found in  
 9 the last five years, but --  
 10 Q Okay. Well, when you -- either -- either five  
 11 years ago when you stopped being environmental  
 12 manager or one year ago when you left the company,  
 13 at either of those junctures had the soil been  
 14 cleaned up of PCE contamination?  
 15 A I don't know for sure.  
 16 Q Okay. Okay. Okay. Okay. Let me get some basic  
 17 background from you. We already have your name.  
 18 Where do you live, please?  
 19 A Deerfield, Wisconsin. You want an address?  
 20 Q Address, please.  
 21 A 3759 Hommen, H-O-M-M-E-N, Lane, Deerfield.  
 22 Q Okay.  
 23 A 53531.  
 24 Q And so you know, I'm asking this in case we need  
 25 to communicate with you later in this litigation.

1 Not for any other purpose, okay. And where is,  
 2 forgive me for asking, but where is Deerfield,  
 3 Wisconsin? How far from here?  
 4 A It's about 15 miles east of Madison.  
 5 Q Okay. How long have you lived there?  
 6 A Twenty-three years.  
 7 Q Okay. Where do you work currently?  
 8 A Didion Ethanol.  
 9 Q D-I-D-I-O-N?  
 10 A Correct. It's actually Didion Milling.  
 11 Q Okay. And when did you start working at Didion  
 12 Milling?  
 13 A June 28th of 2011.  
 14 Q 2011. So pretty quickly after you left  
 15 Madison-Kipp?  
 16 A Like 10 days, yeah.  
 17 Q Congratulations. Not a lot of people can say  
 18 that. That's wonderful. Okay. So what do you do  
 19 for Didion Milling?  
 20 A Environmental and safety manager.  
 21 Q Yeah. That's the title you've held all along?  
 22 A No. I just got safety about a month-and-a-half  
 23 ago.  
 24 Q Okay. Okay. Do you have any -- Beyond this  
 25 consulting agreement, which is Lenz No. 2 and



1 which we've talked about, do you have any other  
 2 relationship with Madison-Kipp? Pension,  
 3 retirement, anything like that you got going on  
 4 over there?  
 5 A There's a 401K, but I've rolled that over into --  
 6 out of Madison-Kipp.  
 7 Q Okay.  
 8 A So -- And Madison-Kipp has an ancient pension plan  
 9 that's like a whopping \$9 a month or something.  
 10 Q Are you getting paid under that?  
 11 A No.  
 12 Q Okay. When will that kick in?  
 13 A When I turn 60 something. Sixty -- I don't know.  
 14 Q Okay. Nine bucks a month?  
 15 A Yeah, for every year of service.  
 16 Q Well --  
 17 A But that was discontinued at some point, so I  
 18 think it's going to be like 90 bucks or something.  
 19 Q Okay. So what did you do to prepare for this  
 20 deposition today?  
 21 A I met with these two legal staff for about  
 22 four-and-a-half hours, five hours, somewhere in  
 23 that neighborhood.  
 24 Q When was that?  
 25 A It was on last week Tuesday night and Thursday

1 night and Tuesday night this week. All after  
 2 work, so --  
 3 Q Four-and-a-half hours?  
 4 A Yeah, approximately.  
 5 Q And you expect to be paid for that under the terms  
 6 of the consulting agreement?  
 7 A Correct.  
 8 Q Okay. So this -- Now, do you consider these  
 9 lawyers from Michael Best to be your lawyer?  
 10 A No.  
 11 Q Okay. Your lawyer's Ringsmuth, right?  
 12 A Right.  
 13 Q Has he been involved in any of the four-and-a-half  
 14 hours of deposition preparation?  
 15 A He was involved in the last 45 minutes.  
 16 Q Okay. In person, or over the phone?  
 17 A In person.  
 18 Q Okay. And so who was in the -- who -- who was in  
 19 the room when you were preparing for the  
 20 depositions? Yourself, the two Michael Best  
 21 lawyers. Anybody else?  
 22 A No.  
 23 Q Then Ringsmuth shows up later?  
 24 A He showed up on the last day, this Tuesday. It  
 25 was just a very short meeting.

1 Q Okay. In any of these preparation sessions was  
 2 anybody from the company involved --  
 3 A No.  
 4 Q -- either in person or over the phone.  
 5 A No.  
 6 Q Okay. In your -- In your preparation did you  
 7 review any documents?  
 8 A They showed me one map.  
 9 Q Okay. Were there any other documents you  
 10 reviewed?  
 11 A Not in the preparation for this, no.  
 12 Q Well, did you --  
 13 A We talked about things, but --  
 14 Q Okay. Okay. I want to go back and talk about  
 15 your -- some other work you did under the  
 16 consulting agreement when you started looking at  
 17 company documents, all right.  
 18 A Yeah.  
 19 Q All right. And you were looking for PCE documents  
 20 that were created after the letter from DNR in  
 21 July of '94?  
 22 A I was looking for any document that had PCE.  
 23 Q Okay. But -- And you were looking in the network  
 24 that you yourself had created, right?  
 25 A Yes.

1 Q So when you did that looking you didn't expect to  
 2 find documents concerning how much PCE had been  
 3 purchased and when and --  
 4 A Correct.  
 5 Q -- that sort of thing because they were stored  
 6 elsewhere.  
 7 A Elsewhere.  
 8 Q If they're, indeed, still around, right?  
 9 A Right.  
 10 Q Okay. All right. So the PCE-related documents  
 11 that you did -- I assume you found some  
 12 PCE-related documents, right?  
 13 A Yeah.  
 14 Q Okay. Can you describe the volume of them?  
 15 A I provided a computer printout that had a list of,  
 16 I don't know, probably a couple hundred of them or  
 17 a hundred of them. I don't know.  
 18 Q And how did you determine that these were  
 19 documents that satisfied the search criteria you  
 20 had been given? It said PCE somewhere?  
 21 A Yeah. Well, the filing system has a category that  
 22 says air, water, sewer, and there's a PCE  
 23 category.  
 24 Q Okay. And -- Because you created that category?  
 25 A Yes, I created that category.

1 Q So you went to the PCE category?  
 2 A (Witness nods.)  
 3 Q And did you just identify all those documents, or  
 4 did you --  
 5 A I identified those documents, and then it's my  
 6 understanding that counsel went through the rest  
 7 of the whole entire environmental file, which is,  
 8 I don't know, 1300 or 1400 documents.  
 9 Q Okay.  
 10 A And just paged through them to see if anything  
 11 said PCE on it.  
 12 Q So the result of your search was a list of  
 13 documents; is that right?  
 14 A Yep.  
 15 Q Some hundreds of documents.  
 16 A Right.  
 17 Q Okay. But before you put a document on the list  
 18 you -- you read it?  
 19 A Sometimes I read it. Sometimes we had people that  
 20 were on light duty that were injured that just sat  
 21 there and read them and gave a three-sentence  
 22 brief on what it was and that's what they typed  
 23 in.  
 24 Q Somebody on light duty?  
 25 A Yeah.

1 Q I'm sorry. There was somebody helping you do  
 2 this?  
 3 A An hourly employee that gets injured, they can't  
 4 do their normal job, it's more economical for  
 5 Madison-Kipp to come into work and do something.  
 6 MR. BUSCH: Was your question when he  
 7 originally inputted, or when he exported it?  
 8 Because I think we're getting mixed up, and I  
 9 apologize.  
 10 MR. COLLINS: It is entirely your  
 11 fault, I will agree to that. Okay. We can  
 12 stipulate --  
 13 MR. BUSCH: Most things in life are.  
 14 MR. COLLINS: I understand you have  
 15 daughters.  
 16 MR. BUSCH: Yes, I do.  
 17 MR. COLLINS: I have three daughters,  
 18 too. So I'm learning.  
 19 Q All right. Here's what I'm -- what I want to know  
 20 about is the selection of PCE documents under the  
 21 consulting agreement. So I'm talking about the  
 22 work you did, I'm imagining, in -- in very late  
 23 2011 or early 2012.  
 24 A Right.  
 25 Q That's the work I'm talking about.

1 A Okay.  
 2 Q Now, are there injured guys helping you do that?  
 3 A There were injured people entering the data. You  
 4 asked me if I read it all, and I haven't read  
 5 every document in there.  
 6 Q Okay. So you were making the selections of the  
 7 PCE documents to forward on; is that right?  
 8 A I selected the PCE category and it gave me the  
 9 printout. And then I believe Leah went through  
 10 every document --  
 11 Q I'm not asking you what Leah did.  
 12 A -- to verify that my list was correct.  
 13 Q Okay. So what did you do to identify the -- Did  
 14 you do anything other than --  
 15 A I gave them the number of the document.  
 16 Q Okay.  
 17 A You see the document number that's on the top  
 18 of -- like that one there? That's document 725.  
 19 Q Okay. Well, how did you know to put document 725  
 20 on your list?  
 21 A Because somewhere in there it said PCE, and that  
 22 was --  
 23 Q That's all it took?  
 24 A -- the category it was filed under.  
 25 Q Okay. All right. Who put the number on the

1 document?  
 2 A It was either me or whoever filed it.  
 3 Q Originally.  
 4 A Originally.  
 5 Q Okay. Because your filing system required a  
 6 number, every document be given a number?  
 7 A Right.  
 8 Q Okay.  
 9 A Because it's not in any order. It's just  
 10 basically random number.  
 11 Q All right. So when you were done with this effort  
 12 what you turned over was a -- a list of documents;  
 13 not the documents themselves, right?  
 14 A Yes.  
 15 (Exhibit No. 8 was marked for  
 16 identification.)  
 17 BY MR. COLLINS:  
 18 Q What's the matter? I'm sorry.  
 19 A I'm just chronologically trying to get this in my  
 20 head.  
 21 Q Okay. All right. Before you look at that, let me  
 22 ask you some -- a couple questions that don't have  
 23 anything to do with the document.  
 24 Okay. So your work with the Michael  
 25 Best lawyers in preparing for this deposition,

1 that was not your first involvement with Michael  
 2 Best lawyers at Madison-Kipp, correct?  
 3 A You mean just in general?  
 4 Q Yeah.  
 5 A Yes. I've met with them before.  
 6 Q Okay. And you've met with Michael Best lawyers  
 7 while you were employed at Madison-Kipp in  
 8 connection with the PCE contamination, right?  
 9 A Prior to this agreement, or after?  
 10 Q Yeah.  
 11 A Prior?  
 12 Q There was reference, for example, to a guy named  
 13 Hanson.  
 14 A Yeah.  
 15 Q Dave Hanson, and you said that was a Michael Best  
 16 lawyer, right?  
 17 A Yes.  
 18 Q Well, how did you know that?  
 19 A How did I know that? I recognized his name  
 20 because I've dealt with him on other issues.  
 21 Q You have dealt with him on other issues.  
 22 A Yes.  
 23 Q Did you ever deal with him on the PCE  
 24 contamination issue?  
 25 A I don't believe so, no.

1 Q Okay. You know a lawyer, Michael Best lawyer  
 2 named Crass?  
 3 A Dave Crass? Yes.  
 4 Q Okay. And did you deal with him on the PCE  
 5 contamination issue?  
 6 A I want to say yes.  
 7 Q Okay. Concerning what topics?  
 8 A I don't recall.  
 9 Q Okay. Have you dealt with any other Michael Best  
 10 lawyers besides possibly Hanson, Crass and these  
 11 two folks in the room here today, about the PCE  
 12 contamination issue?  
 13 A What was the name of the -- the -- the first  
 14 deposition prep that I went through about 10  
 15 months ago when we were going to have a  
 16 deposition?  
 17 Q Okay.  
 18 A There was another Michael Best lawyer there, and I  
 19 can't remember his name.  
 20 Q Okay. All right. So what was your -- setting  
 21 aside deposition preparation, let's go back to  
 22 when you were at Madison-Kipp and -- and -- and  
 23 working on PCE contamination-related issues. What  
 24 was your understanding of the role that Michael  
 25 Best was playing regarding the PCE contamination?

1 A I don't -- I don't recall a big role at all. As  
 2 far as I know, I don't know. I don't remember  
 3 any -- It's been too long. I don't remember any  
 4 of the conversations that happened way back when.  
 5 Q Do you know who the Michael Best lawyers were  
 6 dealing with at the company concerning the PCE  
 7 contamination? I gather it wasn't you, or it  
 8 wasn't you very much, right?  
 9 A It wasn't me very much.  
 10 Q All right. Who were they dealing with, if you  
 11 know?  
 12 A I don't really know. They had their favorite  
 13 group of lawyers, which was Dave Crass.  
 14 Q Who had their favorite group of lawyers?  
 15 A Madison-Kipp did. The people they normally --  
 16 Q And when you say they, what people are you --  
 17 A Well, upper management.  
 18 Q Same guys we've been talking about?  
 19 A Yeah.  
 20 Q Okay. Okay. All right. Let's look at, please,  
 21 at Lenz No. 8. And just let me know when you're  
 22 ready to go, please.  
 23 (Discussion off the record.)  
 24 THE WITNESS: Okay.  
 25 BY MR. COLLINS:

1 Q Okay. Can I ask you questions?  
 2 A Yep.  
 3 Q Okay. You recall seeing this letter before today?  
 4 A I must have. It's my handwriting doing the 731,  
 5 so --  
 6 Q All right. So in the first paragraph, in the  
 7 first paragraph one of the sentences says the  
 8 modification to the table, which is Table 1  
 9 attached to the letter, relate to the elimination  
 10 of soil sampling previously proposed along the  
 11 storm sewer, and then it goes on. Do you see that  
 12 passage?  
 13 A Yes.  
 14 Q Do you recall elimination of soil sampling along  
 15 the storm sewer line?  
 16 A No.  
 17 Q Do you recall a time when soil sampling along the  
 18 storm sewer line was going to be done?  
 19 A No.  
 20 Q All right. Do you recall a time when someone said  
 21 we're not going to do soil sampling along the  
 22 sewer line, along the storm sewer?  
 23 A No.  
 24 Q Do you recall anyone asking you for the location  
 25 of the -- of various utilities, including the

1 storm sewer line?  
 2 A Yes.  
 3 Q For purposes of possible environmental testing.  
 4 Yes?  
 5 A Yep.  
 6 Q Who asked you for that stuff?  
 7 A That would have been Bob Nauta.  
 8 Q Did you give it to him?  
 9 A Yes.  
 10 Q To your knowledge, was there ever any  
 11 environmental testing along these utility lines,  
 12 storm sewer lines and others?  
 13 A I believe there was, yes.  
 14 Q You believe there was?  
 15 A (Witness nods.)  
 16 Q Why do you believe that? Did somebody tell you  
 17 that? Did you see something?  
 18 A Because I remember they wanted -- You know, you  
 19 need to clarify which storm sewer line because  
 20 there's storm sewers all over the entire facility.  
 21 Q Okay. So there were for some -- there was some  
 22 testing along some storm sewer lines?  
 23 A Yeah.  
 24 Q Okay. Second paragraph of the letter, middle of  
 25 that paragraph says nor do the costs include those

1 associated with a comprehensive site-wide  
 2 monitoring program. Do you see that?  
 3 A Yes.  
 4 Q All right. Do you recall a site-wide --  
 5 comprehensive site-wide monitoring program being  
 6 discussed or considered?  
 7 A No.  
 8 Q Do you know if there ever was a comprehensive  
 9 site-wide monitoring program undertaken?  
 10 A Define site-wide monitoring program.  
 11 Q Well, any way that you'd define it.  
 12 A There are monitoring wells all around the entire  
 13 property, both deep and shallow. So, I mean --  
 14 Q Today you mean?  
 15 A Yeah. They're still doing that today.  
 16 Q Okay. When did that start? Under your  
 17 definition, when did the site-wide monitoring  
 18 start?  
 19 A As soon as a well was put in it was monitored.  
 20 Started out quarterly and switched to --  
 21 Q I'm focusing on the site-wide part. I mean, I  
 22 know there were some wells, but -- Okay. Okay.  
 23 Let's look at --  
 24 A I don't think this was ever done.  
 25 Q The -- What's that?

1 A The whole document was never done.  
 2 Q Okay. Why not?  
 3 A Because it was determined that we couldn't dig as  
 4 close to the building as they wanted to dig.  
 5 Q So nothing in the document was ever done,  
 6 according to your understanding?  
 7 A Yeah. That there was a proposal after this that  
 8 was actually completed.  
 9 Q Okay.  
 10 (Exhibit No. 9 was marked for  
 11 identification.)  
 12 BY MR. COLLINS:  
 13 Q 9's pretty short. Lenz No. 9 is a short  
 14 one-pager. It's a -- an e-mail, or memo, if you  
 15 will, from Tom Caldwell to you, copy to Meunier.  
 16 A Yeah.  
 17 Q Tell me what this is about, please.  
 18 A I don't recall this.  
 19 Q Caldwell is asking if you can extend a certain  
 20 regression line; is that right?  
 21 A Yeah.  
 22 Q Do you know what he's talking about there?  
 23 A Regression lines are the lines on Bob Nauta's  
 24 drawings saying the concentrations at different  
 25 spots.

1 Q And how they change over distance?  
 2 A Correct.  
 3 Q Okay. Now, is that -- is that something that you  
 4 were competent to do in 2002, extending regression  
 5 lines?  
 6 A It's just math. I would say --  
 7 Q It's just math knowing how chemical concentrations  
 8 in soil or water diminish over distance? Is that  
 9 what we're talking about here?  
 10 A I believe he's extrapolating data points to run a  
 11 line that says if the concentration is here, then  
 12 you can extrapolate that one -- the next  
 13 concentration's going to be here. I'm just  
 14 guessing. I don't remember this document.  
 15 Q All right. Do you understand the references to  
 16 the property line and references to whose  
 17 properties we're talking about? Why is  
 18 Mr. Caldwell referencing those things here?  
 19 A I have no idea.  
 20 Q Okay. Do you recall whether Mr. Caldwell was  
 21 hoping that the result of your extending the  
 22 regression line would be that the off-site  
 23 properties, the nearby neighbors' properties, were  
 24 not implicated?  
 25 MR. BUSCH: Object to the form. Calls

1 for speculation. Go ahead and answer.  
 2 THE WITNESS: I can't answer that  
 3 question. I don't remember.  
 4 BY MR. COLLINS:  
 5 Q You don't remember?  
 6 A I don't remember this document. I don't remember  
 7 doing the regression.  
 8 Q Do you recall any discussion at the company about  
 9 how the -- the company's hoping that the  
 10 environmental problem did not go off site and  
 11 affect the neighbors?  
 12 A Yes.  
 13 Q All right. Do you recall any concern at the  
 14 company about what problems might result if any of  
 15 this PCE contamination did go off site and affect  
 16 the neighbors?  
 17 A Yes.  
 18 Q Okay. What do you recall along those lines?  
 19 A That the problem was going to be a lot worse  
 20 because then -- It was easy to do remediation on  
 21 our property, but it's very difficult to do it on  
 22 neighbors' properties.  
 23 Q You said the problem was going to be a lot worse  
 24 if the contamination went off site to the  
 25 neighbors' property, right?

1 A Yes.  
 2 Q What do you mean by a lot worse?  
 3 MR. BUSCH: He just answered.  
 4 MR. COLLINS: Well, I don't know that  
 5 he did.  
 6 MR. BUSCH: Okay.  
 7 BY MR. COLLINS:  
 8 Q So what do you mean by a lot worse?  
 9 A Because now we need to do remediation on the  
 10 neighbor's property, which is going to disturb  
 11 other people's property, lives, and we're not --  
 12 it's much more difficult to do that.  
 13 Q Was part of the concern that it would be more  
 14 expensive to deal with an environmental problem on  
 15 neighbors' properties?  
 16 MR. BUSCH: Object. Lack of  
 17 foundation. Go ahead and answer.  
 18 BY MR. COLLINS:  
 19 Q Was that a concern expressed? That this is going  
 20 to be a lot more expensive to deal with if the  
 21 contamination has gone on to the neighbors'  
 22 properties?  
 23 A Yes, it was a concern.  
 24 Q Sure. Expressed by whom?  
 25 A Tom Caldwell.

1 Q Okay. And isn't it true that that concern delayed  
 2 some environmental testing off site, the cost of  
 3 contamination going off site?  
 4 A I don't recall it delaying anything for that.  
 5 Q Okay. Well, how did the concern over what this  
 6 all would cost if the contamination has gone off  
 7 site on to neighbors' properties reflect itself in  
 8 the company's decision making about how to deal  
 9 with the PCE contamination problem?  
 10 A They were committed to cleaning it up if it went  
 11 off site.  
 12 Q How do you know that?  
 13 A Because they did remediate some of it off site.  
 14 Q Tell me about that.  
 15 A They did that BiOx injection in the backyard of  
 16 one of the neighbors.  
 17 Q Okay. Anything else besides the BiOx injection?  
 18 A If I recall, they scraped some topsoil off, too.  
 19 Q Okay. Were you involved in the decision about  
 20 whether or not to remove contaminated topsoil from  
 21 neighbors' properties?  
 22 A No.  
 23 Q Who made that decision?  
 24 A Probably Mark Meunier and Tom Caldwell.  
 25 Q Well, who were the deciders about whether to test

1 in the neighborhood adjacent to Madison-Kipp for  
 2 PCE contamination? Who made those decisions?  
 3 A I'm not absolutely certain.  
 4 Q Well, who do you believe made those decisions?  
 5 A Dames & Moore and Mark Meunier.  
 6 Q Well, Dames & Moore made a recommendation, right?  
 7 A Right.  
 8 Q So who at the company decided whether or not money  
 9 was going to be spent to test in the neighborhood?  
 10 MR. BUSCH: Wait until he's done.  
 11 THE WITNESS: Yeah. Sorry. I believe  
 12 that would be Tom Caldwell.  
 13 BY MR. COLLINS:  
 14 Q Okay. Because he made those kind of financial  
 15 decisions?  
 16 A Yes.  
 17 Q Was Coleman involved in that decision?  
 18 A I don't know.  
 19 Q Okay. Would you have expected that he would have  
 20 been?  
 21 A I would expect he'd be informed.  
 22 Q Okay. And who at the company decided whether the  
 23 neighbors should be told about any aspect of the  
 24 contamination and if so, what they should be told?  
 25 Who within the company made those decisions?

1 A It must have been the executive staff because it  
2 didn't come from me.  
3 Q Wasn't you?  
4 A No.  
5 Q Okay. Were you ever involved in discussions about  
6 well, should we tell the neighbors this, should we  
7 not?  
8 A No.  
9 Q Was there ever any discussion at the company that  
10 you were involved in or of which you were aware  
11 expressing concern over possible ill health  
12 effects to the neighbors because of contact with  
13 PCE contamination?  
14 A I don't recall any conversations.  
15 Q Any conversations like that?  
16 A Like that.  
17 Q Okay.  
18 (Exhibit No. 10 was marked for  
19 identification.)  
20 BY MR. COLLINS:  
21 Q Let me know when you're ready. Let me know when  
22 you're ready. You got to deal with something?  
23 A No.  
24 Q Okay.  
25 A I'm ready.

1 Q Okay. All right. So this is a -- Lenz No. 10 is  
2 an August 31, 2006 memorandum from Dino Tisoris at  
3 WDNR to the file. Says on August 30, 2006 I met  
4 with Mark Meunier of Madison-Kipp and Bob Nauta,  
5 RSV Engineering, environmental consultant for MKC.  
6 Site investigation and remedial action activities  
7 in recent months have not been conducted. I had  
8 stated that the lack of progress was unacceptable.  
9 You see that?  
10 A Yes.  
11 Q Okay. Now, 2006 was just about the end of your  
12 tenure, your 10-year tenure as environmental  
13 manager, right?  
14 A Correct.  
15 Q Did you know at about this time that Dino Tisoris  
16 of WDNR had -- was -- was concerned about  
17 investigation, remedial activities not having been  
18 conducted and finding the lack of progress by MKC  
19 unacceptable? Did you know he felt that way?  
20 A No.  
21 Q Okay. He didn't say that to you?  
22 A Dino?  
23 Q Yeah.  
24 A I haven't talked to Dino in a long, long time.  
25 Q Well, but, I mean, back in 2006 did he tell you

1 that?  
2 A Dino? No.  
3 Q Was he dealing with you about those kinds of  
4 issues?  
5 A No.  
6 Q Who was he dealing with?  
7 A Mark Meunier.  
8 Q Okay. So Meunier never told you that DNR felt  
9 this way, right?  
10 A No.  
11 Q Okay. Second paragraph down near the bottom of it  
12 says however, if the appropriate and necessary  
13 actions for investigation and cleanup of the PCE  
14 system do not proceed in a timely manner,  
15 enforcement action, including the use of a consent  
16 order, would be initiated. Do you see that?  
17 A Yes.  
18 Q Did you know he felt that way about it?  
19 A No.  
20 Q Was there ever any discussion within the company  
21 that if we don't make more progress or better  
22 progress here, that WDNR could sue us?  
23 A Not that I heard of, no.  
24 Q All right. All right. The beginning of that  
25 paragraph says Mark Meunier stated that MKC had to

1 meet a production deadline under contract for the  
2 start-up of their new facility in Sun Prairie. Do  
3 you see that?  
4 A Yes.  
5 Q All right. Did -- Did you know that at some point  
6 there was a new facility in Sun Prairie for MKC?  
7 A Yes.  
8 Q To your knowledge, did that play any role in  
9 whether MKC was able to do the investigation and  
10 cleanup work on the PCE problem that it needed to  
11 do?  
12 A I didn't know how it relates to PCE, no.  
13 Q Well, did you ever hear from Meunier or anybody  
14 that because we're starting up this new facility  
15 in Sun Prairie we don't have the money necessary  
16 to do the investigation and cleanup of the PCE  
17 problem?  
18 A No. Never heard that.  
19 Q Never heard that?  
20 A (Witness nods.)  
21 Q If that were true, was that something you would  
22 have heard?  
23 MR. BUSCH: Object to form. Go ahead  
24 and answer.  
25 THE WITNESS: Maybe.

1 BY MR. COLLINS:  
 2 Q Okay. Do you think that's a -- I mean, that was  
 3 an explanation that was offered to DNR, according  
 4 to that memo. Do you think that was a false  
 5 explanation?  
 6 A No. The -- Assuming the timing is all right here,  
 7 they were really financially strapped then.  
 8 Q Okay. It's -- It sounds to me like, just from  
 9 the -- your answers in this deposition, like the  
 10 communications that the company was having with  
 11 WDNR and disputes that the company may have been  
 12 having with WDNR were not things that you were  
 13 involved in; is that right?  
 14 A Correct.  
 15 Q All right. That was being dealt with at some  
 16 other level of the company, right?  
 17 A Correct.  
 18 Q So even during the 10 years that you were the  
 19 environmental manager and the company was  
 20 addressing the PCE contamination problem and --  
 21 and working with DNR on it, during that 10-year  
 22 period when you were environmental manager you  
 23 were not kept in the loop by upper management at  
 24 the company about disputes with DNR over what  
 25 needed to be cleaned up and when, right?

1 A Correct.  
 2 Q You were kept in the dark about that stuff?  
 3 MR. BUSCH: Object to the form.  
 4 THE WITNESS: Yes.  
 5 BY MR. COLLINS:  
 6 Q All right. One more.  
 7 (Exhibit No. 11 was marked for  
 8 identification.)  
 9 BY MR. COLLINS:  
 10 Q Okay. Let me know when I can talk to you about  
 11 it.  
 12 A Go ahead.  
 13 Q Okay. So there's a couple of e-mails on this --  
 14 on this Lenz No. 11. This is after the redaction.  
 15 The top one I want to ask you about, which is from  
 16 Bob Nauta to Renee Exum, do you see that?  
 17 A Yes.  
 18 Q Do you know who Renee is? Is that a name familiar  
 19 to you?  
 20 A The name was familiar, but I couldn't place her  
 21 until I read the bottom where it says Michael  
 22 Best.  
 23 Q Okay. Did you ever deal with Renee?  
 24 A I remember seeing her name on some documents, but  
 25 that's about it. I don't think I've ever talked

1 to her.  
 2 Q All right. So in this -- this e-mail is dated  
 3 April 9, 2008. And you're still at the company at  
 4 that time, right?  
 5 A Correct.  
 6 Q Okay. And it says -- Nauta says to Renee at  
 7 Michael Best Hi, Renee. Here's the sordid story.  
 8 We have almost all the results all tabulated and  
 9 ready to submit to the DNR in an annual report.  
 10 Problem is we don't have one round of soil vapor  
 11 analyses. Kipp is taking forever to pay their  
 12 bills, and the lab that did the analysis won't  
 13 give us the results until we pay them. I'd be  
 14 happy to give you all the other results. There  
 15 will just be one round of soil vapor results that  
 16 won't be included. Thanks, Bob. Do you see that?  
 17 A Yes.  
 18 Q Okay. This, at least as is being related here by  
 19 Nauta, there's some environmental bills that Kipp  
 20 is not paying, right?  
 21 A Looks that way.  
 22 Q All right. Did you ever hear about that kind of  
 23 problem occurring before this? Kipp not paying  
 24 its environmental bills.  
 25 A At that timeframe Kipp wasn't paying any bills and

1 they were on cash with all kinds of people.  
 2 Q Well, being on cash means paying your bills in  
 3 cash, right?  
 4 A Yeah.  
 5 Q Doesn't mean not paying bills, right?  
 6 A Some of them they were out two years on.  
 7 Q All right. So what was going on at this time?  
 8 A This was right after the 2008 crash, and order --  
 9 automotive orders fell to nothing and there was no  
 10 money anywhere.  
 11 Q Okay. So how did it -- how did it affect the  
 12 investigation and remediation of the PCE  
 13 contamination problem?  
 14 A I know nothing beyond what that says on this  
 15 letter because I wasn't involved at that time. I  
 16 was a manufacturing engineer.  
 17 Q Okay. But would it be your expectation that bills  
 18 for environmental work were delayed, or payment of  
 19 those bills was delayed as other bills' payment  
 20 was delayed?  
 21 A I expect they were.  
 22 Q Okay. Do you believe that Madison-Kipp has  
 23 adequately addressed the PCE contamination  
 24 problem?  
 25 MR. BUSCH: Object to the form. Lack

1 of foundation, time. Go ahead and answer.  
 2 THE WITNESS: Can you repeat it?  
 3 BY MR. COLLINS:  
 4 Q Yeah. Let me ask it this way. Mr. Lenz, isn't it  
 5 true to say that you don't believe Madison-Kipp  
 6 has adequately addressed the PCE contamination  
 7 problem?  
 8 MR. BUSCH: Object to form. Lack of  
 9 foundation. Go ahead and answer.  
 10 THE WITNESS: I would say that that's  
 11 probably true.  
 12 MR. COLLINS: Thank you. I'm done.  
 13 Thank you.  
 14 MR. BUSCH: I'm not going to start  
 15 anybody else with 15 minutes to go. So we'll --  
 16 If you need to reschedule, we'll reschedule.  
 17 MR. WHITE: I think 15 minutes is  
 18 probably going to be about sufficient.  
 19 MR. BUSCH: Well, I'm not going to  
 20 start with 15 minutes.  
 21 MR. COLLINS: It's your call. So,  
 22 what do you want to do?  
 23 MR. BUSCH: I want to go.  
 24 MR. COLLINS: Reschedule the next  
 25 round? Well, we got lots of times when

1 everybody's meeting together.  
 2 MR. BUSCH: Yeah, that's what I  
 3 thought. There are a lot of fill-in times.  
 4 MR. WHITE: Okay. Well, just for the  
 5 record I'll say Continental Casualty Company and  
 6 Columbia Casualty Company do have questions for  
 7 this witness.  
 8 MR. BUSCH: Yeah. Oh, yeah. I'm not  
 9 suggesting --  
 10 MS. KREIL: And I just want to make it  
 11 clear that United States Fire also reserves the  
 12 the right to --  
 13 MR. BUSCH: That's what I thought,  
 14 too.  
 15 MR. COLLINS: I think that's clear. I  
 16 think you made a good record on that.  
 17 MR. BUSCH: E-tran with exhibits and  
 18 compressed.  
 19 MR. COLLINS: Full size pdf with  
 20 exhibits and compressed.  
 21 MS. KREIL: E-tran with exhibits and  
 22 compressed.  
 23 MR. WHITE: E-tran with exhibits and  
 24 compressed.  
 25 (At 4:45 p.m. the deposition

1 adjourned.)  
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1 STATE OF WISCONSIN )  
 2 MILWAUKEE COUNTY ) SS:  
 3 I, KIM M. PETERSON, CM, Registered  
 4 Professional Reporter and Notary Public in and for the  
 5 State of Wisconsin, do hereby certify that the deposition  
 6 of JAMES LENZ, was taken before me at the law offices of  
 7 Whyte Hirschboeck Dudek, 33 East Main Street, Madison,  
 8 Wisconsin, on the 28th day of September 28, 2012, 2012,  
 9 commencing at 9 o'clock in the 10:00 in the forenoon.  
 10 That it was taken at the instance of  
 11 the Plaintiffs upon verbal interrogatories.  
 12 That said deposition was taken to be  
 13 used in an action now pending in the United States  
 14 District Court, Western District of Wisconsin, Wisconsin,  
 15 in which KATHLEEN McHUGH AND DEANNA SCHNEIDER, et al.,  
 16 are the Plaintiffs, MADISON-KIPP CORPORATION, CONTINENTAL  
 17 CASUALTY COMPANY, UNITED STATES FIRE INSURANCE COMPANY  
 18 and ABC INSURANCE COMPANIES 1-50, are the Defendants,  
 19 MADISON-KIPP CORPORATION, is the Cross-Claimant,  
 20 CONTINENTAL CASUALTY COMPANY, COLUMBIA CASUALTY COMPANY  
 21 and UNITED STATES FIRE INSURANCE COMPANY, are the  
 22 Cross-Claim Defendants, CONTINENTAL CASUALTY COMPANY and  
 23 COLUMBIA CASUALTY COMPANY, are the Cross-Claim  
 24 Defendants, and LUMBERMENS MUTUAL CASUALTY COMPANY,  
 25 AMERICAN MOTORISTS INSURANCE COMPANY and JOHN DOE





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Table with multiple columns of text containing names, dates, and various alphanumeric codes (e.g., MK006604-6..., moved 35:12, 184:2 196:23).

Table with multiple columns of text containing names, dates, and various alphanumeric codes (e.g., 43:24 44:22, 123:1 189:2, 180:25 obviously).

Table with multiple columns of text containing names, dates, and various alphanumeric codes (e.g., 138:10,20, 139:1,12,18,20, 142:5 143:8,17).

Table with multiple columns of text containing names, dates, and various alphanumeric codes (e.g., 76:19,21,25, 79:12 80:16, 84:24 86:10).



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Table with multiple columns of numbers and text, including categories like 'year-and-a-half', 'Z', 'I', 'X', 'Y', and 'workers'.

Halma-Jilek Reporting, Inc. Experience Quality Service! (414) 271-4466

Table with multiple columns of numbers and text, including categories like '2', '3', '4', '5', '6', '7', '8', '9'.

Halma-Jilek Reporting, Inc. Experience Quality Service! (414) 271-4466

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UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin

Kathleen McHugh, et al., Plaintiff v. Madison-Kipp Corporation, et al., Defendant

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Mr. James Lenz, c/o Mr. Mark Ringemuth, 10 E. Doly Street, Suite 600, Madison, WI 53703

YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken on this civil action.

Place: Whyte Altonchek & Dalek, S.C., 35 Main Street, Suite 300, Madison, WI 53703

The deposition will be recorded by this method: court

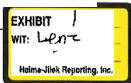
Production: Yes, or your representatives, must also bring with you to the deposition the following documents electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material.

All documents concerning any environmental matters at the Madison-Kipp Corporation site located at 301 Wauhoose Street, Madison, WI 53704

The provisions of Fed. R. Civ. P. 35(e), relating to your protection as a person subject to a subpoena, and Rule 15 (d) and (e) relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 06/08/2012 CLERK OF COURT OF Signature of Clerk on Deposition

The name, address, e-mail, and telephone number of the attorney representing you or your organization, who issues or requests this subpoena, are: Edward J. Monckey, The City of Madison Law Firm, P.C., 1773 N. Park Street, Suite 200, Friesland, WI 53583, (608) 577-1850, ejmonckey@madisonlaw.com



CONSULTING AGREEMENT

Madison-Kipp Corporation ("Madison-Kipp"), by its undersigned attorneys, and James Lenz ("Mr. Lenz") hereby enter into the following Consulting Agreement.

As a former employee, Mr. Lenz may possess information relevant to the matter McHugh v. Madison-Kipp Corporation currently pending in the District Court for the Western District of Wisconsin ("Matter"). Madison-Kipp recognizes that Mr. Lenz can and should be compensated for any time he spends assisting Madison-Kipp in the Matter and hereby agrees to compensate Mr. Lenz \$50 per hour which both parties agree is a reasonable amount.

As a consultant, Mr. Lenz will be operating as an independent contractor, not as an employee. It is understood by both parties that in performing any work hereunder Mr. Lenz, consistent with his normal practice, will conduct himself in an honest and forthright manner.

As additional consideration to the compensation referenced above, Madison-Kipp hereby agrees to indemnify and hold Mr. Lenz and his attorney harmless from any potential liability he may incur as a result of acts or omissions resulting from or arising out of either his prior employment with Madison-Kipp or as a result of this consultancy. Madison-Kipp also agrees that the duty to indemnify and hold Mr. Lenz harmless referenced above also includes a duty to defend Mr. Lenz against claims allegedly arising from acts or omissions relating to or arising out of Mr. Lenz's past employment with Madison-Kipp or arising out of this consultancy agreement.

Madison-Kipp agrees that it will be responsible for the payment of reasonable fees incurred by Mr. Lenz's attorney in reviewing the provisions hereof.

Dated this 5 day of December 2011.

Michael I.P. Attorney for Madison-Kipp Corporation

063628-0990.10486153.1







Date: April 7, 1994  
 To: Lyle Crouse  
 Copy: Tom Caldwell  
 From: Jack Schroeder  
 Subj: Madison Brass Works

Following up my voice mail, I received a call from Mike Halsted of the WDNR who was seeking information regarding ground water contamination of the Madison Brass Works site (across the street). The Madison Brass Works site investigation that has been conducted thus far indicates contamination originates off-site.

I told Mike that I that we do not currently use Tetrachloroethene (otherwise know as perchloroethylene or perk). This is a chlorinated solvent commonly used by dry cleaners but was also used as a degreasing solvent. I indicated that there was a past history at the Kupfer Iron Works (now called Dura-Line Scales) facility for soils contamination and underground storage tank removal. I also provided Mike the report number of the investigation that was done at the Kupfer site.

Mike indicated that he had received a closure request from MBW but had requested MBW to conduct further testing before he would present facts to a 3 member panel that reviews closure requests. The consulting representatives for MBW objected to further testing and worded their response to WDNR such that Mike must make his presentation to the review panel now. This is expected to occur 4/18/94. Because the level of ground water contamination is higher than the regulatory action limits for drinking water standards, it is possible (in my opinion probable) that closure will not be granted until the source of contamination is located and extent of contamination defined.

REDACTED

Mike said he would provide me with blind copies of all correspondence on the issue. I will keep you posted on any new information I receive.

EXHIBIT  
 WT: 10  
 DATE: 9  
 Halm-Jack Reporting, Inc.

MK005381

MK006604

## Today's Situation

- Scattered Environmental Problems
  - Groundwater
    - Levels exceed state enforcement limits
  - Soil
    - levels could exceed state enforcement limits
- DNR is asking "What is MKC Doing?"
- Need to submit the June and July Sampling results.

## How Did We Get Here?

- No solid leads on what happened to contaminate the property.
  - Various spills throughout the years
  - Degreasing tank
  - Surrounding companies
- Original assumption that is no longer valid
  - Surrounding companies did not cause the problem.

MK006605

MK006605

Environmental  
 Dames & Moor Meeting 2/1/96

HS & E Manager  
 Madison-Kipp Corporation

## Available Options (cont.)

- Advantages & Disadvantages Option 2
  - Advantages
    - Do not commit to anything
    - Try to direct the DNR to MKC Goals
  - Disadvantages
    - DNR is directly involved in directing remedial actions
    - DNR could demand more stringent remedial actions

MK006609

## Available Options

- We must submit the June and July sampling results to the state
- Three options with this report
  - Option 1 - Tell DNR results and nothing else
  - Option 2 - Tell DNR results and ask for meeting
  - Option 3 - Tell DNR results and describe Proposed MKC actions

MK006607

## Available Options (cont.)

- Advantages & Disadvantages Option 3
  - Advantages
    - Pro e ach
    - Directs DNR to MKC goals
    - o give s s
  - Disadvantages
    - Sampling could lead to finding more contamination
    - DNR could reject remedial plan

MK006610

## Available Options (cont.)

- Advantages & Disadvantages Option 1
  - Advantages
    - Do not commit to anything
  - Disadvantages
    - Gives the DNR opportunity to direct action
    - Could get into a RCRA Remedial Action

MK006608

## Recommendation

- Option 3 should be the best for MKC
  - DNR would view MKC as a proactive company
  - This would keep MKC in control of the remedial proposals
  - Should see positive results from tests

MK006613

## Cost

- Option 1
  - If DNR directs remedial actions could be more costly
  - If DNR directs RCRA Remedial Action cost could likely double
- Option 2
  - Heavier involvement of the DNR in constructing action plan likely to increase costs

MK006611

## Elements of Option 3

- Hydropunch at northeast corner of Atwood Ave. and Waubesa St.
  - Expected outcome is to limit contamination plume to present size.
- Complete a dual phase pilot study, by Monitoring Well #1 (Back Parking Lot).
  - (Test remediation options: soil vapor extraction and groundwater pump and treat
  - Expected outcome-remediation not feasible-continue to monitor.

MK006614

MK006612

## Cost (cont.)

- Option 3
  - MKC's plan designed to provide compliance, cost efficiency (est. \$30K)
  - Subject to DNR approval

# Elements to Option 3 (cont.)

- Two or more soil samples east of the storm sewer
  - may be required to completely describe area of concern. Outcome could be negative but likely required to get DNR to approve plan.

MK006615

**M/K**  
 Madison-Kipp  
 Corporation

Address: 231 Waubesa Street, Madison, WI 53704  
 Telephone: 608-244-2511  
 Facsimile: 608-244-4574

## MEMO

CONFIDENTIAL

To: Lyric Crouse  
 From: Reed Coleman  
 Subject: Inquiries concerning remediation  
 Date: March 25, 1996

It is unlikely that we will have any inquiries in the next two or three days but since both Tom and I will be out of town and unreachable, I want to present what seems an appropriate response to news paper and television inquiries. There are four points we would make:

- We would expect this condition to be present at any location where manufacturing has gone on for as long as it has at Madison Kipp.
- This substance is very common and is still used in certain controlled applications in manufacturing, but Madison-Kipp has not used it for many years.
- There is no immediate health hazard connected with this remediation process. We are not near any public water source, there are no wells in the area and the substance travels through the soil at no more than seven and a half or eight feet per year.
- Our remediation program designed by a professional engineering concern will have the situation cleared up long before it could be of any harm.

The objective here is to put the problem in the proper perspective as a rather normal, rather wide spread occurrence which presents no health hazard and which Madison-Kipp plans to take care of in accordance with all the best recommendations, regulations and procedures.

cc Richard E. Riesen  
 Bud Hauser  
 Thomas Caldwell

WIT:  
 DATE:   
 Helme-Jinek Reporting, Inc.

MK006681

**M/K**  
 Madison-Kipp  
 Corporation

Address: 231 Waubesa Street, Madison, WI 53704  
 Telephone: 608-244-2511  
 Facsimile: 608-244-4574

## MEMO

To: Thomas Caldwell and Richard E. Riesen  
 From: Reed Coleman  
 Subject: Environmental situation  
 Date: March 19, 1996

Dave Hanson will be faxing to us this morning a revised set of common points to cover concerning the remediation at Madison-Kipp Corporation. I just want to add those that I think are pertinent at this point, in case they are not included in his material.

We should make clear that these substances were in common use in industry for many, many years and that any manufacturing site producing the kinds of products produced by Madison-Kipp over a 100 year period would be expected to have used the substances and to have used them in such a way that minor amounts by volume would have found their way into the soil.

We should make clear that these substances are not used now and have not been used for many years, their persistence however, makes it quite possible that levels such as have been identified could still be present in soils around the plant.

We should make sure that the right people say that Madison-Kipp has not in any way either in the past or in the present acted illegally in the use or control of these substances.

We should make it understood that when these substances were used, they were used in a manner providing safeguards for those who used the substances and also that the way in which these substances were used did not present a health hazard to Madison-Kipp employees.

Finally, we should indicate that levels of these substances in their current locations do not present a public health risk at the present time and that we plan to use the most effective means to neutralize the substance concentrations in such a way that there will be no future public health risk.

EXHIBIT  
 WIT:  
 DATE:   
 Helme-Jinek Reporting, Inc.

MK006682

07/12/96 09:25 8082500623 WOOD COMM. 03/02/2002

DRAFT - DRAFT - DRAFT

### DRAFT

July 12, 1996

### CONFIDENTIAL

Dear Neighbors

Kipp Corporation has been a good neighbor to the Madison community for nearly 100 years. Recently a few misinformed citizens have expressed concerns about our company and our operations and have made allegations of possible negative health issues.


First, let me assure you there is no threat to your health and safety as a result of our operations. Environmental, health and safety regulatory agencies have visited our facilities and certified that we are meeting, and actually do better than, state and federal regulations which are designed to protect public health and safety, as well as air and water quality. We are also well within city and state standards for noise levels.

Second, we are continually analyzing and improving each of our facilities (Fair Oaks, Atwood Avenue and the Waubesa Plant). Each improvement is thoroughly reviewed by independent agencies and permitted, as required by state and federal laws.

We hope the enclosed information will make it clear to everyone that Kipp's commitment to both the health and safety of our employees and our neighbors as well as in meeting all environmental protection standards is as strong as ever. As always, we are happy to answer any questions or concerns you may have.

Sincerely

Madison Kipp Corporation

WIT:  
 DATE:   
 Helme-Jinek Reporting, Inc.

MK006463

SENT BY: 731 3-21-96 11:18AM DAMES & MOORE 608244674:4 2/ 4



March 21, 1996

Mr. Bud Hauser  
Madison-Kipp Corporation  
P.O. Box 3037  
Madison, WI 53704

RE: Revised Estimated Cost  
Investigative Report  
Madison-Kipp Corporation Facility  
Madison, Wisconsin

Dear Mr. Hauser:

Pursuant to your request, we have re-evaluated the estimated costs for future site activities, presented in our letter to Madison-Kipp Corporation on February 5, 1996. The estimated costs for the work proposed in our letter to Pat McCutcheon of the WDNR are presented below, in Table 1. The modifications to the table relate to the elimination of soil sampling, previously proposed along the storm sewer, and the installation of two monitor wells adjacent to Atwood Avenue.

With respect to future costs, we can provide the following potential ranges of costs. Several assumptions are implicit in the ranges presented below. First, the costs do not include electrical or related costs for operation of remedial equipment. Nor do the costs include those associated with a comprehensive site-wide monitoring program, as has been recently discussed. Finally, the costs are based upon the installation of a dual phase system, with no more than two extraction points.

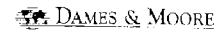
**System installation: \$25,000 to \$25,000.**  
This large range of values is due to the unknowns with respect to the number of areas at which we will need to apply remediation. The range is based upon the assumption that we can apply a remedial option such as a dual phase system, rather than a more aggressive approach, such as soil vapor extraction in combination with groundwater pump and treatment.

**First year sampling & operation: \$20,000 to \$25,000.**  
These estimates are based upon an assumption that quarterly sampling would be conducted at only the existing monitor wells, and the proposed monitor wells that will be sampled (i.e., these costs are irrespective of possible additional monitoring points required for a comprehensive monitoring network). It is also based upon the assumption that a more aggressive treatment system will not be used, as discussed in the item above.

WIT:  
DATE:  
Helma-Jilck Reporting, Inc.

MK006460

SENT BY: 3-21-96 11:19AM DAMES & MOORE 608244674:4 3/ 4



Mr. Bud Hauser  
Madison-Kipp Corporation  
March 21, 1996  
Page 2

**Per annum after first year: \$15,000 to 20,000.**  
Assuming steady or declining concentrations in the first year's monitoring, a request would be made to the WDNR to reduce the monitoring to semi-annual. The \$15,000 estimate is based upon this plan.

It is not possible at this time to project the duration of the remediation system operation. This will be based upon the effectiveness of the system (as determined in the pilot study), changing WDNR regulations, and other unknown considerations, such as the possibility of a source area or areas not yet identified. Groundwater will likely be remediated by an active process (e.g., a dual-phase extraction system), in conjunction with natural hydrodynamic and biological degradation of contaminants. It is our hope to reduce the amount of active remediation by means of negotiating risk based cleanup levels, thereby only remediating the groundwater in the immediate area of the source. However, this determination will be based upon the results of the remediation system, and the response that we receive from the WDNR.

We hope that this assessment is sufficient for your current needs. If you need a further analysis of the potential costs, please call.

Sincerely,  
DAMES & MOORE

*Robert J. Nasta*  
Robert J. Nasta, P.G.  
Hydrogeologist

rlj@hdm.com

MK006461

SENT BY: 3-21-96 11:17AM DAMES & MOORE 608244674:4 4/ 4

TABLE 1  
ESTIMATED COSTS FOR FUTURE FIELD TASKS

ITEM	UNITS	RATE	COST
<b>Field Activities</b>			
	Estimate	\$11,000	\$11,000
	Estimate	\$3,500	\$3,500
	7 ea.	\$110	\$770
<b>Labor:</b>			
Project Director	6 hrs.	\$155	\$930
Project Manager	16 hrs.	\$90	\$1,440
Project Hydrogeologist	48 hrs.	\$55	\$2,640
Clerical & Accounting	2 hrs.	\$45	\$90
Expenses	Lump	\$1,000	\$1,000
<b>Report<sup>1</sup></b>			
<b>Labor:</b>			
Project Director	6 hrs.	\$155	\$930
Project Manager	12 hrs.	\$90	\$1,080
Project Engineer	32 hrs.	\$95	\$3,040
Designer	16 hrs.	\$60	\$960
Clerical & Accounting	6 hrs.	\$45	\$270
Expenses	Lump	\$1,000	\$1,000
<b>Total cost:</b>			<b>\$28,650</b>

<sup>1</sup> Assumes that the four existing groundwater monitor wells and dual phase extraction well will also be sampled.  
<sup>2</sup> Report will include conceptual plans.

Caldwell Tom  
2002/07/24 3:07:26 PM UTC  
Lenz Jim  
Meunier Mark  
Soil gradient

Ok, you can extend the regression line in Figure 3 to 20 feet at about .1 head space concentration. Even if you re-draw the line to increase it's slope, as there are two data points at 18 feet, you still don't get to .1 in head space concentration until 18 feet, which is still over the property line, right?

So, now, whose properties are we talking about...names and addresses?



MK006462

MK006775

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

REDACTED

DATE: August 31, 2006 FILE REF: 02-13-601569
TO: Ede
FROM: Dore Ebons
SUBJECT: 8-30-06 Meeting with representatives of Madison Kipp, 204 Waubesa Street, Madison, WI

On August 30, 2006, I met with Mark Moenier of Madison Kipp Corporation (MKC) and Bob Nauta, RSV Engineering, environmental consultant for MKC. Site investigation and remedial activities in recent months have not been conducted. I have stated that the lack of progress was unacceptable. MKC requested a meeting to explain MKC's status and position regarding the site investigation and remedial activities necessary to address the PCE release at the MKC facility.

Mark Moenier stated that MKC had to meet a production deadline under contract for the startup of their new facility in Sun Prairie. This had strained both logistical and financial resources. The expectation is by the end of September 2006 sufficient resources will be available to take the necessary actions to continue to investigate and remediate the site. Immediate actions needed to begin soon; the WDNR has been working cooperatively with MKC to ensure the environmental work proceeds. However, if the appropriate and necessary actions for investigation and cleanup of the PCE system do not proceed in a timely manner, enforcement actions including the use of a consent order would be initiated.

It was verbally agreed that MKC would proceed and complete the proposed vapor sampling activities in the next 4-6 weeks. Also, MKC will install a number of injection points for the proposed ozone ground water treatment system this fall. The injection points will be used to perform a future pilot test as part of the process to evaluate the effectiveness of the technology.

It was agreed to meet in early December 2006 to discuss progress at the site and proposals for future site investigation and remedial activities.

From: Bob Nauta [mailto:bnauta@rsv-jefferson.com]
Sent: Wednesday, April 09, 2008 1:27 PM
To: Ebon, Renee V (22250)
Subject: RE: Madison Kipp

Hi Renee,

Here's the serial story. We have almost all the results of lab tests we don't have one round of soil vapor analysis. Kipp is to give us the results until we pay them. I'd be happy to give you a results that won't be included.

submit to the DNR in an annual report. Problem is, if they bill, and the lab that did the analyses won't there will just be one round of soil vapor

Thanks, Bob

Robert J. Nauta, P.G.
Vice President
RSV Engineering, Inc.
Phone: 920.674.3411
Fax: 920.674.3481
Cell: 608.695.2597

From: Ebon, Renee V (22250) [mailto:RVEbon@michalbest.com]
Sent: Wednesday, April 09, 2008 11:31 AM
To: Bob Nauta
Subject: Madison Kipp

Hi Bob,

Thanks for your call yesterday about the remediation at the Madison Kipp facility. I was wondering if you had information on what the groundwater and soil monitoring results were for 2007? All we have are the results of the April 2007 ozone pilot test that was submitted to DNR in June 2007.

Thanks Renee

Renee Ebon
mailto:renee@
MICHALBEST.COM@MICHALBEST.COM
One South Parkway Street, Suite 100
P.O. Box 146
Madison, WI 53758-0146
Direct: 608-283-2260
Fax: 608-281-2270
E-mail: renee@michalbest.com

4/9/2008

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WIT:
DATE:
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MKDNR001893

MK005710