

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

-----  
**KATHLEEN MCHUGH, and DEANNA  
SCHNEIDER, individually and on behalf  
of all persons 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,**

**v.**

**CONTINENTAL CASUALTY COMPANY,  
COLUMBIA CASUALTY COMPANY and  
UNITED STATES FIRE INSURANCE  
COMPANY,**

**Cross-Claim Defendant,**

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**(caption continued on next page)**

**DEPOSITION OF  
JEROME REED COLEMAN  
Madison, Wisconsin  
October 25, 2012  
10:27 a.m. to 3:45 p.m.**

**Michelle Hagen  
Registered Professional Reporter**

Page 2

1 -----  
 2 and  
 3 CONTINENTAL CASUALTY COMPANY and  
 4 COLUMBIA CASUALTY COMPANY,  
 5  
 6 Cross-Claim Defendants,  
 7  
 8 and  
 9 LUMBERMENS MUTUAL CASUALTY  
 10 COMPANY, AMERICAN MOTORISTS  
 11 INSURANCE COMPANY, and JOHN DOE  
 12 INSURANCE COMPANIES 1-20,  
 13 Third-Party Defendants.  
 14 -----  
 15 A P P E A R A N C E S  
 16 THE COLLINS LAW FIRM, P.C., 1770 North  
 17 Park Street, Suite 200, Naperville, Illinois 69563, by  
 18 MR. SHAWN COLLINS, smc@collinslaw.com, appeared on behalf  
 19 of the Plaintiffs.  
 20 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
 21 125 South Wacker Drive, Suite 1250, Chicago, Illinois  
 22 60606-4473, by MR. NORMAN B. BERGER, nberger@vblhc.com,  
 23 appeared on behalf of the Plaintiffs.  
 24 MICHAEL, BEST & FRIEDRICH, LLP, 100  
 25 East Wisconsin Avenue, Suite 3300, Milwaukee, Wisconsin  
 53202, by MR. JOHN A. BUSCH, jabusch@michaelbest.com,  
 appeared on behalf of the Defendant and Cross-Claimant  
 Madison-Kipp Corporation.  
 MICHAEL, BEST & FRIEDRICH, LLP, One

Page 4

1 (The original exhibits were attached to the original  
 2 transcript.)  
 3 (The original transcript was sent to Mr. Collins.)  
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Page 3

1 South Pinckney Street, P.O. Box 1806, Madison, Wisconsin  
 2 53701-1806, by MS. LEAH H. ZIEMBA,  
 3 lhzienba@michaelbest.com, appeared on behalf of the  
 4 Defendant and Cross-Claimant Madison-Kipp Corporation.  
 5 TROUTMAN SANDERS, LLP, 55 West Monroe  
 6 Street, Suite 3000, Chicago, Illinois 60603-5758, by MS.  
 7 REBECCA L. ROSS, becky.ross@troutmansanders.com, appeared  
 8 on behalf of the Defendant and Cross-Claim Defendant  
 9 Continental Casualty Company.  
 10 MEISSNER, TIERNEY, FISHER & NICHOLS,  
 11 S.C., 111 East Kilbourn Avenue, Milwaukee, Wisconsin  
 12 53202, by MS. JENNIFER A.B. KREIL, jbk@mtfn.com, appeared  
 13 on behalf of the Defendant and Cross-Claim Defendant  
 14 United States Fire Insurance Company.  
 15 ALSO PRESENT: MS. DEANNA SCHNEIDER.  
 16  
 17 I N D E X  
 18 WITNESS EXAMINATION PAGE  
 19 JEROME REED COLEMAN By Mr. Collins 5  
 20 By Ms. Ross 153  
 21 By Ms. Kreil 172  
 22 By Mr. Collins 173  
 23 E X H I B I T S  
 24 EXHIBIT NO.: MARKED ID'D  
 25 1 Coleman handwritten note .....140 140

Page 5

1 P R O C E E D I N G S  
 2 JEROME REED COLEMAN, called as a  
 3 witness herein by the Plaintiffs, after having  
 4 been first duly sworn, was examined and testified  
 5 as follows:  
 6 EXAMINATION  
 7 BY MR. COLLINS:  
 8 Q Would you state your first and last name and spell  
 9 it, please. Spell them both.  
 10 A **Jerome Reed Coleman, J-E-R-O-M-E, R-E-E-D,**  
 11 **C-O-L-E-M-A-N.**  
 12 Q And good morning, Mr. Coleman. We all just met a  
 13 moment ago, but again for the record, I'm Shawn  
 14 Collins. To my right is Norm Berger. To Norm's  
 15 right is Deanna Schneider. Norm and I are  
 16 co-counsel on this case and Deanna is one of the  
 17 plaintiffs. I just wanted you to understand that.  
 18 So the defendant in this case is  
 19 Madison-Kipp Corporation, and I'd like you to tell  
 20 me what your relationship with that company is,  
 21 please.  
 22 A **I worked there for some 50 years and I now serve**  
 23 **as the chairman.**  
 24 Q Chairman of the board of directors?  
 25 A **Yes, chairman of the company. Same thing.**

Page 6

1 Q Do you have an ownership interest in the company?

2 A **Yes, I do.**

3 Q What is that, please?

4 A **I have a controlling interest.**

5 Q And what's the percentage of that controlling

6 interest?

7 A **In direct ownership, about 10 percent.**

8 Q You say that's direct ownership?

9 A **(Nods head.)**

10 Q So that makes me want to ask you then, is there

11 some fashion in which you indirectly own part of

12 the company?

13 A **Yes. The balance of the shares are in a trust and**

14 **I am the voting trustee.**

15 Q And what's the name of the trust, please?

16 A **There are six of them.**

17 Q Six trusts?

18 A **And I don't remember the names specifically.**

19 Q Okay. Are they family trusts?

20 A **Yes, they are.**

21 Q Coleman family trusts?

22 A **Coleman and in-law family trusts.**

23 Q And as to each trust, you're the trustee?

24 A **For most of them.**

25 Q So you own 10 percent of the company directly and

Page 7

1 then what is the -- what percentage of

2 Madison-Kipp Corporation is owned by trusts over

3 which you are the trustee?

4 A **The balance.**

5 Q And that would be 90 percent; is that right?

6 A **Yes.**

7 Q You can see how sharp I am at math already. How

8 long has your family owned Madison-Kipp?

9 A **Since 1914.**

10 Q When did you become chairman of Madison-Kipp?

11 A **Two years ago.**

12 Q So that would be in 2010?

13 A **Mm-hm.**

14 Q Yes?

15 MR. BUSCH: You have to answer yes or

16 no.

17 THE WITNESS: Yes.

18 BY MR. COLLINS:

19 Q Have you ever been deposed before?

20 A **Yes, I have.**

21 Q So you understand.

22 A **Yes, I understand.**

23 Q And I will make sure, do my best to make sure that

24 you finish your answer before I start asking a

25 question so we make sure we've got a good record.

Page 8

1 Who was the chairman before you?

2 A **Well, I've been chairman since 1964, but I became**

3 **chairman of the board since 1964 and chairman of**

4 **the corporation and chairman of the board since**

5 **2010, 2011.**

6 Q Okay. You've been chairman of the board since

7 1964?

8 A **Right, yes.**

9 Q Was there a chairman or chairperson of the

10 corporation prior to you assuming that role in

11 2010?

12 A **No.**

13 Q Okay.

14 A **It's a distinction on titles. The record should**

15 **show that I've been chairman of the board since**

16 **1964.**

17 Q Has Madison-Kipp had a chairman of any kind other

18 than you since 1964?

19 A **No.**

20 Q You added a title two years ago; is that fair to

21 say?

22 A **Yes.**

23 Q And since 1964 has the -- has the ownership

24 structure of Madison-Kipp been approximately the

25 same as it is today?

Page 9

1 A **Yes.**

2 Q Who reports to you currently at Madison-Kipp?

3 A **The president.**

4 Q Who's that, please, currently?

5 A **Anthony Koblinski.**

6 Q Would you mind spelling the last name?

7 A **K-O-B-L-I-N-S-K-I.**

8 Q Is Mr. Koblinski currently the only person at

9 Madison-Kipp who reports directly to you?

10 A **Yes.**

11 Q Has it been true since 1964 that the president of

12 Madison-Kipp has been the only person who reports

13 directly to you?

14 A **No.**

15 Q I'd like to start in 1994, please. Beginning

16 approximately that time, who reported directly to

17 you at the company, please?

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

19 Q Can you remember by title? Was it the president?

20 A **At that point it would have been a president and a**

21 **chief financial officer.**

22 Q Do you remember the names of either who served in

23 those roles?

24 A **At that particular time I'm not sure which it was.**

25 **The chief financial officer was Richard Riesen.**

1 **I do remember that.**

2 Q Okay.

3 A **And it may -- well, I'm just not sure of which**

4 **president it was at that time. We've had several.**

5 Q Did a guy named Tom Caldwell serve as president?

6 A **He did.**

7 Q Do you know approximately when?

8 A **Maybe 15 years ago.**

9 Q Doesn't work for the company anymore; correct?

10 A **He does not.**

11 Q Do you know what he does now?

12 A **He works for another casting company. I don't**

13 **know the name.**

14 Q What were the circumstances under which

15 Mr. Caldwell left Madison-Kipp?

16 A **I asked him to leave because I didn't feel that he**

17 **was performing adequately.**

18 Q Did your feelings in that regard have anything to

19 do with the environmental circumstances at the

20 company?

21 A **No.**

22 Q Now, you said you began work at the company 50

23 years ago; is that right?

24 A **1957.**

25 Q All right. When you began in 1957, what did you

1 do at the company?

2 A **I did a number of things. I ran a die casting**

3 **machine, did a lot of administrative tasks, was**

4 **involved in sales, and actually spent that period**

5 **of time just learning the business.**

6 Q And then at some point after 1957 did your job at

7 the company change?

8 A **Yes. In 1964 my father died and I took over the**

9 **responsibility of chairman and president.**

10 Q Now, when you ran the die casting machine, that's

11 back on the plant floor there; right?

12 A **Yes.**

13 Q Other than running the die casting machine, have

14 you done any other work out in the factory, so to

15 speak, or out on the plant floor?

16 A **I had a summer job in the toolroom running a**

17 **lathe.**

18 Q That was before 1957?

19 A **Yes, it was.**

20 Q Anything else you did out in the factory?

21 A **No.**

22 Q Okay. So since you assumed the chairmanship of

23 the company in 1964, how, if at all, have you kept

24 yourself apprised of what's going on out on the

25 plant floor?

1 A **My major focus as president was finance, strategy,**

2 **sales, customer relations. And I hired**

3 **individuals who knew operations, plant managers, a**

4 **vice-president of operations, gave them the**

5 **responsibility for all of the operational**

6 **requirements necessary to satisfy what we had to**

7 **do.**

8 Q Okay.

9 A **So I was not directly involved.**

10 Q Have you ever read the lawsuit that Mr. Berger and

11 I filed on behalf of some of the neighbors against

12 Madison-Kipp?

13 A **No.**

14 Q You've never seen it?

15 A **(Shakes head.)**

16 Q Is that correct?

17 A **That's correct.**

18 Q Why not?

19 A **Well, it was in the hands of attorneys. They were**

20 **representing us. I had other things that I**

21 **thought were significant in terms of making sure**

22 **that the company was well run and successful.**

23 Q Okay. Well, did you think that the allegations of

24 the lawsuit were significant?

25 A **I believe that the allegations of any lawsuit are**

1 **significant.**

2 Q All right. You recognize that one of the

3 chemicals involved in the lawsuit is -- the

4 shorthand for it is PCE; right?

5 A **That's correct.**

6 Q So let me ask you some things about whether you

7 had any certain kind of involvement with PCE at

8 the company. Did you ever directly use PCE in the

9 last 50 years of the company?

10 A **No.**

11 Q You never came into contact with it directly in

12 any way.

13 A **No.**

14 Q Is that correct?

15 A **Yes.**

16 Q Okay. Did you ever play any role in the company's

17 purchase of PCE?

18 A **In the early years I did some administrative work.**

19 **I was buying supplies, and although I do not**

20 **remember ever buying PCE, perc, I well might have**

21 **placed the orders for what we used at that time.**

22 Q And when you say at that time, when are you

23 talking about?

24 A **Well, that was 1957, '58, '59.**

25 Q You call it perc? Did you just say the word

Page 14

1 "perc"?

2 **A That's --**

3 Q How you referred to it?

4 **A That's PCE.**

5 Q Okay. Do you know the period of time during which

6 the company was using PCE?

7 **A Do I know that?**

8 Q Yes.

9 **A I did not know it directly.**

10 Q Well, do you know it today?

11 **A I know it today.**

12 Q What is it, please?

13 **A Pardon me?**

14 Q What is that period of time, please?

15 **A I don't know the answer to that.**

16 Q Oh, I thought you just said you know it today.

17 **A I said that I know we used it.**

18 Q You know that you used it. When was the first

19 time you learned that your company was using PCE?

20 **A I don't remember.**

21 Q I mean, was it before the last couple of years?

22 **A I really don't even remember when.**

23 Q Not even a decade; is that right? You can't even

24 tell me in what decade you learned that

25 information?

Page 15

1 **A Not specifically, no.**

2 Q Okay. Have you ever asked anyone working for you,

3 such as an employee or any other adviser, to find

4 out and report back to you the years during which

5 your company was using PCE?

6 **A No.**

7 Q Did you ever ask anyone to find out for you and

8 report back to you how much PCE the company has

9 used?

10 **A No, I did not.**

11 Q Do you know if today the company is still using

12 PCE?

13 **A It is not.**

14 Q You know that for certain?

15 **A Yes.**

16 Q All right. The company still cleans parts back in

17 its plant today; right?

18 **A I assume so.**

19 Q Do you know what chemical or chemicals the company

20 uses to clean or degrease parts back in the

21 factory?

22 **A I do not.**

23 Q Do you understand that for the period of time that

24 your company used PCE, what it used PCE for?

25 **A For removing oils.**

Page 16

1 Q From what?

2 **A Production parts.**

3 Q Do you understand the processes back in the

4 factory which used PCE?

5 **A No.**

6 Q You have no idea; is that correct?

7 **A I suppose there was some mechanism for applying it**

8 **to remove the oils and grease, but I do not know**

9 **the process.**

10 Q Okay. You have never known the process; is that

11 true?

12 **A No.**

13 Q Is that true?

14 **A That's true.**

15 Q Okay. Do you know that in this litigation, in its

16 responses to our questions in this litigation,

17 your company has said that it can no longer locate

18 records concerning its purchase and usage of PCE?

19 Do you know that your company has said that in

20 this litigation?

21 **A I read the deposition of Jim Lenz, and I believe**

22 **it was referred to in that deposition.**

23 Q Okay.

24 **A But prior to that I was not aware of it.**

25 Q Okay. Why did you read the deposition of

Page 17

1 Mr. Lenz?

2 **A I thought it would be useful.**

3 Q Do you have any idea why it is that your company

4 no longer has records of its purchase or usage of

5 PCE?

6 **A No.**

7 Q Since you found out through Mr. Lenz's deposition

8 that the records are no longer available, have you

9 asked anybody to find out what happened to those

10 records?

11 **A No, I have not.**

12 Q Why not?

13 **A Well, if they could not be found, I was not going**

14 **to be able to help find them. I assume they were**

15 **either destroyed or spoiled in some way.**

16 Q Okay. Does the reason why those records no longer

17 exist mean anything to you?

18 **A No.**

19 Q They're gone and that's it?

20 **A (Nods head.)**

21 Q Yes?

22 **A Yes.**

23 Q Okay. You understand her taking down nods of the

24 head is difficult. It's a different kind of

25 conversation we're having.

1 **A I forget this from time to time.**  
 2 Q Do you know how your company disposed of PCE over  
 3 the years?  
 4 **A No.**  
 5 Q Do you know whether your company disposed of PCE  
 6 in a lawful manner?  
 7 **A Yes, we did.**  
 8 Q Okay. Tell me how you know that it disposed of it  
 9 in a lawful manner if you don't know how it  
 10 disposed of it.  
 11 **A Because it was picked up by a licensed material**  
 12 **collector, I guess, I would call them.**  
 13 Q Do you have a name for that person or company?  
 14 **A I learned the name of that company by reading**  
 15 **Lenz's deposition.**  
 16 Q But apart from the name of the company, did you  
 17 know even of the existence of that company and  
 18 what it might have done for your company before  
 19 you read Lenz's deposition?  
 20 **A No.**  
 21 Q Well, do you know of any other way besides having  
 22 it picked up by a licensed material collector that  
 23 your company may have disposed of PCE?  
 24 **A No, not directly.**  
 25 Q Well, I'm asking what you know directly or

1 reduce dust, and I do not know what that substance  
 2 was, and I have not heard what that substance  
 3 might have been.  
 4 BY MR. COLLINS:  
 5 Q So you don't know whether PCE was that substance.  
 6 **A That's correct.**  
 7 Q When did you hear about your company putting some  
 8 substance on a blacktop driveway?  
 9 MR. BUSCH: Same objection. Go ahead  
 10 and answer.  
 11 THE WITNESS: I would probably -- I  
 12 really don't know when I heard about it.  
 13 BY MR. COLLINS:  
 14 Q Do you remember from whom?  
 15 **A No, I don't.**  
 16 Q Do you remember anything about the context in  
 17 which you heard it, what was happening at the time  
 18 that caused that to be a subject of discussion?  
 19 **A It was probably a desire to cut the dust in the**  
 20 **parking lot.**  
 21 Q Were you aware while it was occurring that your  
 22 company was spreading some substance on its  
 23 property to cut the dust?  
 24 **A Not when it was occurring, no.**  
 25 Q You learned it after it occurred or before it

1 indirectly. Do you know directly or indirectly  
 2 how your company disposed of PCE other than by  
 3 perhaps having it picked up by a licensed material  
 4 collector?  
 5 MR. BUSCH: I object to the form. It  
 6 may call for inadmissible evidence, but go ahead  
 7 and answer if you can.  
 8 MR. COLLINS: I'm sorry. Inadmissible  
 9 in what fashion?  
 10 MR. BUSCH: May be hearsay on hearsay.  
 11 THE WITNESS: Anything that I would  
 12 have known somebody else might have told me.  
 13 I would not know directly.  
 14 BY MR. COLLINS:  
 15 Q Well, I'm asking you what you know from any  
 16 source. And so what I'm asking you is to tell me  
 17 what you have heard from any source about how your  
 18 company disposed of PCE.  
 19 MR. BUSCH: Object to form. May call  
 20 for inadmissible evidence, hearsay on hearsay, but  
 21 go ahead and answer.  
 22 THE WITNESS: I cannot answer as far  
 23 as PCE is concerned. I have heard that many, many  
 24 years ago when we did not have a blacktop driveway  
 25 we put some substance on that blacktop driveway to

1 occurred, or when relative to when it occurred did  
 2 you learn this?  
 3 **A I learned it after it occurred thirdhand and**  
 4 **I don't know when.**  
 5 Q Okay. Did you ever learn that -- now, let me back  
 6 up a second. When I say vapor degreaser, does  
 7 that term have any meaning to you?  
 8 **A I knew we used them.**  
 9 Q When did you first learn that?  
 10 **A I really don't know. Long time ago.**  
 11 Q All right. As opposed to very recently; is that  
 12 right?  
 13 **A Yes.**  
 14 Q Okay. So long time ago meaning perhaps decades  
 15 ago?  
 16 **A Mm-hm.**  
 17 Q Yes?  
 18 MR. BUSCH: You have to answer yes or  
 19 no.  
 20 THE WITNESS: Yes.  
 21 BY MR. COLLINS:  
 22 Q Okay. And did you ever use the vapor degreaser?  
 23 **A No.**  
 24 Q Did you ever watch it being used?  
 25 **A No.**

Page 22

1 Q Would you know what it looked like when it was --

2 when it was on the floor of your plant? If you

3 walked up to it, would you recognize it as a vapor

4 degreaser?

5 A **It was a tank.**

6 Q Okay.

7 A **With baskets.**

8 Q Would you know it to see it?

9 A **Mm-hm.**

10 Q You have to answer yes or no.

11 A **Yes.**

12 Q Do you know who operated it?

13 A **No.**

14 Q Do you know what it did, what its function was?

15 A **It removed oil and grease.**

16 Q How do you know that?

17 A **I was told.**

18 Q Did you have any role in the purchase of that

19 vapor degreaser that your company used?

20 A **No.**

21 Q Somebody else did?

22 A **Yeah, someone in the operations side.**

23 Q Okay. Do you know what a condenser on a vapor

24 degreaser is?

25 A **No.**

Page 23

1 Q Do you know what its function is?

2 A **No. I mean, I'm not familiar with the design or**

3 **function of a vapor degreaser.**

4 Q Okay. So in turn if I were to ask you then

5 what -- which I am asking you. Do you know what

6 the vapor degreaser did while you had one at your

7 company?

8 A **It removed the oil and grease from castings or**

9 **parts that had been machined.**

10 Q Could you describe the process for me by which it

11 did that?

12 A **No.**

13 Q Do you know whether PCE was used in connection

14 with the vapor degreaser?

15 A **No.**

16 Q To this day you still don't know.

17 A **I do now.**

18 Q How did you learn?

19 A **I did not then.**

20 Q When did you learn?

21 A **I learned it in the process of learning that PCE**

22 **was not an acceptable substance and that we had to**

23 **control it and we stopped using it.**

24 Q When did you learn that PCE was not an acceptable

25 substance?

Page 24

1 A **As soon as it was learned that it was not an**

2 **acceptable substance and we stopped using it.**

3 **I don't know the date.**

4 Q Can you tell me the decade?

5 A **No.**

6 Q How did you find out?

7 A **I suppose someone in the operation told me.**

8 Q What I'm trying to figure out today is what you

9 know, so I'm not ever asking you to guess, okay?

10 So I don't know what suppose means. Can you tell

11 me with any reasonable certainty who it was that

12 told you that PCE usage is no longer acceptable?

13 A **No, I can't.**

14 Q What's your educational background? You went to

15 college, I assume; right?

16 A **Yes, I did.**

17 Q Where did you go to college?

18 A **Northwestern University.**

19 Q In Illinois, Chicago.

20 A **Yes.**

21 Q Or at Evanston.

22 A **Illinois, yes.**

23 Q And you got a degree from there, did you?

24 A **Yes.**

25 Q What was your degree in?

Page 25

1 A **Biology.**

2 Q What year?

3 A **1955.**

4 Q Do you have any degrees beyond your degree in

5 biology from Northwestern?

6 A **No.**

7 Q We -- in this litigation we took the deposition of

8 Mike Schmoller of the Wisconsin DNR, and I mention

9 that because I'm going to show you a document now

10 that we marked. We call it Schmoller No. 4 and

11 that was just because we marked it that way during

12 his deposition, and I want to ask you some

13 questions about it.

14 Mr. Coleman, I'm going to ask you to

15 look at a few documents here today and ask you

16 some questions about it. It's important that you

17 look at the document as long as you need to in

18 order to answer my question. I'm not trying to

19 rush you ever. Okay? So you understand that.

20 So if you want to -- I'm going to ask

21 you some questions about Schmoller No. 4, which

22 I've just put in front of you. If you'd like me

23 to ask you questions first and then read it to the

24 degree you think necessary, that's fine with me

25 too.

Page 26

1 **A I'll read the document.**

2 Q Good. Thank you.

3 **A All right. I've now read the letter.**

4 Q Okay. So before we get to that, let me ask you a

5 couple. How many employees does Madison-Kipp have

6 today?

7 **A About 430.**

8 Q Has that number fluctuated much in the last 20

9 years?

10 **A Yes, it does fluctuate.**

11 Q What's been the approximate range of the number of

12 employees over the last 20 years?

13 **A I don't know specifically.**

14 Q Can you give me an estimate?

15 **A 300 to 500.**

16 Q Do you have an office at the facility on Waubesa?

17 **A Yes.**

18 Q How long have you had an office there?

19 **A Are you referring to the building or a particular**

20 **office?**

21 Q I'm sorry. How long have you personally had an

22 office within the building at the Waubesa Street

23 facility?

24 **A Since 1964.**

25 Q Am I correct that you were born in approximately

Page 27

1 1934?

2 **A '33.**

3 Q Okay. So let's look at the letter now, Schmoller

4 No. 4, which you have had a chance to read. Have

5 you seen that letter before today?

6 **A No.**

7 Q Never?

8 **A (Shakes head.)**

9 Q Am I correct, you've never seen this letter? Is

10 that true?

11 **A That's correct.**

12 Q Before ten minutes ago; correct?

13 **A Yes.**

14 Q Do you understand the environmental contamination

15 problem that the letter is describing?

16 **A It's very clear.**

17 Q Well, when did that first come to your attention?

18 **A At that point in time, as I said, these are things**

19 **that were handled by our plant managers and our**

20 **operations personnel and I would not have become**

21 **directly involved in this letter at that time.**

22 Q Okay. My question, sir, is when did you first

23 learn of the matters that are described in this

24 letter, Schmoller No. 4?

25 **A I really don't remember.**

Page 28

1 Q Do you remember whether you ever did?

2 **A I learned that we had hired a consultant in**

3 **accordance with what we've asked here, and I**

4 **learned that we were working closely with the DNR**

5 **in order to resolve the issues that -- that we**

6 **faced.**

7 Q Okay. So did you ever ask anyone -- so -- I'm

8 sorry, let me strike that and let me go back up.

9 So you learned that your company had hired a

10 consultant, as this 1994 letter from the DNR to

11 your company suggests; correct?

12 **A Yes.**

13 Q You learned -- did you learn that after the fact?

14 In other words, did you learn your company hired a

15 consultant after your company hired a consultant?

16 **A Yes.**

17 Q Okay. Did you ever ask anyone why have we hired a

18 consultant?

19 **A Yes, I did.**

20 Q What did they tell you?

21 **A I don't remember exactly what the words were, but**

22 **it was obvious that we were conforming to what the**

23 **DNR was requiring of us.**

24 Q Okay. Did you understand in the middle 1990's

25 that DNR was asserting that your company had a PCE

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1 contamination problem?

2 **A I understood that that's why we hired a**

3 **consultant.**

4 Q Okay.

5 **A To determine whether we did, where it was and how**

6 **to treat it.**

7 Q Did you understand that the Wisconsin DNR was

8 asserting that there was PCE contamination in the

9 soil on company property as well as in the

10 groundwater beneath the surface on the company

11 property? Did you understand that?

12 **A I understood that we were conducting tests in**

13 **terms of possible locations and that we were**

14 **considering what appropriate remediation would be**

15 **cost effective if, in fact, it were necessary.**

16 Q Did you ever learn that there was PCE in the soil

17 on company property?

18 **A Eventually I did.**

19 Q When did you learn that approximately?

20 **A I don't remember.**

21 Q Can you tell me a decade when you first learned

22 it?

23 **A No, I can't.**

24 Q Can you tell me what your reaction was when you

25 first learned that?



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1 A **My reaction was that we should do what is required**  
 2 **working with consultants with the DNR and make**  
 3 **sure that what needed to be done was done in a**  
 4 **cost effective way to solve the issue, if there**  
 5 **were an issue, promptly.**  
 6 Q Who did you say that to?  
 7 A **I don't remember.**  
 8 Q So do you remember when you said that to someone?  
 9 A **I probably said it as soon as I was told that**  
 10 **there was an issue.**  
 11 Q And you don't remember when that was; correct?  
 12 A **No.**  
 13 Q And whatever your reaction was to being told that  
 14 there was a PCE contamination problem, you don't  
 15 remember to whom you conveyed that reaction;  
 16 correct?  
 17 A **I do not.**  
 18 Q All right. At that time when you learned that you  
 19 had a PCE contamination problem on your company  
 20 property, did you ever say to anybody at the  
 21 company, "I want you to find out how the PCE got  
 22 in the soil at our property"?  
 23 A **No.**  
 24 Q Did you ever say to anybody at your company,  
 25 "I want you to find out how the PCE got into the

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1 groundwater on our company's property"?  
 2 A **I said to somebody I want you to find out where it**  
 3 **is and what to do about it.**  
 4 Q So am I correct that you never asked anyone to  
 5 tell you how it was that the PCE got outside the  
 6 plant and into the soil and groundwater on company  
 7 property?  
 8 A **My approach is solutions oriented, and as long as**  
 9 **we were being told it was there, my role and my**  
 10 **relationship to the operational activities of the**  
 11 **company was to make sure that we were doing things**  
 12 **to solve the problem.**  
 13 Q Okay. And what I'm asking you, please,  
 14 Mr. Coleman, is whether you ever asked anyone to  
 15 investigate and find out how it was that the PCE  
 16 got into the soil and groundwater on company  
 17 property.  
 18 A **No.**  
 19 Q Why not? Didn't it matter to you?  
 20 A **That was the responsibility of people that I had**  
 21 **asked to take care of it and eventually they would**  
 22 **tell me when they had a program to solve the**  
 23 **problem, and I have since learned obviously that**  
 24 **it came from, allegedly from the vapor degreasers.**  
 25 Q Okay. I want to ask you about your use of the

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1 word "allegedly" there. Do you know where the PCE  
 2 on company property, that is, in soil and  
 3 groundwater, came from? Do you know?  
 4 A **I have been told that it was the vapor degreaser.**  
 5 Q Okay. Who told you that?  
 6 A **It could have been the environmental person at**  
 7 **that time. It could have been Tom Caldwell. It**  
 8 **could have been anybody.**  
 9 Q But you don't know for sure; is that correct?  
 10 A **No, I don't.**  
 11 Q And you don't know when they told you this; is  
 12 that right?  
 13 A **Not specifically, no.**  
 14 Q Can you give me a decade when they told you this?  
 15 A **I would think it might be obvious that it would be**  
 16 **the decade right after this letter was received.**  
 17 Q I'm trying not to ask obvious questions. That's  
 18 why I'm asking you that way.  
 19 A **So let's leave it in that decade, if that's a**  
 20 **solid answer.**  
 21 Q All right. So you're reasonably confident that  
 22 you were told that during the 1990's; is that  
 23 right?  
 24 A **Then or before.**  
 25 Q You mean possibly in an earlier decade?

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1 A **No. I need a clarification. The decade in which**  
 2 **I was told or the decade in which the PCE found**  
 3 **its way into the soil?**  
 4 Q Okay. Both are very important issues, at least  
 5 from my perspective, so let me ask you both.  
 6 Let's take them in turn. What is the decade in  
 7 which you learned for the first time that there  
 8 was PCE in the soil and groundwater on company  
 9 property?  
 10 A **It would be the nineties.**  
 11 Q All right. Can you be any more specific --  
 12 A **No.**  
 13 Q -- than a decade?  
 14 A **No.**  
 15 Q Okay. And you said that whoever told you this  
 16 told you that the vapor degreaser had something to  
 17 do with it; is that right?  
 18 A **That's what I learned, yes.**  
 19 Q So when you learned that the vapor degreaser had  
 20 something to do with the PCE that was in the soil  
 21 and groundwater on company property, did you ever  
 22 ask anyone at the company how was it that the PCE  
 23 got from the vapor degreaser inside the building  
 24 to in our soil and in our groundwater? Did you  
 25 ever ask anybody that?

1 **A At the time I was told we were no longer using the**  
2 **vapor degreaser.**  
3 Q My question is did you ever ask anybody how the  
4 PCE got from the vapor degreaser to the soil and  
5 the groundwater outside the building.  
6 **A I assume that a vapor required a vent and that's**  
7 **how that got there.**  
8 Q Why do you assume it required a vent? Did you  
9 know that the vapor degreaser had a vent?  
10 **A I didn't.**  
11 Q Okay. Do you know where on company property the  
12 degreaser vent emptied its contents?  
13 **A Well, it was probably outside its location,**  
14 **I would assume.**  
15 Q Okay. I'm not asking you to assume right now. Do  
16 you know for sure? I mean, if we were on company  
17 property right now, could you walk me over to  
18 where you believe the degreaser vent emptied its  
19 contents?  
20 **A No.**  
21 Q Did anybody ever tell you, apart from your  
22 assumption, did anyone ever tell you that the  
23 vapor degreaser and its vent played any role in  
24 PCE contamination being on company soil and  
25 groundwater?

1 **A Not that I recall.**  
2 Q All right. Did you ever learn at any point that  
3 PCE in vapor form had been detected underneath and  
4 in some cases inside of homes immediately adjacent  
5 to your company? Did you ever learn that?  
6 **A Yes.**  
7 Q When did you learn that?  
8 **A About four months ago.**  
9 Q For the first time?  
10 **A Yes.**  
11 Q All right. What was your reaction to learning  
12 that?  
13 **A Fix it.**  
14 Q You believe that PCE vapor underneath and in some  
15 cases found inside of your neighbors' homes came  
16 from your company; correct?  
17 **A That's what I was told.**  
18 Q Okay. Do you have any reason to disbelieve that?  
19 **A No.**  
20 Q Have you ever been told by anyone that the PCE  
21 vapors found on your neighbors' property or the  
22 levels at which the PCE vapors were found were not  
23 a serious concern?  
24 **A Yes, I have been told that.**  
25 Q Who told you that?

1 **A Mark Meunier.**  
2 Q Tell me what Mr. Meunier said in that regard.  
3 **A He said that the amounts under -- after the vapor**  
4 **extraction system had been used, that the levels**  
5 **were reduced to the point where they were not**  
6 **significant and not above the requirement.**  
7 Q Okay. So do you believe today that the vapor  
8 contamination found underneath and inside of in  
9 some cases your neighbors' homes is not a serious  
10 problem?  
11 **A I believe that has to be shown to be a serious**  
12 **problem.**  
13 Q Well, I'm asking what the chairman of Madison-Kipp  
14 believes, if you have a belief, on that issue.  
15 **A I really don't know enough to know whether that's**  
16 **a serious problem at these levels or not.**  
17 Q Well, have you asked anyone that specific  
18 question?  
19 **A There are -- have been no answers to that from**  
20 **anybody.**  
21 Q Have you asked anyone that specific question?  
22 **A I was told, as I said, that the extraction**  
23 **mechanism had removed the vapors to a level where**  
24 **it was no longer a serious problem.**  
25 Q Okay. So having been told that, do you believe

1 it's a serious problem or don't you?  
2 **A I don't believe it's a serious problem.**  
3 Q You don't. Have you ever thought about whether  
4 you'd think it was a serious problem if you lived  
5 in a home immediately adjacent to your company?  
6 MS. ROSS: Object to form.  
7 THE WITNESS: Pardon me?  
8 MR. BUSCH: She objected to the form.  
9 You can go ahead and answer.  
10 BY MR. COLLINS:  
11 Q Have you ever thought about whether you might  
12 think it was a serious problem if you lived in one  
13 of those homes immediately adjacent to your  
14 company?  
15 **A I think that would be a logical thing for someone**  
16 **to think.**  
17 Q Well, I appreciate that, but I'm saying as the  
18 chairman of Madison-Kipp, have you ever wondered  
19 about how your neighbors must feel knowing that  
20 PCE has been detected underneath and in some cases  
21 inside their home. Have you ever wondered that?  
22 **A No, I didn't need to wonder it. I know how they**  
23 **feel.**  
24 Q How do they feel?  
25 **A They feel they want to find out whether it's a**

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1 **serious question and they want to find out what's**  
 2 **going to be done about it.**  
 3 Q Do you know the -- have you ever heard of the term  
 4 "vapor mitigation system"?  
 5 A **SVA.**  
 6 Q Have you ever heard of the term sub-slab  
 7 depressurization system?  
 8 A **No.**  
 9 Q Do you know that many of the homes immediately  
 10 adjacent to your company now have affixed to them  
 11 a system, the purpose for which is to try to keep  
 12 PCE vapors out of the home? Do you know that?  
 13 A **Yes.**  
 14 Q Okay. Do you believe it's a good thing that those  
 15 homes have those systems affixed to them?  
 16 A **Yes, if they're effective.**  
 17 Q All right. If you lived in one of those homes,  
 18 would you want one of those systems affixed to  
 19 your home?  
 20 MR. BUSCH: I object. It calls for  
 21 speculation but go ahead and answer.  
 22 THE WITNESS: I don't know. I don't  
 23 know the circumstances.  
 24 BY MR. COLLINS:  
 25 Q I thought you said you knew how they feel. You

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1 just told me you know how they feel.  
 2 A **I do. They would want a system like that in their**  
 3 **homes.**  
 4 Q Okay, and if you lived there, you would want one  
 5 as well, wouldn't you?  
 6 A **I don't live there so I can't speculate.**  
 7 Q Do you have any reason to believe that it is not  
 8 reasonable for Deanna Schneider and her neighbors  
 9 to want one of those systems affixed to their  
 10 home?  
 11 A **I think they would want one and should want one**  
 12 **and I believe in most cases either have them or**  
 13 **are getting them.**  
 14 Q And do you believe it's reasonable for them to  
 15 feel that way?  
 16 A **Yes.**  
 17 Q Madison-Kipp, your company, has paid for some of  
 18 those systems, hasn't it, for the installation of  
 19 some of those systems?  
 20 A **Yes.**  
 21 Q And you were involved in that decision, weren't  
 22 you?  
 23 A **I was informed that we were doing that, yes, and I**  
 24 **endorsed it.**  
 25 Q And you endorsed it. Why did you endorse it?

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1 A **Because I thought it was a good thing to do for**  
 2 **the neighbors.**  
 3 Q Have you ever made a decision that Madison-Kipp  
 4 is -- while it was willing to pay for the  
 5 installation of some systems for some of its  
 6 neighbors, it was not willing to pay for others?  
 7 In other words, that there was a limit on the  
 8 number of systems Madison-Kipp was willing to pay  
 9 for for the neighbors?  
 10 A **I'm not aware of that.**  
 11 Q Do you know if anybody within your company made  
 12 that decision?  
 13 A **No.**  
 14 Q Okay. I'm asking you to accept for a moment that  
 15 if you count up the number of homes on Waubesa and  
 16 South Marquette Street, which are immediately  
 17 adjacent to your facility on Waubesa, the number  
 18 is approximately 34 homes. I'm asking you to  
 19 accept that for the purpose of a couple  
 20 questions --  
 21 A **I accept that.**  
 22 Q -- that I'm going to ask you. Okay. Do you know  
 23 of any reason, have you been told of any reason  
 24 why some of those 34 homes should have vapor  
 25 mitigation systems but others of those 34 homes

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1 should not?  
 2 A **No.**  
 3 Q Do you believe that if any of those 34 homes  
 4 should have vapor mitigation systems, that all of  
 5 them should?  
 6 MR. BUSCH: Lack of foundation. Go  
 7 ahead and answer.  
 8 THE WITNESS: There are two things at  
 9 work here as far as I'm concerned with the  
 10 neighbors. One is perception and the other are  
 11 the facts. If there are facts that show that any  
 12 one of our neighbors is at risk because they don't  
 13 have one, then we should have one. And in a  
 14 number of the cases where we have put one, it has  
 15 been put in in great degree in order to satisfy a  
 16 perception that may or may not be serious.  
 17 So from my point of view, we have  
 18 erred on the side of providing and not on the side  
 19 of resisting.  
 20 BY MR. COLLINS:  
 21 Q Do you know -- have you been told anything about  
 22 when the PCE vapors first got to your neighbors'  
 23 properties?  
 24 MR. BUSCH: Object to the form. Let  
 25 me just object to the form, calls for hearsay, but

1 go ahead and answer.  
 2 THE WITNESS: No.  
 3 BY MR. COLLINS:  
 4 Q Have you been told anything about what the  
 5 historical concentrations of PCE vapors on your  
 6 neighbors's properties might have been?  
 7 A No.  
 8 Q In other words, whether those concentrations in  
 9 the past might be more than detected there a few  
 10 months ago? Have you been told anything along  
 11 those lines?  
 12 A No.  
 13 Q Have you been anything about what the  
 14 concentrations might be in the future?  
 15 A I've been told that the extraction systems will  
 16 reduce them.  
 17 Q Have you been told when the PCE will be off of  
 18 your neighbors' properties completely?  
 19 A No.  
 20 MR. BUSCH: Shawn, when it's  
 21 convenient, can we take a break?  
 22 MR. COLLINS: Sure. Let me ask one  
 23 more question and we'll take a break, please.  
 24 MR. BUSCH: Sure.  
 25

1 A Because that's not my responsibility in terms of  
 2 assigning that to people who run the plants and  
 3 deal directly with the neighbors on a regular  
 4 basis.  
 5 Q That's someone else's job; is that it?  
 6 A That's correct.  
 7 Q Are you familiar with a consultant who's done work  
 8 for your company in the environmental area named  
 9 Robert Nauta?  
 10 A I know the name, yes.  
 11 Q Have you ever spoken to Mr. Nauta?  
 12 A Never.  
 13 Q If he walked in this room, would you recognize  
 14 him?  
 15 A No, I would not.  
 16 Q You don't even know what he looks like, in other  
 17 words; right?  
 18 A That's correct.  
 19 Q Have you ever read any reports, environmental  
 20 reports that Mr. Nauta or his company generated?  
 21 A I read one as an attachment to Jim Lenz's  
 22 deposition three days ago.  
 23 Q Well, before you read Mr. Lenz's deposition three  
 24 days ago, had you ever read anything of any kind  
 25 that Mr. Nauta had ever written concerning

1 BY MR. COLLINS:  
 2 Q Have you ever talked to any of your neighbors  
 3 about the things we're talking about here today?  
 4 A I have interacted with neighbors often over the  
 5 course of my experience with Kipp. I understand  
 6 that living adjacent to a factory 24 hours a day  
 7 is not easy, but I have not talked specifically to  
 8 neighbors about this particular issue because that  
 9 responsibility has been assigned to the  
 10 operational side of the business.  
 11 MR. COLLINS: Okay. Let's take a  
 12 break.  
 13 (A recess was taken.)  
 14 BY MR. COLLINS:  
 15 Q Mr. Coleman, are you set to keep going here?  
 16 A Yes.  
 17 Q All right. Since you learned that there were PCE  
 18 vapors from your company underneath and in some  
 19 cases inside of your neighbors' homes, have you  
 20 made an effort to reach out to any of your  
 21 neighbors to take up that matter with them?  
 22 A Our operations people have, yes.  
 23 Q Have you personally made any such effort?  
 24 A No.  
 25 Q Why not?

1 environmental problems at your company?  
 2 A I don't remember doing so.  
 3 Q Do you know that relatively recently a company by  
 4 the name of ARCADIS, A-R-C-A-D-I-S, is performing  
 5 environmental services at your company?  
 6 A I do know that.  
 7 Q Do you understand whether ARCADIS is providing  
 8 essentially the same services that Nauta did? Do  
 9 you have any understanding of the relationship  
 10 between the two services?  
 11 A I think both services are directed toward  
 12 resolving the issues and ARCADIS probably has a  
 13 broader range of capability to accomplish that.  
 14 Q Who hired ARCADIS? Was it your company or it was  
 15 somebody else?  
 16 A It was the company.  
 17 Q And your company hired Nauta as well; right?  
 18 A Many years ago.  
 19 Q And both are working for your company currently;  
 20 right?  
 21 A That's correct.  
 22 Q Did you ever ask anybody why do we need two such  
 23 companies?  
 24 A No, I did not.  
 25 Q Did anybody ever tell you that Nauta's services in

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1 any regard were inadequate and that's why we need  
 2 another company?  
 3 **A No, they did not.**  
 4 **Q** Has anybody ever told you that ARCADIS is going to  
 5 help us win this lawsuit?  
 6 **A Nobody has told me that either.**  
 7 **Q** Do you believe that?  
 8 **A No. I think ARCADIS is going to help us do what**  
 9 **we need to do to meet the requirements of DNR and,**  
 10 **frankly, answer all the neighbors' issues.**  
 11 **Q** Who told you that?  
 12 **A That's my opinion.**  
 13 **Q** Based on what, please?  
 14 **A It's based on what I believe.**  
 15 **Q** Okay. Why do you believe it?  
 16 **A Because I've watched them work, I know what their**  
 17 **capabilities are, I know what they're capable of,**  
 18 **and none of that pertained to an answer to your**  
 19 **particular question.**  
 20 **Q** Do you talk to the people from ARCADIS?  
 21 **A No.**  
 22 **Q** You never have?  
 23 **A No.**  
 24 **Q** But you watch them work; is that right?  
 25 **A It's hard to avoid.**

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1 **Q** Do you know the names of anybody at ARCADIS who's  
 2 doing work at your company?  
 3 **A No, I do not.**  
 4 **Q** Who pays their bills, ARCADIS' bills?  
 5 **A I assume the insurance company pays a part of them**  
 6 **and we pay another part.**  
 7 **Q** Give me that last sentence again. I'm sorry.  
 8 **A I said we pay part of them and the rest is paid by**  
 9 **insurance.**  
 10 **Q** Okay. So Madison-Kipp pays part of ARCADIS' bill;  
 11 is that right?  
 12 **A I don't know that specifically.**  
 13 **Q** Okay. Why do you believe the -- an insurance  
 14 company is paying at least part of ARCADIS' bill?  
 15 Why do you believe that?  
 16 **A Because we have insurance coverage that's**  
 17 **applicable to that purpose.**  
 18 **Q** Well, has somebody told you that that's the way  
 19 it's working, that the insurer's picking up some  
 20 of the tab?  
 21 **A I really don't know the details.**  
 22 **Q** I'm not necessarily asking for the details. Do  
 23 you know that any insurance company is paying any  
 24 part of ARCADIS' bills?  
 25 **A Yes.**

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1 **Q** How do you know that?  
 2 **A Because I was told.**  
 3 **Q** By whom, please?  
 4 **A Mark Meunier.**  
 5 **Q** Did Mr. Meunier tell you how much or what  
 6 percentage of the ARCADIS bills are being paid by  
 7 an insurance company?  
 8 **A No.**  
 9 **Q** Did he tell you which insurance company?  
 10 **A No.**  
 11 **Q** Did he tell you how significant dollarwise the  
 12 bills are? In other words, what the amount of the  
 13 bills are?  
 14 **A Not specific.**  
 15 **Q** Generally did he tell you?  
 16 **A No.**  
 17 **Q** Could your company afford to pay by itself for the  
 18 work that ARCADIS is doing?  
 19 **A No.**  
 20 **Q** How do you know that?  
 21 **A It's going to go on for long periods of time.**  
 22 **Q** Do you know how much ARCADIS has billed for its  
 23 work to this point in time?  
 24 **A No, I do not.**  
 25 **Q** Do you know approximately?

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1 **A No, I do not.**  
 2 **Q** Do you have any estimate of what future billings  
 3 are likely to be?  
 4 **A I have not seen any that -- I haven't seen any**  
 5 **that show specifically what ARCADIS' costs will**  
 6 **be.**  
 7 **Q** In response to an earlier question, which I  
 8 acknowledge was a different question, your answer,  
 9 as I understood it, was essentially "I want this  
 10 contamination problem addressed, in among other  
 11 ways, a cost effective way"; right?  
 12 **A Yes.**  
 13 **Q** Because watching costs has historically been  
 14 important to you and your company; true?  
 15 **A It's important to all companies and we employ**  
 16 **that.**  
 17 **Q** All right. So have you ever asked anybody or  
 18 found out in any other way how much ARCADIS has  
 19 charged for its work to this point?  
 20 **A All of that responsibility lies with the**  
 21 **operational side of the business. We have a**  
 22 **vice president for operations, we have a human**  
 23 **resources director, and those are the people who**  
 24 **would know in detail and I do not know in detail.**  
 25 **Q** I'm wondering whether you have ever asked anybody

1 how much ARCADIS has billed.

2 **A No.**

3 Q Has anyone told you -- I mean, whether or not you

4 asked, has anybody told you how much ARCADIS has

5 billed?

6 **A No.**

7 Q And I think you told me earlier you don't know

8 even an estimate of what ARCADIS may bill in the

9 future or how long it may be working at your

10 company in the future; true?

11 **A I said it's my understanding it's going to be a**

12 **long process and it's going to be expensive.**

13 Q All right.

14 **A And until we know what it is that needs to be**

15 **done, we won't know specifically what the costs**

16 **will be and we don't know who will pay for them.**

17 Q So someone told you it's likely to be expensive;

18 correct?

19 **A Yes.**

20 Q Did you ask anybody what do you mean by expensive?

21 **A Well, it's millions of dollars.**

22 Q All right. That's what you were told?

23 **A Yes.**

24 Q By whom, please?

25 **A Mark Meunier.**

1 Q Okay. And have you been given even an estimate

2 about how much longer environmental work will be

3 going on at your company or in the neighborhood

4 surrounding your company?

5 **A No.**

6 Q So even a ballpark number of years you've not been

7 given?

8 **A No.**

9 Q So when Meunier told you millions of dollars, did

10 you say for what? Did you ask him that?

11 **A Yes, I did.**

12 Q What did he say?

13 **A He told me the drilling and the mitigation**

14 **necessary and the removal of contaminated dirt.**

15 Q Did he say anything else about why it would cost

16 maybe millions of dollars?

17 **A No, he did not be specific.**

18 Q Well, I mean no disrespect, Mr. Coleman, but your

19 company couldn't pay out of its own treasury or

20 bank accounts millions of dollars, could it?

21 **A That's correct.**

22 Q It's going to need help from the insurance

23 companies; right?

24 **A That's correct.**

25 Q All right. Do you have any assurance that you're

1 going to have help from insurance companies?

2 **A I do not know.**

3 Q Have you put anybody on that issue?

4 **A Yes, I have.**

5 Q Who have you put on that issue?

6 **A Mark Meunier.**

7 Q And what's he told you?

8 **A He hasn't told me anything definite.**

9 Q Well, when do you expect he will? Is there any

10 time by which you expect a report from Meunier

11 about whether and to what extent insurance

12 companies may step up and pay these potentially

13 millions?

14 **A I think when we have a work plan that's finalized**

15 **from the DNR, it will be a lot easier to do.**

16 Q Okay.

17 **A And since we are doing significant work in terms**

18 **of trying to assess what that is and since DNR has**

19 **not provided such a work plan for us yet, we can't**

20 **really be very specific about what the total cost**

21 **is going to be.**

22 Q I understand that, but now what I'm asking you is

23 regardless of what the cost is, do you have any

24 understanding of how much of it insurance

25 companies may pay?

1 **A No, I don't.**

2 Q Do you have any understanding of whether they are

3 going to pay anything?

4 **A They are going to pay something.**

5 Q Meunier told you that?

6 **A Yes.**

7 Q Anybody else tell you that?

8 **A No.**

9 Q And did you ask him how much of it are they going

10 to pay, what percentage, what dollar amount? Did

11 you ask him anything like that?

12 **A At that time I was informed there were no solid**

13 **figures that could be reported as accurate.**

14 Q So this is all just very open ended at this point?

15 **A That's correct.**

16 Q The work, environmental work that's been done at

17 your company on its premises over the last couple

18 of months, are you able to describe it even in

19 layperson's terms?

20 **A I think so.**

21 Q Would you, please?

22 **A We are extracting vapors from adjacent properties.**

23 **We're putting test wells in, I believe, six**

24 **different places so that we can prepare a profile**

25 **for movement in the groundwater.**

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1 Q Movement of contamination in groundwater?  
 2 A Yes.  
 3 Q Okay.  
 4 A **If that's the case. And we are putting in a pilot well to test mitigation concepts.**  
 5  
 6 Q Anything else in terms of work that's been done in  
 7 the last few months at your company?  
 8 A **That's -- well, the monitors and the devices in neighbors' basements.**  
 9  
 10 Q Schmoller 4 you have in front of you. I want to  
 11 ask you to look at the first page of it, the last  
 12 paragraph on the first page, and let me read you  
 13 the first couple of sentences and then I want to  
 14 ask you a question or two.  
 15 It says there "It is important that an  
 16 investigation begins at your site as soon as  
 17 possible. The longer contamination is left in the  
 18 environment, the farther it can spread and the  
 19 more difficult and costly it becomes to clean up."  
 20 Do you see that?  
 21 A **Yes, I do.**  
 22 Q All right. Did you ever ask anybody, anybody,  
 23 ever, why didn't we address this problem sooner?  
 24 A **We did. It was at that point that we were charged with doing the necessary studies, the necessary**  
 25

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1 **tests to determine what it was we needed to do,**  
 2 **what the extent was, and I think we employed all**  
 3 **the practical aspects of professional help and**  
 4 **collaboration with the DNR in order to work our**  
 5 **way to the point where we could do what needs to**  
 6 **be done.**  
 7 Q Why do you believe what you just told me? Why do  
 8 you believe that's true? Did someone tell you  
 9 that?  
 10 A **It's what I directed.**  
 11 Q Okay. And you believe that your people do what  
 12 you direct; is that right?  
 13 A **I do.**  
 14 Q Okay. Do you believe that all throughout this  
 15 process your company has worked collaboratively  
 16 and in good faith with the Wisconsin DNR?  
 17 A **Yes, I do.**  
 18 Q You know they sued you last month; right?  
 19 A **Yes, I do.**  
 20 Q Okay. Do you have any idea why it is they sued  
 21 you if all along you've been working  
 22 collaboratively and in good faith with the  
 23 Wisconsin DNR?  
 24 A **Well, I think perhaps we requested it so that we**  
 25 **could get the state to put the DNR in a position**

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1 **where they would give us a work plan.**  
 2 Q You asked the state to sue you; is that right? Is  
 3 that what you just told me?  
 4 A **I believe that.**  
 5 Q You believe that Madison-Kipp asked the state of  
 6 Wisconsin to sue Madison-Kipp; is that right?  
 7 A **I believe that that was the interrelationship**  
 8 **between the state and the DNR in order to be able**  
 9 **to get the DNR to give us a solid work plan.**  
 10 Q Are you able to answer my question yes or no, did  
 11 Madison-Kipp ask the state of Wisconsin to sue it?  
 12 Can you say yes or no?  
 13 A **I don't know.**  
 14 Q Okay. Well, have you read the state's lawsuit?  
 15 A **I have not.**  
 16 Q Have you seen a copy of it?  
 17 A **No, I have not.**  
 18 Q Have you asked anybody to show you a copy of it?  
 19 A **No.**  
 20 Q Okay. Do you know whether the allegations in the  
 21 state's lawsuit bear any relationship to the  
 22 allegations in the lawsuit that Deanna Schneider  
 23 and her neighbors have filed against Madison-Kipp?  
 24 A **I do not.**  
 25 Q You don't know whether they relate to the same

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1 thing or partially the same thing or completely  
 2 different things?  
 3 A **No.**  
 4 Q Is that correct?  
 5 A **Correct.**  
 6 Q So if I were to ask you why, would you just tell  
 7 me that it's not your job to know those things?  
 8 A **Those are all operational responsibilities that**  
 9 **I've assigned and that people carry out. That's**  
 10 **not the part of the business where I spend my**  
 11 **time.**  
 12 Q Aren't we talking here with this PCE contamination  
 13 problem about a problem, the financial  
 14 consequences of which threaten the life of your  
 15 company?  
 16 A **Yes.**  
 17 Q Then why are you delegating these things to other  
 18 people then? Why don't you know more than you are  
 19 telling me you know about what these lawsuits say?  
 20 MR. BUSCH: Object to form. It's  
 21 argumentative but go ahead and answer.  
 22 THE WITNESS: Because I trust their  
 23 capabilities and I trust that they have the  
 24 interest of the corporation to the extent that  
 25 they will make sure that in every single instance

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1 we not only correct the problems, take the

2 necessary actions and protect the capability of

3 the company.

4 BY MR. COLLINS:

5 Q One of the guys that was working at least on some

6 aspects of the PCE contamination problem for you

7 was your former president, Caldwell, right?

8 A Yes.

9 Q And you fired him; right?

10 A I did.

11 Q But nonetheless, you're confident that he was

12 doing everything he needed to do on the PCE

13 problem for the company?

14 A He was not terminated for any condition that had

15 anything to do with that.

16 Q Did you ever -- back up. Let me strike that.

17 It's fair to say, isn't it, that over the last few

18 months there's been a lot of environmental work

19 done on your company's property?

20 A Yes.

21 Q People drilling holes, drilling wells, geoprobes

22 and the like; right?

23 A Yes.

24 Q Hundreds of holes drilled into the plant floor and

25 into the parking lot and on company grounds

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1 looking for contamination; right?

2 A Yes.

3 Q Looking for contamination in soil and groundwater;

4 right?

5 A Yes.

6 Q Did you ever ask anybody why wasn't this volume of

7 work done sooner than 2012?

8 A No.

9 Q Did you ever ask any of the folks to whom you've

10 delegated all these things or any of the

11 consultants your company has working for you

12 should we have done any of this work sooner than

13 2012?

14 A I have asked that question.

15 Q Who have you asked it of, please?

16 A Anybody who had anything to do with the process.

17 Q Can you give me names, please?

18 A Mark.

19 Q Meunier. Yes? Is that correct?

20 A That's right.

21 Q Anybody else that you've asked that question of?

22 A Not in specificity.

23 Q What did Meunier tell you?

24 A He said if we had known at the time, we would have

25 done something sooner.

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1 Q Did you ask him why didn't we know sooner?

2 A We were going through the process of finding out

3 and we had activity in terms of both professional

4 consultation and work with the DNR that led us to

5 the conclusion that what we were doing was

6 adequate for the time and coming to a solution on

7 the problem.

8 Q Why did you ask Mr. Meunier that question, and the

9 question I'm talking about is, as you've told me

10 that you asked him, why didn't we do this work

11 sooner? What was it that led you to ask

12 Mr. Meunier that question?

13 A I would like to have had the problem resolved more

14 quickly.

15 Q Don't you believe that if all of the work being

16 done in 2012 -- strike that. Let me ask you this

17 question. Has anybody ever told you that the work

18 being done current at your company, all of the

19 drilling of holes and investigating what's in the

20 groundwater and where's it going and where is it

21 on the soil, all of that work, has anybody ever

22 told you that it couldn't have been done 15 years

23 ago?

24 A Nobody has ever told me that.

25 Q Did you ever ask anybody whether we could have

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1 done this work 15 years ago?

2 A I did not.

3 Q Don't you believe that if the work being done in

4 2012, all of the investigation being done in 2012

5 had been done 15 years ago, you would have been

6 able to get on top of this problem and get it

7 resolved much sooner?

8 MR. BUSCH: Object to form, lack of

9 foundation. Go ahead and answer.

10 BY MR. COLLINS:

11 Q You do believe that, don't you?

12 A I believe that at that period of time there were

13 technologies and awareness and DNR positions and

14 consultancies that did not know enough to have

15 implemented at that time what we had implemented

16 now.

17 Q Who told you that? Or excuse me. Why do you

18 believe what you just said?

19 A Because I was told that we were accomplishing what

20 was required in order to correct the problem.

21 Q When were you told that?

22 A During that whole period of time.

23 Q Okay. Well, beginning when?

24 A Well, you want me to start with the 1994 letter?

25 Q Well, I thought you never saw that. I'd like to



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1 but you've told me you'd never seen that before  
 2 this deposition, so --  
 3 **A But if that's when we started.**  
 4 Q Well, I'm asking you when you started and I'm not  
 5 trying to be facetious. I'd like to know can you  
 6 fix for me a year when your company started  
 7 addressing the PCE contamination problem.  
 8 **A No, I can't.**  
 9 Q Can you fix for me a decade?  
 10 **A No, I can't.**  
 11 Q Can you tell me who at your company was  
 12 responsible for addressing the PCE contamination  
 13 problem at your company?  
 14 **A The operational staff.**  
 15 Q Okay. Can you give me the names of people, let's  
 16 say in the 1990's, specific names of specific  
 17 human beings to whom you would have delegated  
 18 responsibility for addressing the PCE  
 19 contamination problem?  
 20 **A The plant managers, the environmental manager, the**  
 21 **vice president for operations.**  
 22 Q Can you give me the names of any people?  
 23 I appreciate the titles.  
 24 **A I'm not sure who they were at that particular**  
 25 **time. And, of course, the president if he were at**

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1 **that point in time Caldwell.**  
 2 Q Can you give me the name of any one person ever  
 3 that worked for your company who you counted on  
 4 specifically to make adequate progress in  
 5 addressing the PCE contamination problem on your  
 6 company's property?  
 7 **A It was the environmental manager.**  
 8 Q I appreciate that?  
 9 **A Under operation.**  
 10 Q Can you give me the name of one person ever --  
 11 regardless of their title, can you give me the  
 12 name of a human being that you trusted to take  
 13 adequate care of this problem in your company's  
 14 name?  
 15 **A There were several.**  
 16 Q Can you give me the names?  
 17 **A And amongst them, the consultant.**  
 18 Q All right. Who, please?  
 19 **A Jim Lenz.**  
 20 Q Anybody else?  
 21 **A Bud Hauser.**  
 22 Q Anybody else?  
 23 **A And Mark.**  
 24 Q Meunier?  
 25 **A (Nods head.)**

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1 Q Yes?  
 2 **A Yes.**  
 3 Q Okay. So you just mentioned three folks, Lenz,  
 4 Hauser and Meunier. Did any of these individuals  
 5 ever report to you on a regular or even  
 6 semi-regular basis about progress being made in  
 7 addressing the PCE contamination problem?  
 8 **A I don't recall.**  
 9 Q Well, did you charge anybody, delegate to anybody  
 10 the responsibility of keeping you posted on what  
 11 your company was doing to investigate the  
 12 environmental problem on its premises?  
 13 **A It would have been Tom Caldwell.**  
 14 Q Okay. When did you give Caldwell that  
 15 responsibility?  
 16 **A When he became president.**  
 17 Q Do you know when that was?  
 18 **A I do not.**  
 19 Q And what did you tell Caldwell to do, please?  
 20 **A Well, he was responsible for the operations.**  
 21 Q Because he was the president?  
 22 **A That's right, so this came under his review.**  
 23 Q Well, I understand it came under his review, but  
 24 did you give him any specific charge other than  
 25 just you're president and you're handling things

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1 operational? Did you give him any specific charge  
 2 with regard to this PCE contamination problem?  
 3 **A No.**  
 4 Q Did you ever have meetings with Caldwell  
 5 specifically on the subject of the PCE  
 6 contamination problem, how big or small a problem  
 7 it was, what your company was doing to address it,  
 8 those kinds of thing?  
 9 MR. BUSCH: Object to form, multiple.  
 10 BY MR. COLLINS:  
 11 Q Did you have specific meetings with Caldwell on  
 12 those topics?  
 13 MR. BUSCH: Go ahead and answer.  
 14 THE WITNESS: Probably not. It was  
 15 more a casual review of a lot of issues that he  
 16 was responsible for.  
 17 BY MR. COLLINS:  
 18 Q You said you read Lenz's deposition three days  
 19 ago; right?  
 20 **A Yes.**  
 21 Q By the way, you mentioned Lenz as one of the three  
 22 people who had some responsibility for addressing  
 23 the environmental issue; right?  
 24 **A Yes.**  
 25 Q Did you know that Lenz had that responsibility

1 before you read his deposition three days ago?

2 **A Yes.**

3 **Q** You did. Did you ever talk to Lenz about the

4 problem, the PCE contamination problem?

5 **A I don't recall.**

6 **Q** So Lenz didn't report to you about the PCE

7 contamination problem; right?

8 **A He didn't report to me.**

9 **Q** And Hauser didn't report to you either, did he?

10 **A He did not.**

11 **Q** How about Meunier?

12 **A No.**

13 **Q** So is it fair to say that from 1994 and up through

14 today, there's nobody at your company who reports

15 directly to you about the PCE contamination

16 problem?

17 **A Not at this time.**

18 **Q** Well, I'm talking about ever since 1994. Has

19 there been anybody who reports to you directly

20 about the PCE contamination problem?

21 **A Yes. I want to make a correction. Meunier**

22 **reported to me directly and Caldwell did.**

23 **Q** Okay. Now, but with regard to Caldwell, you said

24 you never had a specific meeting with him about

25 the PCE contamination problem; correct?

1 the environmental area that if the company was

2 going to make them, you had to be involved?

3 **A He had the authority to make the decisions that**

4 **were necessary.**

5 **Q** Okay. Have there been any decisions since 1994

6 and on up through today concerning the PCE

7 contamination problem at your company in which you

8 have been involved on the front end? In other

9 words, before the decision was made?

10 **A Probably in terms of choosing a particular**

11 **alternative as being more substantial and more**

12 **aggressive. I don't remember the specific times**

13 **but there were cases of that nature.**

14 **Q** Okay. Well, can you give me a specific

15 alternative. You mentioned the word

16 "alternative."

17 **A No.**

18 **Q** I mean, can you tell me anything more than what

19 you just did? I'm looking for some specifics so

20 I can understand your answer, please.

21 **A If we were going to drill a well and do mitigation**

22 **someplace on the property and there was a choice**

23 **of whether to or not and I were asked, I said do**

24 **it, and that happened several times.**

25 **Q** Can you remember the first time?

1 **A It probably arose in general meetings that we had**

2 **on a wide range of operational subjects.**

3 **Q** It got mixed in with all the other business of the

4 company?

5 **A That's correct.**

6 **MR. BUSCH:** You have to wait for him

7 to complete his question before you answer.

8 **BY MR. COLLINS:**

9 **Q** Same question for Meunier. Have you ever had a

10 specific meeting with Meunier dedicated

11 exclusively to the PCE contamination problem at

12 your company?

13 **A Yes.**

14 **Q** When did that start?

15 **A Anytime we had a situation where we were going to**

16 **take some action to correct anything that was --**

17 **that was open.**

18 **Q** And who set it up that Meunier had to report to

19 you about those things?

20 **A It was -- we reported -- he reported to me often**

21 **on a wide range of things because he was in charge**

22 **of human resources, safety, the environment, so**

23 **forth.**

24 **Q** What was the purpose for which he would report to

25 you? For example, were there certain decisions in

1 **A No.**

2 **Q** Can you remember any specific time --

3 **A Not a time frame.**

4 **Q** -- about any specific well? Well, can you give me

5 any specifics that would help me understand even

6 one time specifically when you made such a

7 decision or participated in such a decision?

8 **A When we did mitigation, a mitigation well, we**

9 **discussed it.**

10 **Q** Mitigation of what?

11 **A Well, whatever it was that we were injecting biox**

12 **to take care of.**

13 **Q** Okay. But did you understand what you were

14 mitigating as you were participating in that

15 decision?

16 **A At that particular time, which was a long time**

17 **ago, I'm not sure specifically what it was.**

18 **Q** Can you give me any other specifics of

19 environmental decisions in which you participated

20 directly?

21 **A Not specifically, no.**

22 **Q** Was there any amount of money that the company

23 might consider spending on any aspect of the PCE

24 contamination problem which required your approval

25 ahead of time?

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1 **A Not except as a part of a budget.**  
 2 Q Explain, please.  
 3 **A Well, the operations of the company had budgets,**  
 4 **and within those budgets were the amounts**  
 5 **necessary for environmental activities, and they**  
 6 **were approved as a part of a budget.**  
 7 Q Approved by whom?  
 8 **A The board of directors.**  
 9 Q Including you --  
 10 **A Yes.**  
 11 Q -- right? And you were at all points since 1964  
 12 until today the chairman of the board; right?  
 13 **A That's correct.**  
 14 Q And there was never a budget passed over your  
 15 objection during that time; right?  
 16 **A Passed over my objection?**  
 17 Q Right.  
 18 **A I don't understand the question.**  
 19 Q Well, I think you just answered but let me be more  
 20 specific. Was there ever a time since 1964 where  
 21 the board, the majority of the board members voted  
 22 in favor of a company budget and you were in the  
 23 minority voting against the company budget?  
 24 **A No.**  
 25 Q With regard to those budgets, did the company

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1 budget specifically for addressing the PCE  
 2 contamination problem?  
 3 **A Yes.**  
 4 Q Was it a line item on the budget?  
 5 **A I don't recall.**  
 6 Q So when you said yes to my question, did the  
 7 company budget specifically for the PCE  
 8 contamination problem, what do you mean? How did  
 9 it budget specifically for the PCE contamination  
 10 problem?  
 11 **A It could have been a line item that covered a**  
 12 **number of environmental issues.**  
 13 Q Okay, and one of them being the PCE contamination  
 14 issue; right?  
 15 **A Yes.**  
 16 Q All right. So is it fair to say then that on an  
 17 annual basis for so long as this PCE contamination  
 18 problem has been known, the company budgeted a  
 19 specific amount of money to address it?  
 20 **A Yes.**  
 21 Q And that was always an amount of money that  
 22 required board approval; is that right?  
 23 **A Annually.**  
 24 Q The board would meet annually to prove the next  
 25 fiscal year's budget.

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1 **A That's right.**  
 2 Q Can you give me a -- even a ballpark sense of how  
 3 much money the company budgeted annually to  
 4 address the PCE contamination problem?  
 5 **A No.**  
 6 Q Not even a ballpark sense?  
 7 **A No.**  
 8 Q So between \$5,000 a year and a million dollars a  
 9 year, you couldn't give me any help; is that  
 10 right?  
 11 **A That's correct.**  
 12 Q Did you always think it was enough regardless of  
 13 what the amount was?  
 14 **A As I said before, it covered more than**  
 15 **specifically the PCE issue.**  
 16 Q Thank you. Let me revise my question. Did you  
 17 always believe that the amount of money budgeted  
 18 by the company to address the PCE contamination  
 19 issue was adequate?  
 20 **A Yes.**  
 21 Q If you wanted to know specifically, if you wanted  
 22 to go back in time specifically and know how much  
 23 money every year your company through the action  
 24 of its board dedicated or budgeted to address the  
 25 PCE contamination problem, what documents would

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1 you look for?  
 2 **A I'm not sure they exist.**  
 3 Q Well, whether they exist or not, what did you call  
 4 them back then?  
 5 **A Well, they would be a budget proposal submitted by**  
 6 **the operations group and combined with all the**  
 7 **other budgets from the other groups in the company**  
 8 **and submitted to the board as the total budget.**  
 9 Q So who would make the recommendation or proposal  
 10 about how much to spend on addressing the PCE  
 11 contamination problem?  
 12 **A That would come from the operational personnel.**  
 13 Q Okay. And forwarded directly to the board?  
 14 **A It would be forwarded to the president or the**  
 15 **operations vice president and then up to me and**  
 16 **the board.**  
 17 Q And so when the amount proposed by the operations  
 18 people for addressing the PCE contamination  
 19 problem was forwarded to the board, was it  
 20 forwarded in some sort of a document, was it in  
 21 writing somewhere?  
 22 **A It was in a budget, a total budget for the**  
 23 **corporation's operation.**  
 24 Q A total budget for the board's consideration --  
 25 **A That's correct.**

1 Q -- right? And the board either acted on it and  
 2 approved it or didn't approve it and amended it in  
 3 some fashion and then approved it; right?  
 4 A Yes.  
 5 Q Well, the company's still doing budgeting; right?  
 6 A Yes.  
 7 Q So how far back would you be able to go in company  
 8 records to find out how much had been budgeted  
 9 ever year to address the PCE contamination  
 10 problem?  
 11 A I'd have to consult with the CFO. I don't know.  
 12 Q Is it knowable by review of company records?  
 13 I mean, is there someplace you believe you could  
 14 go in company records and find out what was  
 15 budgeted every year to address the PCE  
 16 contamination problem?  
 17 A I'm not sure.  
 18 Q Do you think it may be unknowable, undeterminable?  
 19 A I just don't know where you would find it.  
 20 Q Okay. Who would you ask? Meunier?  
 21 A The chief financial officer.  
 22 Q Who's that currently, please?  
 23 A Mark Daniel.  
 24 Q Mark Daniel, okay. Was there ever a time -- let  
 25 me strike that. Let me start a different

1 A That's correct.  
 2 Q Do any of them work at the plant? Do any of them  
 3 work at your company?  
 4 A No.  
 5 Q Okay. So who are they? Are any of these family  
 6 members or relatives?  
 7 A No family members, no relatives.  
 8 Q Can you just kind of generically -- are these  
 9 local business people? Who are they?  
 10 A No. They are business people who have  
 11 international reputations with companies like  
 12 Dana. It's an investment banker.  
 13 Q All right.  
 14 A There is a person who ran Warner Electric Brake.  
 15 Q Have they all been on the board for --  
 16 A Long time.  
 17 Q A considerable number of years, more than ten  
 18 years each?  
 19 A Mr. Harney is a recent addition.  
 20 Q Okay. Other than that, all of them have been on  
 21 the board for ten plus years; right?  
 22 A Yes.  
 23 Q Have you ever discussed with any of these board  
 24 members the PCE contamination problem?  
 25 A Not specifically.

1 question. When the board would meet to consider  
 2 approving a budget, there would be a meeting of  
 3 the board?  
 4 A Yes.  
 5 Q During any meeting that you can ever recall, did  
 6 the board ever discuss the PCE contamination  
 7 problem?  
 8 A I don't recall that, no.  
 9 Q So you don't recall the board ever discussing how  
 10 much we're going to spend on PCE and addressing  
 11 the PCE contamination problem?  
 12 A Not specifically.  
 13 Q So who's on the board currently besides yourself?  
 14 A Mr. Bauchiero.  
 15 Q Can you spell that, please?  
 16 A B-A-U-C-H-I-E-R-O, and Mr. Harney, H-A-R-N-E-Y,  
 17 and Mr. Johnston, J-O-H-N-S-T-O-N, and David -- I  
 18 can't think of his name for a minute. There's one  
 19 more, that one.  
 20 Q Currently on the board but you just can't remember  
 21 his last name right now; is that correct?  
 22 A That's correct.  
 23 Q Do any of these -- and they're all men?  
 24 A Yes.  
 25 Q And there's five of them when you add you.

1 Q Well, generally? Have you had any -- whether you  
 2 call it specific or general, have you ever --  
 3 A Well, in --  
 4 MR. BUSCH: You have to wait until he  
 5 finishes his question.  
 6 BY MR. COLLINS:  
 7 Q I apologize. Let me ask a question and I'll be  
 8 quiet and we'll listen to your answer. Have you  
 9 ever discussed with any of the Madison-Kipp board  
 10 members any aspect of the PCE contamination  
 11 problem?  
 12 A Yes. They had an update at the last board  
 13 meeting.  
 14 Q When was that?  
 15 A A month ago.  
 16 Q So September?  
 17 A (Nods head.)  
 18 Q Of 2012?  
 19 A Yes.  
 20 Q Okay. Prior to September of 2012 had the  
 21 Madison-Kipp board of directors ever been given  
 22 any update on the PCE contamination problem?  
 23 A Yes.  
 24 Q When?  
 25 A I don't know.

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1 Q How many times?  
2 **A It was a regular report in the times when it was**  
3 **of particular concern, and I don't know how many**  
4 **times.**  
5 Q What was the nature of the report? Was it  
6 written?  
7 **A No.**  
8 Q Verbal?  
9 **A Yes.**  
10 Q Who gave it?  
11 **A Mark.**  
12 Q Okay.  
13 **A Or Tom.**  
14 Q Tom Caldwell?  
15 **A When he was here.**  
16 Q And Mark Meunier.  
17 **A Yes.**  
18 Q Did Meunier succeed Caldwell?  
19 **A No, Meunier was in a different position.**  
20 Q So from time to time in the past Mark Meunier or  
21 Tom Caldwell would give an update to the board on  
22 the PCE contamination matter; right?  
23 **A On all of the general environmental issues.**  
24 Q Well, which from time to time included the PCE  
25 contamination issue?

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1 **A Yes.**  
2 Q All right. When they gave these updates, were  
3 there ever lawyers in the room?  
4 **A No.**  
5 Q All right. Did anybody record board minutes for  
6 any of these meetings?  
7 **A Yes, all meetings had minutes.**  
8 Q Who took them, please?  
9 **A The secretary.**  
10 Q Were the meetings recorded --  
11 **A No.**  
12 Q -- in any fashion? Okay. So who is the secretary  
13 who took the minutes?  
14 **A Mark Daniel.**  
15 Q As far as you know, he's -- how long does the  
16 company keep its minutes for, do you know? Does  
17 it go back a number of years?  
18 **A It goes back a number of years, yes.**  
19 Q When would you expect? How far back would it go?  
20 **A At least seven.**  
21 Q Okay. So would you expect that if there was any  
22 significant communication to or among board  
23 members about the PCE contamination problem, that  
24 it would appear in company minutes somewhere?  
25 **A Company minutes are very general.**

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1 Q Pardon me. Board minutes.  
2 **A Board minutes, yes. So whether it would have been**  
3 **specifically alluded to, I don't know.**  
4 Q Well, that's why I used the word "significant."  
5 So my question to you is if there was significant  
6 discussion at a board meeting about the PCE  
7 contamination problem or any aspect of it, do you  
8 expect that that discussion would be indicated in  
9 some fashion in the board minutes?  
10 **A Yes.**  
11 MR. COLLINS: Okay. I'd like to  
12 request those board minutes then, please.  
13 MR. BUSCH: Shawn, it's 12:20.  
14 Whenever it's convenient, we'd like a lunch break.  
15 MR. COLLINS: We can do it now if  
16 you'd like.  
17 MR. BUSCH: That's good.  
18 MR. COLLINS: And how long? Whatever  
19 you want.  
20 MR. BUSCH: Well, let's shoot for  
21 1:00 o'clock and we can get back. It's 45  
22 minutes.  
23 MR. COLLINS: That's great. See you  
24 at 1:00 o'clock. Thanks.  
25 (A recess was taken.)

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1 MR. COLLINS: Why don't we keep going.  
2 BY MR. COLLINS:  
3 Q All right. Mr. Coleman, a couple times you made  
4 reference to the deposition of Jim Lenz that you  
5 reviewed three days ago --  
6 **A Yes.**  
7 Q -- right? Do you recall that Mr. Lenz worked for  
8 Madison-Kipp for a period of time?  
9 **A Yes.**  
10 Q Do you recall ever talking to him about the PCE  
11 contamination problem?  
12 **A Yes.**  
13 Q Do you recall anything he said to you in that  
14 regard?  
15 **A No.**  
16 Q Do you know the name Mike Schmoller?  
17 **A Yes.**  
18 Q You know he works for DNR; correct?  
19 **A Yes.**  
20 Q Do you know he was deposed in this case?  
21 **A Yes.**  
22 Q Have you read his deposition?  
23 **A Yes.**  
24 Q You know he was deposed in two different sessions.  
25 Did you read both of those?

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1 **A No.**

2 Q Did you read Mr. Lenz's testimony about what he

3 had learned about how PCE got outside the plant at

4 Madison-Kipp?

5 **A Yes.**

6 **(Discussion off the record.)**

7 MR. COLLINS: Let's keep going.

8 BY MR. COLLINS:

9 Q So you read Mr. Lenz's testify that maintenance

10 people or former maintenance people at

11 Madison-Kipp had told him that they had scooped

12 spent PCE out of the vapor degreaser, took it out

13 of the doors of the plant and dumped it on the

14 ground outside the plant. You saw that; right?

15 **A I did.**

16 Q Before reading that in Lenz's deposition, had you

17 ever heard before that that had gone on at your

18 company?

19 **A No.**

20 Q Do you have any reason to know whether that was

21 acceptable practice, to treat PCE that way?

22 **A I don't know whether it was acceptable or not**

23 **because I don't know when it happened, if it**

24 **happened at all.**

25 Q Okay. Do you have any reason to doubt that it

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1 happened?

2 **A I don't have any way of knowing one way or**

3 **another.**

4 Q Do you have -- if you have any reason to doubt

5 that what Mr. Lenz testified to that had been told

6 to him by maintenance workers at your company was

7 not accurate, I'd like you to tell me now, please.

8 **A I don't know by personal knowledge that that**

9 **happened. That's the only way that I can judge.**

10 Q Do you plan to ask anybody whether that really

11 happened?

12 **A No.**

13 Q You also heard Mr. Lenz say that PCE had got

14 outside the plant via the vent of the vapor

15 degreaser. You read that; right?

16 **A Yes.**

17 Q That it came out of the vent, hit the air,

18 depending on the temperature, condensed or

19 liquefied and then hit the ground. Do you recall

20 that testimony?

21 **A I do.**

22 Q Had you ever heard before reading Lenz's

23 deposition three days ago that that had happened?

24 **A No.**

25 Q Did you ever -- did you read Lenz's testimony that

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1 PCE had perhaps been spread on the company grounds

2 perhaps along with other chemicals? Did you read

3 Lenz's testimony in that regard?

4 **A I don't remember that he specified that it was PCE**

5 **that was spread on the ground.**

6 Q Do you remember him saying that there was a -- at

7 the company for a period of time there was a vat

8 of spent chemicals and that those chemicals from

9 time to time were taken out of that vat and spread

10 on the company grounds?

11 **A I remember reading that.**

12 Q And do you recall him saying that that may have

13 included PCE?

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

15 Q All right. Did you know before reading Lenz's

16 deposition that chemicals had been spread on

17 company property in that fashion?

18 **A I reiterated that there was a process for reducing**

19 **the dust in the parking lot many years ago before**

20 **it was blacktopped. I do not know what was put on**

21 **it and I don't know how or when.**

22 Q Did you know of that process as it was occurring?

23 **A No.**

24 Q You found out later?

25 **A (Nods head.)**

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1 Q Is that right?

2 **A The dust went away.**

3 Q All right. You found out when the dust went away?

4 **A Yes.**

5 Q Okay. So in other words, you found out shortly

6 after the chemicals had been spread that the

7 chemicals had been spread; is that right?

8 **A Or whatever it was.**

9 Q So you found out within a matter of hours or days?

10 **A I don't know.**

11 Q Okay. Did you ever make any effort back at the

12 time you learned this was occurring or anytime

13 since to determine what was being spread on

14 company property?

15 **A No.**

16 Q Well, you didn't believe it was water, did you?

17 **A I didn't know what it was.**

18 Q Okay. And you --

19 **A Water is often used as a means for reducing dust.**

20 Q Mm-hm. Don't you know today that at least one of

21 the chemicals spread on company property, at least

22 in part in an effort to keep the dust down, were

23 PCBs? You know that today, don't you?

24 **A I do know that we used hydraulic oil. I did hear**

25 **that.**

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1 Q And you know that the hydraulic oil contained  
2 PCBs; correct?  
3 **A Yes.**  
4 Q And when did you first learn that the company had  
5 spread hydraulic oil containing PCBs on its  
6 property in an effort, at least in part, to  
7 control dust?  
8 **A I don't know.**  
9 Q I mean, was it before the last year?  
10 **A I don't know.**  
11 Q So whether it was within the last few months or 15  
12 years ago, you don't know?  
13 **A No, I don't.**  
14 Q Did you ever learn of the possibility that PCE may  
15 have leaked through the floor, either through the  
16 concrete or cracks in the concrete, at the plant?  
17 Did you ever hear that that may have happened?  
18 **A No.**  
19 Q Do you recall Mr. Lenz testifying in the  
20 deposition you read three days ago on more than  
21 one occasion to the fact that how PCE was being  
22 dumped or spilled or otherwise getting outside  
23 onto the ground at your company was, quote,  
24 unquote, "common knowledge"?  
25 **A I don't remember that specifically, no.**

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1 Q You don't remember Mr. Lenz testifying to that?  
2 **A No.**  
3 Q That it was common knowledge as to how PCE was  
4 getting outside the plant and onto company  
5 grounds?  
6 **A I don't believe that I recall him saying that it  
7 was common knowledge.**  
8 Q Do you recall how much Tom Caldwell made, what his  
9 compensation was as your company's president?  
10 **A No, I don't.**  
11 Q Ballpark idea?  
12 **A None.**  
13 Q Was there anything other than an annual salary  
14 involved? Do you know any kind of bonuses,  
15 anything like that?  
16 **A If there were specific performance objectives  
17 achieved, there would be a small bonus.**  
18 Q Well, do you know if he had any specific  
19 performance objectives for which he'd get a bonus  
20 if they were accomplished?  
21 **A I don't recall.**  
22 Q Do you know if his compensation was tied in any  
23 manner to profitability?  
24 **A Only the bonus.**  
25 Q Can you give me any sense of the size of the bonus

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1 that he might be eligible for?  
2 **A No, I don't recall.**  
3 Q All right. Same questions for Mr. Meunier. Is  
4 his compensation tied at all to profitability?  
5 **A No.**  
6 Q It's all salary?  
7 **A Yes.**  
8 Q Is there any other component besides salary for  
9 Mr. Meunier?  
10 **A There has not been.**  
11 Q Do you know how much Mr. Meunier makes in terms of  
12 his salary?  
13 **A No.**  
14 Q You don't know? You don't have any idea?  
15 **A I don't know specifically.**  
16 Q Can you tell me generally?  
17 **A No. I'm not going to reveal that kind of data.**  
18 MR. BUSCH: You know, I don't see  
19 any -- I'm not going to say we're not going to  
20 reveal it at some point in time, but we did send  
21 you a confidentiality offer several months ago,  
22 which you didn't sign. I want some of the -- when  
23 you get into this, and I'm not saying you can't  
24 get into it, but I think we ought to do it under a  
25 confidentiality agreement that we should

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1 negotiate, and I'll supplement this with that  
2 information once we come to that issue.  
3 MR. COLLINS: Well, for the last few  
4 questions, I mean, I haven't gotten any answers,  
5 so there's nothing.  
6 MR. BUSCH: No, you can go ahead. No,  
7 I agree, but once when we get into, you know, as  
8 to the -- that question asked, you know, a general  
9 area, and I'm not going to have him answer that  
10 until we get that agreement.  
11 MR. COLLINS: I've got some more  
12 compensation questions to ask here and I'll agree  
13 with you right now that we can keep that  
14 confidential. I'm not going to agree generally to  
15 a protective order but I will for compensation  
16 information.  
17 MR. BUSCH: Well, then there's a  
18 question about, you know, who signs on to it,  
19 who's agreed to it. I mean, we have a plaintiff  
20 here who is not a signatory to anything. I guess  
21 I want it in writing and I want anybody who gets  
22 access to it to sign off, and I guess that's  
23 where -- not I guess. That's where we're going to  
24 be.  
25

1 BY MR. COLLINS:  
 2 Q Okay. Mr. Coleman, has there ever been any kind  
 3 of an investigation or cleanup relative to the PCE  
 4 contamination problem that has been recommended to  
 5 you that you said the company could not do or  
 6 would not do for cost reasons?  
 7 **A No.**  
 8 Q Never? Not one? Is that true?  
 9 **A That's correct.**  
 10 Q Has any investigation or cleanup been delayed by  
 11 any length of time because of cost considerations?  
 12 **A Not that I'm aware of.**  
 13 Q As you've considered the costs and potential costs  
 14 of addressing the PCE contamination problem, and  
 15 you've acknowledged earlier that it does  
 16 potentially threaten the financial life of the  
 17 company, have you considered the possibility of  
 18 the company filing for bankruptcy protection?  
 19 **A No.**  
 20 Q Okay. Let's talk about -- do you recall -- let's  
 21 go back to Lenz for a second. Do you recall  
 22 reading anything in the Lenz deposition which as a  
 23 factual matter you believe was inaccurate?  
 24 MR. BUSCH: Object to the form of the  
 25 question, commenting on the deposition of another

1 person, but go ahead and answer if you can.  
 2 THE WITNESS: I didn't read anything  
 3 in the Lenz deposition that I thought was  
 4 absolutely and undeniably factual.  
 5 BY MR. COLLINS:  
 6 Q Tell me anything in the Lenz deposition that you  
 7 believed as a factual matter was incorrect.  
 8 MR. BUSCH: Same objection.  
 9 THE WITNESS: Nothing that I read in  
 10 there did I have previous personal knowledge  
 11 about. So as far as I'm concerned, what was in  
 12 there was Lenz's opinion or Lenz's question.  
 13 BY MR. COLLINS:  
 14 Q Okay. Well, what basis do you have for  
 15 disbelieving anything that he said in his  
 16 deposition?  
 17 **A I don't have any basis for believing it.**  
 18 Q Or disbelieving it; true?  
 19 **A Or disbelieving.**  
 20 Q So you have no basis for knowing how PCE wound up  
 21 in the soil and groundwater on your plant; right?  
 22 **A Right.**  
 23 Q Have you ever spoken to Mike Schmoller?  
 24 **A Never.**  
 25 Q Would you recognize him if he walked in the room

1 here?  
 2 **A No.**  
 3 Q Have you ever spoken to anybody at the Wisconsin  
 4 DNR about any aspect of this PCE contamination  
 5 problem?  
 6 **A No, I have not.**  
 7 Q Not one person ever?  
 8 **A Ever.**  
 9 Q I want to ask you some specific names. Does the  
 10 name Dino Tisoris, T-S-O-R-I-S, mean anything to  
 11 you?  
 12 **A No. I read about him in Lenz's deposition.**  
 13 Q Three days ago?  
 14 **A Mm-hm.**  
 15 Q Yes? Have you ever heard the name before -- do  
 16 you ever recall hearing the name before then?  
 17 **A No.**  
 18 Q All right. How about at DNR now? There's someone  
 19 who works there named Linda Hanefeld. Have you  
 20 ever heard of her?  
 21 **A I've heard of her, yes.**  
 22 Q Have you ever talked to her?  
 23 **A I have not.**  
 24 Q Have you ever asked anyone to talk to her?  
 25 **A I'm sure that -- I've not asked them to but they**

1 **do it regularly.**  
 2 Q Have you ever talked to Mark Giesfeldt at WDNR?  
 3 **A No.**  
 4 Q Have you ever talked to Eileen Pierce?  
 5 **A No.**  
 6 Q Jeffrey Carroll?  
 7 **A No.**  
 8 Q Patrick Stevens?  
 9 **A No.**  
 10 Q Steven Sisbach?  
 11 **A No.**  
 12 Q Cathy Stepp?  
 13 **A No.**  
 14 Q Have you ever talked to Cathy Stepp for any reason  
 15 whatsoever?  
 16 **A Not for any reason. I've never met her.**  
 17 Q You know her name, don't you?  
 18 **A Yes, I do.**  
 19 Q Have you ever asked anyone to speak to Cathy Stepp  
 20 on your behalf or on behalf of your company?  
 21 **A No.**  
 22 Q In your past you were president of the Republican  
 23 Party in Wisconsin; correct?  
 24 **A Yes.**  
 25 Q From when to when, please?



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1 **A 1968 to '72.**  
2 Q Do you know the past governor of the state, Tommy  
3 Thompson?  
4 **A Yes.**  
5 Q Is he a friend of yours?  
6 **A Not really.**  
7 Q Okay. He was governor from 1986 or '7 until the  
8 year 2000 or so, wasn't he?  
9 **A That sounds about right.**  
10 Q Have you ever spoken to Tommy Thompson about any  
11 aspect of your business at Madison-Kipp?  
12 **A No.**  
13 Q Have you ever communicated with anyone in  
14 Wisconsin government, anyone in government about  
15 any aspect of the PCE contamination problem?  
16 **A No.**  
17 Q Have you ever asked anyone on your behalf or on  
18 behalf of your company to speak to anyone in  
19 Wisconsin government about any aspect of the PCE  
20 contamination problem?  
21 **A Those who are responsible for it should be**  
22 **speaking to people at the DNR.**  
23 Q And who is that, please?  
24 MR. BUSCH: You want water?  
25 THE WITNESS: No, that doesn't help.

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1 MR. COLLINS: Is there anything you  
2 want to take time to do?  
3 THE WITNESS: No. I cough regularly  
4 and I'll take care of it when I cough and when  
5 it's over, we'll talk.  
6 BY MR. COLLINS:  
7 Q So who are those folks?  
8 **A Would you repeat the question again?**  
9 MR. COLLINS: Would you repeat my  
10 question?  
11 (The record was read as follows:  
12 "Answer: Those who are responsible  
13 for it should be speaking to people at the DNR.  
14 Question: And who is that, please?")  
15 THE WITNESS: That would be Mark  
16 Meunier, Tony Koblinski. Those two primarily.  
17 BY MR. COLLINS:  
18 Q Did anyone on your behalf or on behalf of  
19 Madison-Kipp Corporation ever speak to anyone in  
20 the governor's office, the current governor's  
21 office about any aspect of the PCE contamination  
22 situation?  
23 **A I did not.**  
24 Q You did not what?  
25 **A Speak to anyone in the governor's office.**

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1 Q My question's different. I'm asking you whether  
2 anyone on your behalf or on behalf of your company  
3 ever spoke to anyone in the governor's office, the  
4 current governor's office, about any aspect of the  
5 PCE contamination problem at Madison-Kipp?  
6 **A Well, since there were actions being undertaken by**  
7 **the Department of Justice, I would expect that**  
8 **there were attorneys who had spoken with**  
9 **individuals in the governor's office.**  
10 Q With what individual's in the governor's office?  
11 **A I don't know.**  
12 Q Well, what's the basis of your expectation that  
13 you just testified about? Why do you believe what  
14 you just told me?  
15 **A Because I have been told that we had legal and**  
16 **penalty discussions with the Department of**  
17 **Justice.**  
18 Q Okay. But that's different than the governor's  
19 office; right?  
20 **A Well, not the governor's office, no.**  
21 Q You don't believe anybody on behalf of  
22 Madison-Kipp spoke to anybody in the governor's  
23 office about any aspect of the PCE contamination  
24 problem?  
25 **A I don't know and I have no knowledge of anyone**

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1 **doing that.**  
2 Q Do you know a lawyer named Raymond Taffora?  
3 **A I have met him.**  
4 Q Okay. Now, to your knowledge has Mr. Taffora  
5 approached anybody at the governor's office about  
6 any aspect of the PCE contamination problem at  
7 Madison-Kipp?  
8 **A I did not know, no.**  
9 Q You did not know what?  
10 **A I did not know if he did that or that he did that.**  
11 Q So if he did that, would that come as a complete  
12 surprise to you?  
13 **A Yes. I believe his letter was in the Lenz**  
14 **deposition. That would have been a surprise.**  
15 Q To you?  
16 **A Yes.**  
17 Q So do you believe Mr. Taffora should not have made  
18 that approach to the governor's office?  
19 **A I believe that you can have contact with public**  
20 **officials anytime you want, and if that was the**  
21 **context in which he was sending the letter, then**  
22 **I don't see any objection to it.**  
23 MR. COLLINS: If you'd just hand this  
24 to the witness. That's Schmoller 16.  
25

1 BY MR. COLLINS:  
 2 Q So the document I've just given you is called  
 3 Schmoller No. 16, and you saw this when you saw  
 4 the Schmoller deposition; right?  
 5 A **No, I'm not sure that I saw this one.**  
 6 Q All right.  
 7 MR. BUSCH: Shawn, this one has your  
 8 handwriting on it.  
 9 MR. BERGER: It's actually my  
 10 handwriting.  
 11 MR. COLLINS: Well, that's just  
 12 Exhibit 16.  
 13 MR. BUSCH: No, the other side.  
 14 MR. COLLINS: Oh, okay.  
 15 BY MR. COLLINS:  
 16 Q Why don't you look at Schmoller No. 16, which is  
 17 in front of you, Mr. Coleman. I want to ask you  
 18 if you've seen it before, but if you'd like to  
 19 read it first --  
 20 A **Yes, I'd like to read it.**  
 21 Q Please do.  
 22 A **Yes, I read it.**  
 23 Q I'm going to ask you questions about it. You saw  
 24 this in Schmoller's deposition.  
 25 A **No, I did not. I was wrong. That should be**

1 "MKC would prefer to spend its resources defending  
 2 allegations against the state of Wisconsin and  
 3 restoring the environment than paying out-of-state  
 4 plaintiff's counsel given that the federal statute  
 5 provides for the plaintiff's attempted recovery of  
 6 their fees and costs." Do you see that?  
 7 A **I do.**  
 8 Q Okay. You believe that someone on Madison-Kipp's  
 9 behalf asked the state to sue Madison-Kipp; right?  
 10 A **That's correct.**  
 11 Q And what led to that request was Deanna Schneider  
 12 and myself and Mr. Berger sent Madison-Kipp and  
 13 folks in Wisconsin government a 90-day notice that  
 14 said that if certain things wouldn't be done, we  
 15 would sue Madison-Kipp. Isn't that what prompted  
 16 Madison-Kipp to go to the state and ask the state  
 17 to sue it?  
 18 A **I don't know that.**  
 19 Q Well, what did prompt Madison-Kipp to go to the  
 20 state and ask the state to sue it?  
 21 A **I assumed we wanted to get the state to encourage  
 22 the DNR to give us a work plan so that we could  
 23 get on with correcting the situation.**  
 24 Q Are you saying that the Wisconsin DNR was  
 25 preventing Madison-Kipp from doing an

1 **corrected. I did not see this memorandum.**  
 2 Q How do you know Mr. Taffora?  
 3 A **I don't know Mr. Taffora other than the fact that  
 4 he was works for a law firm.**  
 5 Q Law firm being Michael Best; right?  
 6 A **Is that correct?**  
 7 Q Well, that's what his e-mail says here. Have you  
 8 ever met Mr. Taffora?  
 9 A **I don't recall that I have. If I have, it has  
 10 been a casual shake of hands in the hallway.**  
 11 Q Do you know Brian Hagedorn at the governor's  
 12 office?  
 13 A **I do not.**  
 14 Q Do you know the current governor?  
 15 A **I have never met him.**  
 16 Q Never met him. So let's look at -- this is --  
 17 Schmoller No. 16 is an e-mail from Taffora to  
 18 Hagedorn. It's got my name up at the top because  
 19 Hagedorn e-mailed it to me pursuant to a discovery  
 20 request we made in this case. So let's -- so this  
 21 is e-mailed from Taffora to Hagedorn at the  
 22 governor's office on September 14, 2010, a little  
 23 after 8:00 in the morning.  
 24 So let's look at the second page,  
 25 particularly the last bullet point, which reads

1 investigation or cleanup?  
 2 A **I'm saying that the DNR has not been prompt nor  
 3 forthcoming in providing us with a full work plan  
 4 against which we could work.**  
 5 Q Well, this morning you told me that your company  
 6 and DNR were working cooperatively to resolve the  
 7 PCE contamination problem; correct?  
 8 A **That's correct.**  
 9 Q Are you now amending that testimony?  
 10 A **No. I think that we did that for many years.**  
 11 Q Did what for many years?  
 12 A **We worked cooperatively for many years.**  
 13 Q Do you know whether DNR ever previously, that is,  
 14 previous to last month, threatened to undertake  
 15 enforcement action against Madison-Kipp for what  
 16 the DNR perceived to be Madison-Kipp's failure to  
 17 timely address the PCE contamination problem?  
 18 A **I don't know that they did.**  
 19 Q Okay. Do you know what Mr. Taffora's referring to  
 20 here in this last bullet point of Schmoller 16  
 21 that I read to you?  
 22 A **He said we would prefer to spend our resources  
 23 restoring the environment is the part I come out  
 24 of that.**  
 25 Q Okay.

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1 **A I know nothing about fees or whatever that has to**  
 2 **do with what we're talking about here today.**  
 3 Q Did you ever authorize anyone to approach the  
 4 Wisconsin state government and ask the government  
 5 to sue Madison-Kipp? Did you ever authorize  
 6 anybody to do that on behalf of Madison-Kipp?  
 7 **A I didn't.**  
 8 Q Do you believe anybody at your company authorized  
 9 that?  
 10 **A Well, it sounds like somebody did.**  
 11 Q You don't believe that what Mr. Taffora wrote here  
 12 in Schmoller 16 was him acting on his own, do you?  
 13 **A No.**  
 14 Q You believe when he is using the term  
 15 "Madison-Kipp Corporation" and what Madison-Kipp  
 16 Corporation would prefer, you believe he's acting  
 17 on your company's authorization; correct?  
 18 **A I don't know that he is acting on any specific**  
 19 **authorization to do this.**  
 20 Q Do you have any problem with what you've read here  
 21 in Schmoller 16 what Mr. Taffora told the  
 22 government?  
 23 **A I don't know for a fact about the last bullet.**  
 24 Q I'm not asking if you know it for a fact. I'm  
 25 asking if you have any problem with this being

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1 represented to the governor's office in the state  
 2 of Wisconsin on behalf of your company.  
 3 **A Not particularly, no.**  
 4 Q Why is that?  
 5 **A Well, this seems to state a case of who we are and**  
 6 **what we've been doing and what we want to**  
 7 **accomplish.**  
 8 Q Did you become aware in the latter half of 2011  
 9 that a 90-day notice had been sent to the company  
 10 and to officials in the government, state and  
 11 federal, relating to the PCE contamination problem  
 12 at your company?  
 13 **A Yes.**  
 14 Q What did you learn about that?  
 15 **A It was a 90-day notice for us to undertake what**  
 16 **was necessary to correct the deficiencies and**  
 17 **proceed accordingly.**  
 18 Q Okay.  
 19 **A That's what I understood.**  
 20 Q Did you understand that if the persons who sent  
 21 Madison-Kipp that notice were to file a lawsuit in  
 22 federal court pursuant to that notice, that that  
 23 might jeopardize Madison-Kipp's ability to control  
 24 the investigation and cleanup of PCE contamination  
 25 on its property?

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1 **A I didn't know that specifically, no.**  
 2 Q Okay. Well, what did you understand specifically  
 3 about the significance of that notice?  
 4 **A Excuse me. Of the notice that you were proceeding**  
 5 **with the lawsuit?**  
 6 Q Yeah. I mean --  
 7 **A It was a 90-day notice.**  
 8 Q Was there anything significant to you about that  
 9 notice?  
 10 **A Yeah, that we had to start cleanup proceedings**  
 11 **within 90 days.**  
 12 Q Okay.  
 13 **A Or suit would be filed.**  
 14 Q Did you -- do you know that Mr. Taffora was  
 15 previously employed by the attorney general's  
 16 office in the state of Illinois -- state of  
 17 Wisconsin?  
 18 **A I did not.**  
 19 Q Never heard that?  
 20 **A No.**  
 21 Q Have you ever talked to, communicated with anybody  
 22 at the attorney general's office about anything  
 23 related to the PCE contamination problem?  
 24 **A No, I have not.**  
 25 Q Have you ever authorized anybody on behalf of your

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1 company to engage in such communications?  
 2 **A No.**  
 3 Q All right. Do you believe -- I want to just clear  
 4 something up I think I heard from you this  
 5 morning. When the state of Wisconsin sued your  
 6 company last month, do you believe that that was  
 7 the lawsuit that your company asked for?  
 8 **A I don't know.**  
 9 Q Why do you believe that your company asked the  
 10 state to sue it?  
 11 **A So that the DNR would provide under state statutes**  
 12 **and with the pressure of their suit a work plan**  
 13 **that we could implement and correct the problems**  
 14 **that we want to get corrected.**  
 15 Q Have you ever seen a work plan related to the PCE  
 16 contamination at your company?  
 17 **A We still don't have a complete work plan.**  
 18 Q Have you ever seen a work plan submitted by  
 19 anybody in connection with the PCE contamination  
 20 problem at your company?  
 21 **A No.**  
 22 Q Do you believe that any work plans exist and maybe  
 23 you just haven't seen them?  
 24 **A I really don't know. I know that we have been**  
 25 **working to get an agreed-upon work plan and that**

1 as yet we don't have it, and it's difficult to  
2 know what your requirements are if you don't have  
3 a work plan. So that's sort of the vein in which  
4 I've been informed of what we're doing. We're  
5 anxious to get the work plan so that we can get  
6 the thing fixed. Whatever all this is is not.

7 Q All what is?  
8 A What's going on in here is not something with  
9 which I'm familiar.

10 Q So is it your current understanding that the  
11 Wisconsin DNR is an impediment to investigation  
12 and cleanup of PCE contamination at your company?

13 A I think they're being less than specific on what  
14 they want us to do.

15 Q And so you think your company wanted to get sued  
16 by the state to force the DNR to be more specific?

17 A That probably was one reason.

18 Q What were the other reasons?

19 A That's the only one I'd know.

20 Q All right. So did the -- so far as you know, did  
21 the attorney general of the state of Wisconsin  
22 agree to sue Madison-Kipp because that's what  
23 Madison-Kipp asked for?

24 A I don't know.

25 Q Do you believe Madison-Kipp to be working

1 A I have no idea.

2 Q Who on behalf of Madison-Kipp went to the attorney  
3 general's office to use their influence on DNR?

4 A I don't know that either.

5 Q Do you know who at the attorney general's office  
6 was approached on behalf of Madison-Kipp --

7 A No.

8 Q -- to ask for that influence?

9 A I do not know any names.

10 Q Do you believe that the lawsuit filed last month  
11 against Madison-Kipp by the attorney general was  
12 in response to, as Mr. Meunier related it to you,  
13 Madison-Kipp approaching the attorney general's  
14 office?

15 A No, I think it was in response to their own  
16 judgment as to what needed to be done.

17 Q Did you read Mr. Schmoller's testimony to the  
18 effect that he was approached by one of his  
19 superiors at Wisconsin DNR and told that the  
20 governor's office had a problem with positions  
21 that Mr. Schmoller was taking on the investigation  
22 and cleanup at Madison-Kipp?

23 MR. BUSCH: I'm going to object to the  
24 form. I don't think you correctly characterized  
25 the testimony but you're asking him to comment on

1 cooperatively with the Wisconsin attorney general  
2 on that lawsuit that the state filed against  
3 Madison-Kipp?

4 A When you're charged and fined, I don't consider it  
5 a cooperative arrangement.

6 Q So do you interpret the state's filing of the  
7 lawsuit against Madison-Kipp to be a hostile act?

8 A Yes.

9 Q I'm just confused because I thought this morning  
10 you were telling me that's the lawsuit  
11 Madison-Kipp had asked for.

12 A I said we went to the Department of Justice to get  
13 them to use their influence to get a work plan  
14 from the DNR.

15 Q How --

16 A I did not ask them, ask anybody to ask them to sue  
17 us.

18 Q How do you know what you just told me? You said  
19 we went to the attorney general's office to get  
20 them to use their influence. How do you know  
21 that?

22 A I heard, that was told to me.

23 Q By whom?

24 A Mark Meunier.

25 Q When did he tell you that?

1 testimony, so I'm going to object to the form  
2 again. Go ahead and answer.

3 THE WITNESS: I don't recall that.

4 Was that in the first or second?

5 BY MR. COLLINS:

6 Q In the first. Did you read the first?

7 A I did. I went through it rather quickly.

8 Q At page 164 Mr. Schmoller says "I think there were  
9 issues raised at the governor's office about what  
10 we were asking them to do, how much we wanted them  
11 to do, you know, why isn't the site done, that  
12 sort of thing." Do you recall reading that in  
13 Mr. Schmoller's testimony?

14 A Yes.

15 Q Okay. Do you have any idea why any issues would  
16 have been raised within the governor's office  
17 about what DNR was asking Madison-Kipp to do,  
18 et cetera?

19 A I assume it was, as I have said, to motivate DNR  
20 to provide us with what we needed, which it seems  
21 to me is what that says.

22 Q So you believe the governor's office was involved  
23 to motivate DNR to provide Madison-Kipp  
24 specificity about what was expected of  
25 Madison-Kipp by DNR.

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1 **A Yes.**

2 Q Okay. And why do you believe that, that the

3 governor's office was involved for that reason?

4 **A Because I read it in Mr. Schmoller's deposition.**

5 Q Do you believe it is acceptable for the governor's

6 office to be involved in what Schmoller says they

7 were involved in?

8 **A I believe that you have the right to seek counsel**

9 **from a public official if you think it can help**

10 **you accomplish what you want to get done in a way**

11 **that is both legal and appropriate.**

12 Q So if, indeed, the governor's office was

13 communicating to DNR and ultimately to Schmoller

14 that it took issue with some of the positions

15 Schmoller was taking on investigation and cleanup

16 with Madison-Kipp, you don't see a problem with

17 that; is that right?

18 MR. BUSCH: I object to the form.

19 I think that mischaracterizes the testimony and

20 it's calling for him to comment on somebody else,

21 but go ahead and answer that if you can.

22 THE WITNESS: I didn't know that was

23 the case and still don't.

24 BY MR. COLLINS:

25 Q Well, what do you think the governor's office

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1 would be involved for? What would be the

2 legitimate role of the governor's office in

3 something like this?

4 **A To encourage the DNR to do its job.**

5 Q Which in your view was what here?

6 **A To provide us with the work plan so that we could**

7 **resolve the issues that we did not have a work**

8 **plan to follow.**

9 Q So you believe the governor's office was involved

10 to tell DNR give these guys a work plan so they

11 know what to aim for; is that right?

12 MR. BUSCH: I object to the form. It

13 assumes facts not in evidence. Go ahead and

14 answer.

15 THE WITNESS: You what?

16 MR. BUSCH: I objected. You go ahead

17 and answer if you can.

18 THE WITNESS: Yeah, that's what we

19 needed.

20 BY MR. COLLINS:

21 Q Okay, and you believe the governor's office was

22 involved to aid that?

23 MR. BUSCH: Object to the form,

24 assumes facts not in evidence. Go ahead and

25 answer.

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1 THE WITNESS: Yes, true.

2 BY MR. COLLINS:

3 Q All right. How long has Michael Best been doing

4 work for your company?

5 **A Many years.**

6 Q Okay. We talked at the very, very top of this

7 deposition about certain trusts which had

8 ownership interest in your company. What lawyers

9 drew up those trusts, do you know?

10 **A McDermott, Will & Emery.**

11 Q All right. Did you read Schmoller's deposition

12 where he was talking about Robert Nauta, your

13 company's environmental consultant, and how Nauta

14 had a history of making technically unsound

15 demands or taking technically unsound positions?

16 Did you read Schmoller's testimony in that regard?

17 MR. BUSCH: Object to the form.

18 I have to put my objection in. Calls for him to

19 comment on someone else's testimony which I don't

20 think is accurate, but go ahead and answer if you

21 can.

22 THE WITNESS: I don't remember that

23 specifically, no.

24 BY MR. COLLINS:

25 Q What, if anything, do you remember Schmoller

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1 testifying about concerning the nature of the

2 positions that Nauta was taking historically?

3 MR. BUSCH: Object to the form. It

4 calls for him to comment on someone else's

5 testimony. Go ahead and answer if you can.

6 THE WITNESS: I don't recall.

7 BY MR. COLLINS:

8 Q At page 210 of Schmoller's deposition -- this is

9 the one you indicated you read -- the question and

10 answer goes like this. "Okay. And as we have

11 seen a couple examples of, there were numerous

12 times that you have seen in the file prior to

13 February 2010 and numerous experience you have had

14 since with Madison-Kipp where its consultant,

15 Mr. Nauta, was recommending that no further work

16 should be done when you believed strongly to the

17 contrary," and the answer is "That's correct."

18 Do you remember reading that

19 testimony?

20 **A Now that you've refreshed my memory, yes.**

21 Q All right. And having been refreshed on

22 Mr. Schmoller's testimony as I just did, is it

23 still your testimony that Madison-Kipp and DNR

24 were working cooperatively to address the PCE

25 contamination?

1 A As we went through the years of cooperation and  
2 the process of determining what needed to be done,  
3 I am sure that there would be times when perhaps  
4 our consultant and Mr. Schmoller did not always  
5 agree. So I just consider that a part of the  
6 process and not something of significance in terms  
7 of a relationship with the DNR that was not  
8 collaborative and positive.

9 Q Do you know who Stepp's predecessor was as the  
10 head of DNR?

11 A No. I've forgotten.

12 Q Have you ever talked to any secretary of DNR?

13 A Since I am the chairman of and founder of an  
14 organization called the Sand County Foundation, in  
15 that context occasionally I have spoken with DNR  
16 personnel on the conservation side.

17 Q What's the name of the foundation again, please?

18 A Sand, S-A-N-D, County, C-O-U-N-T-Y, Foundation.

19 Q Okay. And what does the Sand County Foundation  
20 do? What's its purpose?

21 A It's active in environmental activities and  
22 conservation.

23 Q Wisconsin, broader than Wisconsin?

24 A Nationally and internationally.

25 Q And how long have you been involved with the Sand

1 Q Mr. Nauta once worked for a company called Dames &  
2 Moore; correct?

3 A That's correct.

4 Q Did you ever learn that your company's goal and  
5 directive to Dames & Moore was to blame some other  
6 company for the contamination found on  
7 Madison-Kipp's property?

8 A I did not.

9 MR. COLLINS: Would you give that to  
10 the witness, please.

11 BY MR. COLLINS:

12 Q I've asked the court reporter to give you what was  
13 previously marked in Schmoller's deposition as  
14 Schmoller 27, and as before, I want to ask you  
15 some questions about it. If you'd like to look at  
16 it.

17 A I would like to read it.

18 Q Sure, please do.

19 A Yes. What are your questions?

20 Q Let me ask you some not related to the document.

21 Let's talk about Mike Schmoller for a couple  
22 questions. Did you read Schmoller's testimony  
23 where he indicated in 2011 that he had offered to  
24 resign as the project manager on Madison-Kipp?

25 A I did.

1 County Foundation?

2 A Since I founded it in 1968.

3 Q And what is your position relative to the  
4 Sand County Foundation today?

5 A Chairman.

6 Q Have you always been chairman since 1968?

7 A I have.

8 Q So as chairman of the Sand County Foundation,  
9 you've had occasion from time to time to speak to  
10 the secretary of Wisconsin's DNR; correct?

11 A Not occasions from time to time but we would have  
12 been at a Sand County Foundation function, a  
13 dinner, preboard activity, and I at that point  
14 would have had a social conversation.

15 Q Can you give me the names of any secretaries of  
16 DNR who were predecessors of Miss Stepp's?

17 A I really have forgotten their names.

18 Q Did you ever talk to any of those predecessors of  
19 Miss Stepp about any environmental issue you were  
20 having at Madison-Kipp?

21 A No.

22 Q Do you have any reason to believe that Miss Stepp  
23 or her predecessors knew of your affiliation with  
24 Madison-Kipp?

25 A I don't think so.

1 Q And did you read his testimony where he said that  
2 he had offered to resign because of stress he was  
3 feeling because he felt that the administration of  
4 DNR was resisting his efforts to test for vapor  
5 contamination in the neighborhoods surrounding  
6 your company? Did you read that?

7 A I think I recall that, yes.

8 Q All right. Do you have any reason to believe that  
9 Mr. Schmoller was lying when he testified in that  
10 regard?

11 A I have no reason to believe that he was lying.  
12 I wouldn't characterize his frustration as  
13 something that was from our account since he  
14 refers to the leadership of DNR.

15 Q I see. Do you believe -- can you offer me any  
16 explanation as to why the leadership of the DNR on  
17 its own and having nothing to do with your company  
18 would be resisting Mr. Schmoller's proposal that  
19 testing for vapor contamination should be done in  
20 the neighborhoods surrounding your company?

21 MR. BUSCH: Object to the form.

22 I think it mischaracterizes his testimony. You're  
23 asking him to comment on his testimony, but go  
24 ahead and answer if you can.

25 THE WITNESS: I'm sure there are

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1 substantive disagreements throughout the levels of  
 2 DNR on a regular basis.  
 3 BY MR. COLLINS:  
 4 Q Okay. In 2011 did you believe it was  
 5 inappropriate for DNR to require testing for PCE  
 6 vapor in the neighborhoods surrounding your  
 7 company?  
 8 A **If they wanted that done, that was what we were**  
 9 **supposed to do.**  
 10 Q Whatever they wanted, that's what you believe you  
 11 should have been doing; right?  
 12 A **Within the reason of both appropriate science and**  
 13 **effective cost.**  
 14 Q Did you read Mr. Schmoller's testimony where he  
 15 said that he had told the administrators at DNR  
 16 that if they wanted a project manager to just  
 17 continue dogging along with the investigation and  
 18 cleanup, that they should get somebody else? Did  
 19 you see that?  
 20 MR. BUSCH: Object to the form. It  
 21 mischaracterizes his testimony and you're asking  
 22 him to comment on testimony, but go ahead and  
 23 answer if you can.  
 24 THE WITNESS: I assume that was a  
 25 personal issue with Mr. Schmoller and he had the

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1 right to have that feeling.  
 2 BY MR. COLLINS:  
 3 Q Okay. You don't believe that had anything to do  
 4 with any efforts your company was undertaking with  
 5 regard to the governor's office or the attorney  
 6 general or DNR; is that correct?  
 7 A **That's correct.**  
 8 Q You believe those things are completely separate  
 9 from one another; is that correct?  
 10 A **I have -- there's absolutely no connection between**  
 11 **the governor's office, the senior operational**  
 12 **levels of the DNR, and Mr. Schmoller's concern**  
 13 **about wanting to be off the case.**  
 14 Q Do you believe that when Mr. Taffora approached  
 15 the governor's office, as we saw he did here on  
 16 Schmoller Exhibit No. 16, 13 months ago, do you  
 17 have any reason to believe that the wishes that  
 18 Mr. Taffora expressed on behalf of your company  
 19 went no further than the governor's office?  
 20 A **I have no idea.**  
 21 Q Let's look at Schmoller 27, please. You said you  
 22 had read that; right?  
 23 A **Yes.**  
 24 Q So this is an October 18, 1994 memo from Tom  
 25 Caldwell and Lyle Crouse -- excuse me, from Jack

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1 Schroeder.  
 2 A **Yeah.**  
 3 Q I apologize, to Tom Caldwell and Lyle Crouse. Do  
 4 you see that?  
 5 A **Yes, I do.**  
 6 Q Now, in October of 1994, Caldwell was your  
 7 president at the company; right?  
 8 A **Yes.**  
 9 Q What was Crouse's position, please?  
 10 A **He was the vice president for operations.**  
 11 Q And who was Schroeder?  
 12 A **He was at that point the environmental officer for**  
 13 **the company.**  
 14 Q Okay. So we've got the environmental officer  
 15 writing to the president and the chief operations  
 16 officer; correct?  
 17 A **Yes.**  
 18 Q Now, isn't it fair to say that in October of 1994,  
 19 Caldwell and Crouse are the two highest ranking  
 20 employees at the company?  
 21 A **On the operational side, yes.**  
 22 Q Have you ever seen this memo before today?  
 23 A **I saw it in Schmoller's deposition.**  
 24 Q Did you ever see it before then?  
 25 A **No.**

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1 Q How about the issues being described in the memo?  
 2 Did you ever hear about those before you read  
 3 about this in Schmoller's deposition?  
 4 A **No.**  
 5 Q Do you know where MK2 is?  
 6 A **No.**  
 7 Q You see the reference there to high levels of  
 8 contamination at MK2. You don't know where that  
 9 is?  
 10 A **No.**  
 11 Q Do you recall ever being told in October of 1994  
 12 that there were high levels of contamination at  
 13 MK2?  
 14 A **No.**  
 15 Q Do you ever recall discussion within the company  
 16 of the taking of environmental tests in or around  
 17 October of 1994 that would not be reportable to  
 18 the Wisconsin DNR?  
 19 A **No.**  
 20 Q Do you know why some of the highest level people  
 21 in your organization in October of 1994 were  
 22 talking about and authorizing the taking of tests  
 23 that were not reportable to the Wisconsin DNR?  
 24 A **This memo to me means that before we begin to take**  
 25 **any actions, we should know whether this is all on**

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1 **our property or if there are other sources that we**  
 2 **should know about and that this was a perfectly**  
 3 **appropriate way at a very effective cost to find**  
 4 **out an indicator of just exactly what the**  
 5 **situation was.**  
 6 Q Well, Mr. Schroeder writes in the last paragraph  
 7 of this memo, he said -- first of all, let me back  
 8 up. Dames & Moore was, Robert Nauta worked for  
 9 Dames & Moore?  
 10 A **That's correct, at that point.**  
 11 Q And D & M is Dames & Moore, right?  
 12 A **Yes.**  
 13 Q So when D & M is mentioned there, we're really  
 14 talking about Nauta; right?  
 15 A **I don't know that.**  
 16 Q Okay.  
 17 A **I'm sure he had associates.**  
 18 Q Dames & Moore was in 1994 an environmental  
 19 consultant working for --  
 20 A **Yes.**  
 21 Q -- Madison-Kipp; correct?  
 22 A **Yes.**  
 23 MR. BUSCH: You have to wait for him  
 24 to ask the question. Please doesn't step over  
 25 him.

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1 that was an appropriate goal for the company to  
 2 have in October of 1994?  
 3 A **Just enough investigation to support the theory,**  
 4 **and I think that's a substantially appropriate**  
 5 **theory and I think that conducting just enough**  
 6 **investigation to prove it correct or to prove it**  
 7 **false is within the range of operational**  
 8 **properness.**  
 9 Q Do you agree with that sentence that I just read  
 10 to you? I'll read it again. I'm asking if you  
 11 agree with this sentence. "I reminded Dames &  
 12 Moore that our goal is to conduct just enough  
 13 investigation to support the theory to the DNR  
 14 that the source of contamination is from off-site  
 15 so that our cost for investigation is held to a  
 16 minimum."  
 17 A **Yes, I think that was the right thing to do.**  
 18 Q Okay. Let's look at another document you saw in  
 19 the Lenz deposition. This is Lenz No. 5.  
 20 MR. BUSCH: John, in the next ten  
 21 minutes can we take a short break?  
 22 MR. COLLINS: Yeah. How about if I  
 23 get through this document?  
 24 MR. BUSCH: Perfect.  
 25 MR. COLLINS: Which will be less than

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1 BY MR. COLLINS:  
 2 Q All right. So your environmental manager then,  
 3 Mr. Schroeder, says to your president and chief  
 4 operations officer, he says "I reminded Dames &  
 5 Moore that our goal is to conduct just enough  
 6 investigation to support the theory to the DNR  
 7 that the source of contamination is from off-site  
 8 so that our cost for investigation is held to a  
 9 minimum." Do you see that?  
 10 A **Yes.**  
 11 Q That's not an appropriate goal to have in  
 12 environmental contamination, is it?  
 13 A **With the Kupfer Foundry to one side and the**  
 14 **Brass Works across the street, the objective was a**  
 15 **perfectly normal thing to do and I would support**  
 16 **it.**  
 17 Q All right. You would support this goal, quote,  
 18 unquote, "our goal" as articulated in this memo by  
 19 Mr. Schroeder?  
 20 A **That we should determine whether that**  
 21 **contamination had come from off-site.**  
 22 Q Respectfully sir, I'm asking you do you agree with  
 23 what Jack Schroeder writes here as, quote,  
 24 unquote, "our goal," and specifically as he  
 25 articulates it in this sentence, do you agree that

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1 ten minutes and then we'll do it.  
 2 MR. BUSCH: Perfect.  
 3 BY MR. COLLINS:  
 4 Q Okay. So Lenz No. 5 is a memo that you wrote;  
 5 correct?  
 6 A **Yes.**  
 7 Q And you saw it when you read Lenz's deposition  
 8 three days ago; right?  
 9 A **Yes.**  
 10 Q Do you recall writing this?  
 11 A **Yes.**  
 12 Q All right. It's written from you to Thomas  
 13 Caldwell and Richard Riesen; right?  
 14 A **Yes.**  
 15 Q Caldwell was your president on the date of this  
 16 memo, which is March 19, 1996; correct?  
 17 A **Yes.**  
 18 Q What was Riesen's title?  
 19 A **He was the chief operating officer.**  
 20 Q By the way, when did you fire Caldwell?  
 21 A **I don't remember.**  
 22 Q Do you remember whether it was in the nineties?  
 23 A **I don't.**  
 24 Q Why did you write this memo?  
 25 A **Because I believed that this was the situation and**



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1 **I thought that when we wanted to communicate to**  
 2 **people concerning the situation in a way that was**  
 3 **straightforward and honest, we should do it with**  
 4 **this kind of information, because the information**  
 5 **that was coming from the media and from others was**  
 6 **not what I would call either factual or**  
 7 **presumptive.**  
 8 Q This memo, Lenz No. 5 that you wrote in March of  
 9 1996, concerns the PCE contamination problem;  
 10 right?  
 11 A **I believe so.**  
 12 Q Who's Dave Hanson? That's the first name  
 13 mentioned in the body.  
 14 A **He is -- at that time he was the managing director**  
 15 **of Michael, Best & Friedrich.**  
 16 Q Okay. He was your lawyer; right?  
 17 A **Yes.**  
 18 Q All right. And you go on to say some things here.  
 19 Let's look at the first bullet point. Excuse me.  
 20 Did you expect that what you were writing here  
 21 would be disseminated to certain people other than  
 22 Caldwell and Riesen and Hanson?  
 23 A **I did not.**  
 24 Q All right. In the first bullet point here, you  
 25 say "We should make clear that these substances

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1 were in common use in industry for many, many  
 2 years and that any manufacturing site producing  
 3 the kinds of products produced by Madison-Kipp  
 4 over a 100-year period would be expected to have  
 5 used the substances and to have used them in such  
 6 a way that minor amounts by volume would have  
 7 found their way into the soil." Do you see that?  
 8 A **Yes.**  
 9 Q So let's look at those first few words. You say  
 10 "we should make clear." Who's the we you're  
 11 talking about there?  
 12 A **The company.**  
 13 Q And should make clear to whom?  
 14 A **To whomever wanted to -- wanted to have the facts**  
 15 **about the situation that was being reported.**  
 16 Q Well, who did you have in mind there? What  
 17 audience did you have in mind?  
 18 A **No particular audience. It was anybody who wanted**  
 19 **to know or who asked.**  
 20 Q When you make reference in that bullet point to  
 21 minor amounts by volume, do you see that?  
 22 A **Yes.**  
 23 Q Did you have any information that told you that  
 24 the PCE contamination on your company's property  
 25 was minor amounts by volume?

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1 A **I had no information that said it was major**  
 2 **amounts by volume.**  
 3 Q Well, what did you have in your possession in  
 4 March of 1996 that told you that minor amounts by  
 5 volume was the truth?  
 6 A **I don't recall but I wouldn't have written it if**  
 7 **I didn't have some substantiation.**  
 8 Q Well, would you agree that given what you know  
 9 today, that was not accurate?  
 10 A **I did not know it then.**  
 11 Q Would you agree given what you know today that  
 12 that is not accurate?  
 13 A **No, I won't agree.**  
 14 Q You still think it's minor amounts by volume of  
 15 PCE contamination in your company's soil and  
 16 groundwater; is that true?  
 17 A **Yes.**  
 18 MR. COLLINS: Okay. I'm not done with  
 19 this document, John, but why don't we take a  
 20 break.  
 21 MR. BUSCH: Perfect.  
 22 (A recess was taken.)  
 23 BY MR. COLLINS:  
 24 Q Let's stay with this exhibit.  
 25 A **I'd like to make an addition to your last question**

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1 **about the word "minor."**  
 2 Q Sure, go ahead.  
 3 A **And I would say that probably there would be**  
 4 **reasonable differences in the definition of minor,**  
 5 **and probably without accurate measurement at that**  
 6 **time possible in any way, it was an appropriate**  
 7 **word to use.**  
 8 Q All right. Do you believe today according to your  
 9 definition of the word "minor" that there are  
 10 minor amounts of volume -- excuse me, minor  
 11 amounts by volume of PCE contamination on your  
 12 company's property?  
 13 A **I don't believe we know the full extent of what**  
 14 **they are to be able to answer that question.**  
 15 Q So in 2012 you don't know whether minor amounts by  
 16 volume is correct; right?  
 17 A **I still believe it is.**  
 18 Q Well, that's what I just asked you. Do you  
 19 believe today that by your definition of the word  
 20 "minor," that the PCE contamination on your  
 21 company's property may accurately be described as  
 22 minor amounts by volume?  
 23 A **Yes.**  
 24 Q The third bullet point says "We should make sure  
 25 that the right people say that Madison-Kipp has

1 not in any way either in the past or in the  
 2 present acted illegally in the use or control of  
 3 these substances." Do you see that?  
 4 **A I do.**  
 5 Q Who are the right people?  
 6 **A The particular spokesmen for the company at that**  
 7 **time.**  
 8 Q Who were they?  
 9 **A I really don't remember but we focused all of our**  
 10 **public awareness and public knowledge from one**  
 11 **source.**  
 12 Q Well, who were the wrong people then?  
 13 **A I don't know.**  
 14 Q So you say "has not in any way either in the past  
 15 or in the present acted illegally in the use or  
 16 control of these substances." These substances,  
 17 you would include one of them to be PCE; right?  
 18 **A Mm-hm.**  
 19 Q Is that right?  
 20 MR. BUSCH: You have to answer yes or  
 21 no.  
 22 THE WITNESS: Yes.  
 23 BY MR. COLLINS:  
 24 Q Okay. And you didn't -- you didn't know in March  
 25 of 1996 how the PCE got in the soil and

1 groundwater on your company's property?  
 2 **A I only know what I have been told by those who**  
 3 **were responsible for managing the problem.**  
 4 Q And what were you told by those people about how  
 5 it got into the soil and groundwater on the  
 6 company's property?  
 7 **A Through the cleaning and that's all. I was not**  
 8 **told that PCE was used to cut the dust on the**  
 9 **parking lot.**  
 10 Q And were you ever told that the PCE was taken in  
 11 buckets and dumped outside onto the ground?  
 12 **A Mr. Lenz. That was my first knowledge.**  
 13 Q All right. So you never heard that before what  
 14 you read in Lenz three days ago; right?  
 15 **A And at the time it was done, I don't know that it**  
 16 **was either wrong or illegal.**  
 17 Q You don't know; right?  
 18 **A No.**  
 19 Q So when you wrote this in March of 1996, you  
 20 didn't know how the PCE wound up in the soil and  
 21 groundwater, did you?  
 22 **A That's correct.**  
 23 Q And, therefore, isn't it true that you didn't know  
 24 whether the way it got into the soil and  
 25 groundwater was the result of any legal act, do

1 groundwater at your company's facility; right?  
 2 **A Right.**  
 3 Q Okay. Well, then how could you say and ask that  
 4 it be told to others that nobody at Madison-Kipp  
 5 has acted illegally in the use or control of PCE?  
 6 **A We had not acted illegally. When we used PCE, it**  
 7 **was legal, and when it became illegal to use it,**  
 8 **we stopped using it.**  
 9 Q When the PCE was taken in buckets out of the vapor  
 10 degreaser and dumped on the company property, was  
 11 that legal?  
 12 MR. BUSCH: Object to form.  
 13 THE WITNESS: I don't that it was and  
 14 I don't know that it wasn't, if, in fact, it  
 15 happened.  
 16 BY MR. COLLINS:  
 17 Q Well, how did the PCE get into the soil and  
 18 groundwater at the company? I'm asking you here  
 19 in 2012. Do you know how it did?  
 20 **A Obviously you indicated it was condensed,**  
 21 **condensing vapor from a cleaning tank.**  
 22 Q Well, I know what's been told to me in this case  
 23 but I'm asking you as the company chairperson, as  
 24 the controlling owner, what do you know today  
 25 about how the PCE got into the soil and

1 you?  
 2 **A It was not illegal at that time.**  
 3 Q Well, I thought you just told me in March of 1996  
 4 when you wrote this memo you didn't know how the  
 5 PCE got into the soil and groundwater. That's  
 6 what you said; right? Isn't that what you just  
 7 testified to?  
 8 **A No, I don't believe that's what I said.**  
 9 Q Well, let me ask you again. In March of 1996, did  
 10 you know how the PCE contamination wound up in  
 11 your soil and groundwater?  
 12 **A I was told that it came from the vent on the**  
 13 **cleaning tank.**  
 14 Q And you were told that before you wrote this memo  
 15 in March of 1996.  
 16 **A I don't know whether that was before or after.**  
 17 **I can't -- the time frame is not easy to define**  
 18 **that far back, and I think that what I said is**  
 19 **still valid and yet to be proven.**  
 20 Q What's yet to be proven?  
 21 **A What I have said in this memo.**  
 22 Q Well, you're saying we never acted illegally in  
 23 the use or control of PCE. That's what you're  
 24 saying; right?  
 25 **A That's correct.**

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1 Q And you're saying that's true until somebody comes  
2 along and proves it false.  
3 **A That's correct.**  
4 Q Let's look at what was marked as Exhibit No. 6 in  
5 the Lenz deposition. Why don't you let me know  
6 when I can ask you some questions.  
7 **A I will. Okay.**  
8 Q The previous memo mentioned Dave Hanson. You said  
9 he was a managing director at Michael Best?  
10 **A Yes.**  
11 Q Did Michael Best do -- handle all of the company's  
12 legal work at that time?  
13 **A Yes.**  
14 Q Does it still?  
15 **A No.**  
16 Q Okay. Is it fair to say that whenever the company  
17 has had a significant environmental problem, it's  
18 hired Michael Best to deal with it?  
19 **A Yes.**  
20 Q Is it fair to say that with regard to the PCE  
21 contamination problem, one of your company's key  
22 strategists on how to deal with the problem has  
23 been the law firm of Michael Best?  
24 **A No.**  
25 Q Well, who was?

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1 **A I think it was a combination of people.**  
2 Q Legal strategists? Who were --  
3 **A You're talking about a legal strategist?**  
4 Q I am.  
5 **A Oh, yes, it would be Michael Best.**  
6 Q And Michael Best was your key legal strategist in  
7 terms of addressing the PCE contamination; right?  
8 **A Yes.**  
9 Q And was that mostly David Crass? I mean, if we  
10 were to name one lawyer, was that primarily David  
11 Crass?  
12 **A There were others and I don't recall their names.**  
13 Q Okay. Well, I'm not asking you for the substance  
14 of any communications you've had with Michael Best  
15 on this, but did you ever -- I'm just looking for  
16 a yes or a no to this question now. Did you ever  
17 call up any Michael Best lawyer on the phone or  
18 ask them to come and see you so that you could  
19 discuss the PCE contamination problem?  
20 **A No.**  
21 Q Was that -- dealing with the lawyers on the PCE  
22 contamination problem, was that a job you  
23 delegated to somebody else?  
24 **A That was part of the operational position's**  
25 **requirements.**

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1 Q So Caldwell or Meunier depending on the time.  
2 **A Yes.**  
3 Q Was Michael Best your choice to deal with the PCE  
4 contamination problem?  
5 **A It was pretty much the automatic choice.**  
6 Q Because of the --  
7 **A History.**  
8 Q Between Madison-Kipp and the law firm?  
9 **A Yes.**  
10 Q All right. So let's look at Lenz No. 6, please.  
11 Can I ask you questions about it?  
12 **A Yes.**  
13 Q So this is a March 25, 1996 memo from yourself to  
14 Lyle Crouse; correct?  
15 **A Yes.**  
16 Q And it says confidential there, and it copies some  
17 folks too we see down at the bottom, including  
18 Thomas Caldwell, who we've talked about before.  
19 Now, the previous document I asked you to look at,  
20 which was Lenz No. 5, was dated in the same month  
21 and the same year; right?  
22 **A Yes.**  
23 Q So do you recall what was going on in or around  
24 March of 1996 that prompted you to write these two  
25 memos?

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1 **A I don't know specifically what it was.**  
2 Q And you say, and now we're looking at the bottom  
3 of the memo, "It is unlikely that we will have any  
4 inquiries in the next two or three days, but since  
5 both Tom and I will be out of town and  
6 unreachable, I want to present what seems an  
7 appropriate response to newspaper and television  
8 inquiries."  
9 Were you in charge of responding to  
10 inquiries about the PCE contamination problem?  
11 **A No.**  
12 Q Was Caldwell?  
13 **A Caldwell or Meunier or Crouse.**  
14 Q In March of 1996?  
15 **A Yes.**  
16 Q Because you say since both Tom and I will be out  
17 of town, other people should deal with any  
18 inquiries. Doesn't that imply that had you been  
19 in town, you would have responded to some of the  
20 inquiries?  
21 **A No, it does not. It implies that if I'm out of**  
22 **town and Tom is, that Lyle Crouse would not be**  
23 **able to reach either one of us.**  
24 Q The second bullet point of your memo says "This  
25 substance is very common and is still used in

1 certain controlled applications in manufacturing,  
 2 but Madison-Kipp has not used it for many years."  
 3 Do you see that?  
 4 **A Yes.**  
 5 Q All right. When did Madison-Kipp stop using it?  
 6 **A I don't know.**  
 7 Q Well, then how are you able to say that  
 8 Madison-Kipp hasn't used it for many years?  
 9 **A Because we hadn't used it for many years.**  
 10 Q How did you know that?  
 11 **A I suppose somebody told me.**  
 12 Q The next bullet point, "There is no immediate  
 13 health hazard connected with this remediation  
 14 process." Stop there. How did you know that that  
 15 was true that there was no immediate health  
 16 hazard?  
 17 **A Because there was no evidence that there was any**  
 18 **health issues with anybody anyplace, in the plant**  
 19 **or near the plant.**  
 20 Q Do you think that prior to March of 1996  
 21 Madison-Kipp had looked hard enough to find out  
 22 where all the PCE was and whether, in fact, there  
 23 was any threats to the neighbors? Do you think  
 24 you'd looked hard enough by March of 1996?  
 25 **A No, I don't.**

1 **A I did not know that then, and that is what I**  
 2 **believed and that is what we thought at the time.**  
 3 Q I'm asking you what you believe today.  
 4 **A I don't believe today. I wrote -- I believe when**  
 5 **I wrote that.**  
 6 Q I think my question is clear. I'm asking you what  
 7 you believe today. Isn't it true that you do not  
 8 today believe that the PCE contamination problem  
 9 at your company is normal or widespread?  
 10 **A I would write that same paragraph today.**  
 11 Q So you believe, even given what you know in 2012,  
 12 that the PCE contamination in the soil on your  
 13 company's property and the groundwater on your  
 14 company's property and in the vapor underneath  
 15 your neighbors' homes is a rather normal and  
 16 rather widespread occurrence.  
 17 **A Yes.**  
 18 MR. COLLINS: I think this is the  
 19 first one we're marking. Would you mark this as  
 20 Coleman 1, please.  
 21 (Exhibit No. 1 was marked for  
 22 identification.)  
 23 THE WITNESS: Yes.  
 24 BY MR. COLLINS:  
 25 Q So we're calling this Coleman No. 1. So this is a

1 Q Well, what more should Madison-Kipp have done by  
 2 March of 1996?  
 3 **A I don't know.**  
 4 Q That would be someone else's job to know that?  
 5 **A Or someone finding out what the best process was.**  
 6 Q Well, why do you say that as of March 1996  
 7 Madison-Kipp hadn't done enough or you don't think  
 8 they had done enough? Why do you say that?  
 9 **A Well, because now we're doing more. So if you**  
 10 **want to use today's standards, then I suppose you**  
 11 **could conclude we hadn't done enough then.**  
 12 Q Do you think that today's environmental standards  
 13 are being applied to Madison-Kipp's behavior in  
 14 the 1990's?  
 15 **A No.**  
 16 Q Last paragraph, "Our objective here is to put the  
 17 problem in the proper perspective as a rather  
 18 normal, rather widespread occurrence which  
 19 presents no health hazard and which Madison-Kipp  
 20 plans to take care of in accordance with all the  
 21 best recommendations, regulations and procedures."  
 22 Knowing what you know today, do you  
 23 still believe that the PCE contamination problem  
 24 at your company is rather normal and a rather  
 25 widespread occurrence?

1 one-page handwritten document and you wrote this;  
 2 right?  
 3 **A Yes.**  
 4 Q Okay. And it says you're addressing it to Tom,  
 5 and that's Tom Caldwell; right?  
 6 **A Yes.**  
 7 Q Tell us what you're writing about here.  
 8 **A This is a simple, quick note to Tom, we need to**  
 9 **sit down and talk about ideas and resolution to**  
 10 **the problem, and so I brought up some issues that**  
 11 **we should discuss. I do not know what the date**  
 12 **was, and this is a fairly normal stimulus for a**  
 13 **discussion that means little more than that.**  
 14 Q Well, you said for the two of you to sit down and  
 15 discuss the problem. What problem were you  
 16 talking about?  
 17 **A Whatever -- a general problem of mitigation,**  
 18 **closure and actions that we should be taking.**  
 19 Q When you talk about here we then proceed to  
 20 closure, what did you mean by that?  
 21 **A Well, the objective on any site is to work toward**  
 22 **a closure of the site, and that's the reference**  
 23 **that that word pertains to.**  
 24 Q Do you believe that Madison-Kipp at all points  
 25 since July of 1994 was working diligently toward

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1 closure?

2 **A Yes.**

3 Q You do. Based on what do you believe that?

4 **A On our activities and the assignments given to the**

5 **operational team.**

6 Q Okay. You believe your company moved diligently

7 to closure because that's what you told your

8 people to do?

9 **A I believe that I not only directed them to do**

10 **that, but I have the confidence that they would do**

11 **it.**

12 Q Okay.

13 **A And were doing it.**

14 Q All right. Well, did they give you regular

15 updates that support your view in that regard?

16 **A Probably a regular update is what was to occur as**

17 **a result of this note. I have no idea when this**

18 **note was written.**

19 Q But I'm wondering what basis did you have for

20 believing that your company was making diligent

21 progress other than the fact that you had faith in

22 the people that you thought were handling this

23 problem.

24 **A That's quite often good enough.**

25 Q Was it good enough for you?

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1 **A Certainly was.**

2 Q Okay. Your lawyers have turned over lots of

3 company documents to us in this case. You

4 probably know that. This what we're looking at

5 here, Coleman No. 1, is the only handwritten memo

6 from you that I can recall. Was your writing of a

7 handwritten memo, is that something that you did

8 on a regular basis, wrote a short, handwritten

9 memo like we're seeing here in Coleman No. 1?

10 **A No. It was far more likely to be a telephone call**

11 **or a meeting in the hall. I would say let's get**

12 **together and discuss this issue. This was an**

13 **unusual way of doing it.**

14 Q What we're seeing in Coleman 1 here? Yes?

15 **A Yes.**

16 Q Are you a person -- do you use e-mail?

17 **A I do now.**

18 Q You do now. When did you start?

19 **A I haven't any idea. When was the Internet**

20 **invented, I guess?**

21 Q I don't know. I can tell you what Al Gore says

22 when he invented it.

23 **A It may have gone back to Al Gore.**

24 Q I don't know when Al Gore invented it myself.

25 **A It's been a fairly standard part of what we've**

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1 **done for the last, you know, several years.**

2 Q You mean as a company?

3 **A Yeah.**

4 Q I'm wondering about you, though. How frequently

5 do you use the Internet and e-mails, say, for

6 example?

7 **A To be very honest, as seldom as possible.**

8 Q Have you ever written any e-mails about any aspect

9 of the PCE problem?

10 **A No, I have not.**

11 Q Have you ever received any e-mails about any

12 aspect of the PCE problem?

13 **A Not that I recall, no. Communications in our**

14 **company are more than likely to be verbal rather**

15 **than in an e-mail.**

16 Q Let's look at Lenz No. 10, please.

17 **A Okay.**

18 Q So this is an August 31, 2006 memo that

19 Dino Tsois of the Wisconsin DNR wrote to his

20 file. Third paragraph down, he says "It was

21 verbally agreed that MKC would proceed and

22 complete the proposed vapor sampling activities in

23 the next four to six weeks." Do you see that?

24 **A Yes.**

25 Q You said you learned about four months ago of the

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1 PCE vapor contamination found underneath and in

2 homes immediately adjacent to the plant; right?

3 **A Yes.**

4 Q Do you know when that contamination --

5 **A No.**

6 Q -- was first found in and underneath those homes?

7 **A No.**

8 Q So you never had occasion to ask anybody "Why

9 wasn't I told about this sooner"?

10 **A That's correct.**

11 Q Did you ever see the -- we talked about the 90-day

12 notice. We talked about that a little earlier in

13 the deposition. Do you recall that --

14 **A Yes.**

15 Q -- you and I talking about that? Okay. Did you

16 ever see that 90-day notice?

17 **A No.**

18 Q So just to summarize a little bit, you never saw

19 our 90-day notice, you never saw our lawsuit and

20 you never saw the state's lawsuit; is that right?

21 **A That's correct.**

22 Q Because you have other people who handle those

23 things for you.

24 **A That's correct.**

25 Q You also never saw the state's July of 1994 letter

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1 alerting the company to a PCE contamination  
 2 problem; is that correct?  
 3 **A That's correct.**  
 4 Q So in the second paragraph reference is made to a  
 5 new facility in Sun Prairie. Do you see that?  
 6 **A Yes.**  
 7 Q What kind of facility was that?  
 8 **A It was a new facility for the production of both**  
 9 **castings and very precise machining for a product**  
 10 **that was to go on and did go on the rear drive**  
 11 **unit of all Ford-made cars and crossover vehicles.**  
 12 Q You see that Mr. Tisoris here, he's writing -- he's  
 13 attributing to Mark Meunier the idea that the  
 14 startup of the Sun Prairie facility had strained  
 15 both logistical and financial resources in recent  
 16 months for Madison-Kipp. You see reference to  
 17 that in here; right?  
 18 **A Yes.**  
 19 Q Do you believe that the startup of the new  
 20 facility in Sun Prairie diminished your company's  
 21 ability to respond to the PCE contamination  
 22 problem?  
 23 **A I think it may have delayed it or slowed it**  
 24 **somewhat.**  
 25 Q And why do you believe that?

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1 **A Well, for one reason, it's apparent that the**  
 2 **people who are telling us we should do it aren't**  
 3 **satisfied that we've been doing it rapidly enough.**  
 4 Q Well, you and the other members of the board were  
 5 the ones that approved the budget, right, you said  
 6 every year; right?  
 7 **A Yes.**  
 8 Q So is it fair to say that the company decided to  
 9 spend money on the Sun Prairie startup rather than  
 10 to spend money on environmental investigation and  
 11 cleanup?  
 12 **A It might have decided to spend money on both, but**  
 13 **because Ford was going to produce cars starting a**  
 14 **certain day, we had to put a preference on that**  
 15 **project and defer temporarily what we might have**  
 16 **done on the remediation project.**  
 17 Q Isn't it correct to say that at various points  
 18 along the way since 1994, the company has not had  
 19 adequate financial resources to address the PCE  
 20 contamination?  
 21 **A No, that's not correct.**  
 22 Q The company has always had adequate money to deal  
 23 with the PCE contamination; is that right?  
 24 **A Sufficient to do what was required during that**  
 25 **period of time in accordance with consultant**

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1 **recommendations and DNR requirements.**  
 2 Q Okay. Consultant recommendations meaning  
 3 Mr. Nauta?  
 4 **A Yes.**  
 5 Q Okay. So you don't believe that at any point in  
 6 time since July of 1994 there is any reasonable  
 7 investigation or cleanup that should have been  
 8 done that wasn't done for lack of resources. Is  
 9 that true?  
 10 **A You have to take into account the time scale.**  
 11 **I think everybody is aware of the recession, which**  
 12 **hurt us very significantly because of the downturn**  
 13 **in the automobile market. During that period of**  
 14 **time I'm sure there are things that we were doing**  
 15 **in order to make sure that the company survived**  
 16 **that could have delayed some of the things that we**  
 17 **wished we could have done sooner in the mitigation**  
 18 **and environmental area.**  
 19 Q Well, give me a time frame, please, for when --  
 20 because the recession affects different industries  
 21 at different times.  
 22 **A It was about three or four years.**  
 23 Q From when to when approximately?  
 24 **A I don't know. It's the period probably from '06**  
 25 **to '10 and '11.**

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1 Q 2006 to maybe 2011?  
 2 **A (Nods head.)**  
 3 Q Yes?  
 4 **A Yes.**  
 5 Q And during that period of time, your company's  
 6 industry was in the midst of a recession and that  
 7 slowed the expenditure of funds on environmental  
 8 investigation and cleanup; is that true?  
 9 **A That might well be.**  
 10 MR. COLLINS: John, I'll tell you what  
 11 let's do. Let's take five. Let me visit with  
 12 Mr. Berger so I can push us towards the end here.  
 13 MR. BUSCH: All right.  
 14 (A recess was taken.)  
 15 MR. COLLINS: So we're back on.  
 16 I have just a few more. Before I do that, John, I  
 17 just want to visit a couple categories of  
 18 documents that we've talked about in the  
 19 deposition and I wanted to make a request that you  
 20 guys produce them, which is any corporate budgets  
 21 that have an environmental line item. Also the  
 22 minutes of any board meeting of the corporation  
 23 where there's any reference made to the PCE  
 24 contamination issue.  
 25 MR. BUSCH: We'll put that down. If

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1 you guys would send me an e-mail. I don't need a  
 2 request but send me an e-mail.  
 3 MR. COLLINS: We will.  
 4 MR. BUSCH: And I don't need 30 days.  
 5 We'll go do it right away.  
 6 MR. COLLINS: Okay.  
 7 BY MR. COLLINS:  
 8 Q Does your company have an auditing firm?  
 9 A Yes.  
 10 Q What's the name of the firm?  
 11 A Deloitte.  
 12 Q Okay. Do you know what a going concern opinion is  
 13 from an outside auditor?  
 14 A Yes, I do.  
 15 Q Okay. Has the company and Deloitte discussed the  
 16 possibility of the company getting a going concern  
 17 opinion from its outside auditors due to the  
 18 expense associated with the environmental  
 19 contamination problem?  
 20 MR. BUSCH: Let me just stop there for  
 21 a second. She's not here. We can -- your  
 22 client's not here. We can work about the  
 23 confidentiality of this later. I'm going to deem  
 24 this as confidential but I'm not going to stop him  
 25 from answering this line of questioning. Is that

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1 fair? And you don't have to agree to it but --  
 2 MR. COLLINS: I understand that's the  
 3 position you're taking.  
 4 MR. BUSCH: Well, okay. Then if --  
 5 but if you're not going to agree that we're going  
 6 to deem this confidential, then I'm going to  
 7 instruct him not to answer until we get --  
 8 MR. COLLINS: Well, let's talk about  
 9 what you mean by confidential.  
 10 MR. BUSCH: I supplied -- I wanted her  
 11 to sign a certificate. There may be things that  
 12 are attorney eyes only; there may not be.  
 13 I haven't really discussed this issue with him  
 14 per se. Why don't you ask the question and then  
 15 we'll go -- see where it goes from there.  
 16 All right?  
 17 MR. COLLINS: Sure.  
 18 MR. BUSCH: So you can answer this  
 19 question and let's go to the next one.  
 20 BY MR. COLLINS:  
 21 Q Here's the question.  
 22 A We have never had a going concern question for any  
 23 purpose.  
 24 Q Okay. Have your auditors discussed with the  
 25 company the possibility of issuing a going concern

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1 opinion due to the cost of the PCE contamination  
 2 problem?  
 3 A No.  
 4 Q Has the -- is the company's financial statements  
 5 prepared on a cash or accrual basis?  
 6 A Accrual.  
 7 Q Is there an accrual on the company's balance sheet  
 8 currently for paying for environmental  
 9 investigation and remediation related to the PCE  
 10 contamination?  
 11 A I don't know that specifically.  
 12 Q Okay. And you don't know what the amount would  
 13 be, if any; right?  
 14 A No.  
 15 Q Mr. Coleman, are -- do you have any regrets about  
 16 any aspect of your company's behavior regarding  
 17 the PCE contamination problem, either how the PCE  
 18 got out of the plant and into the environment, or  
 19 how your company dealt with the problem once the  
 20 problem became known to your company?  
 21 MR. BUSCH: Object to the form. Go  
 22 ahead and answer.  
 23 THE WITNESS: No, I don't.  
 24 MR. COLLINS: I'm done. Thank you.  
 25

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1 EXAMINATION  
 2 BY MS. ROSS:  
 3 Q I have a few questions. Mr. Coleman, can you  
 4 identify for me the person that was involved in  
 5 obtaining insurance coverage for Madison-Kipp at  
 6 the time you joined in 1957? Do you know who that  
 7 was?  
 8 A You are asking for a 79-year-old man to come up  
 9 with something really special.  
 10 Q I know.  
 11 A In 1957 it may very well have been my uncle, Joe  
 12 Coleman.  
 13 Q How do you spell his last name?  
 14 A Coleman, C-O-L-E-M-A-N.  
 15 Q And is he still living?  
 16 A No.  
 17 Q Do you know what type of insurance coverage  
 18 Madison-Kipp had in 1957 by any chance?  
 19 A I do not.  
 20 Q Do you know whether they had a general liability  
 21 policy?  
 22 A We did.  
 23 Q Do you know what insurance companies Madison-Kipp  
 24 dealt with for any of its insurance in 1957?  
 25 A I do not.

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1 Q At some point in time did the responsibility for  
 2 obtaining insurance coverage move from Joe Coleman  
 3 to someone else?  
 4 A **Yes.**  
 5 Q And who did it move to?  
 6 A **It would have moved to -- it moved to Harold**  
 7 **Siekert, chief financial officer.**  
 8 Q And how do you spell the last name?  
 9 A **S-I-E-K-E-R-T.**  
 10 Q Is Mr. Siekert still alive?  
 11 A **No, I believe he is not.**  
 12 Q And do you know what time frame that was?  
 13 A **I don't.**  
 14 Q And how long was Mr. Siekert responsible for  
 15 obtaining the insurance coverage for Madison-Kipp?  
 16 A **I guess as long as he was there, and I can't tell**  
 17 **you what that period was.**  
 18 Q Can you tell me approximately when Mr. Siekert  
 19 became responsible for obtaining insurance  
 20 coverage?  
 21 A **No, I really can't.**  
 22 Q Do you know if it was in the 1950's, 1960's,  
 23 1970's?  
 24 A **Probably was in the 1960's.**  
 25 Q Okay, and whenever it was that he stopped being

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1 1970?  
 2 A **No.**  
 3 Q And that would be true -- well, let me ask it a  
 4 different way. Do you know whether Madison-Kipp  
 5 had errors and omissions coverage prior to 1970?  
 6 A **I don't know that either.**  
 7 Q Do you know if they had worker's compensation  
 8 coverage prior to 1970?  
 9 A **Yes, I'm sure they did.**  
 10 Q And so with respect to all of the insurers that  
 11 Madison-Kipp dealt with prior to 1970, you do not  
 12 know the name of any of them; is that correct?  
 13 A **I can get them for you.**  
 14 Q And what -- where would you go to get that  
 15 information?  
 16 A **I'd go to our current chief financial officer as**  
 17 **the best source.**  
 18 Q Okay, and your current chief financial officer  
 19 would know the names of the insurance companies  
 20 prior to 1970?  
 21 A **I think so.**  
 22 Q And who is your current chief financial officer?  
 23 A **Mark Daniel, D-A-N-I-E-L.**  
 24 Q Prior to 1970, do you know whether Madison-Kipp  
 25 ever worked with an insurance broker?

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1 responsible for that, do you have a decade for me  
 2 for that?  
 3 A **No, but I can tell you who took it over.**  
 4 Q Okay. Who did?  
 5 A **And that was Richard Riesen. That's R-I-E-S-E-N.**  
 6 Q And is Mr. Riesen still there?  
 7 A **No.**  
 8 Q Is he alive?  
 9 A **Yes.**  
 10 Q Where does he live, do you know?  
 11 A **I don't. I believe it's in Madison.**  
 12 Q During the period of time from 1957 to the  
 13 present, did Madison-Kipp always have general  
 14 liability coverage of some sort?  
 15 A **As far as I know, yes.**  
 16 Q Do you know whether they had layers of coverage  
 17 or --  
 18 A **I don't know that. Chief financial officer would**  
 19 **have to tell you that.**  
 20 MR. BUSCH: Mr. Coleman, you have to  
 21 wait for her to finish her question.  
 22 THE WITNESS: Yes.  
 23 BY MS. ROSS:  
 24 Q Are you aware of any of the companies that  
 25 Madison-Kipp obtained insurance from prior to

Page 157

1 A **I don't know that.**  
 2 Q With respect to insurance policies that  
 3 Madison-Kipp had prior to 1970, do you have any  
 4 knowledge concerning whether Madison-Kipp has  
 5 retained any copies of any insurance policies?  
 6 A **I think there has been a rather thorough search.**  
 7 Q Do you know what files were searched for insurance  
 8 policies?  
 9 A **I believe it was every file that might ever have**  
 10 **contained an insurance policy.**  
 11 Q Do you know who conducted the search?  
 12 A **I've forgotten her name.**  
 13 Q Was it someone within Madison-Kipp?  
 14 A **I'm sure that there was some help, but this was an**  
 15 **outside consultant.**  
 16 Q Do you recall that there came a time when  
 17 Madison-Kipp obtained insurance coverage from the  
 18 Kemper Companies?  
 19 A **Yes.**  
 20 Q Do you know what year that was?  
 21 A **No, I'm not sure.**  
 22 Q Do you know what types of insurance policies  
 23 Madison-Kipp obtained from Kemper?  
 24 A **No, I don't.**  
 25 Q Do you know whether they obtained their general



Page 158

1 liability policies from Kemper?  
 2 **A I don't.**  
 3 Q Have you had any relationship with the Kemper  
 4 Insurance Companies over the years?  
 5 **A Oh, yes, I have.**  
 6 Q Can you describe what that relationship is?  
 7 **A I served on the Manufacturers Advisory Board.**  
 8 **I was an original director on the Kemper**  
 9 **Corporation, the downstream holding company, and**  
 10 **eventually served on the board of Lumbermens**  
 11 **Mutual Insurance Company.**  
 12 Q And now, when you served on the Manufacturers  
 13 Advisory Board, what period of time was that?  
 14 **A '60, 1960, and I don't know for how long.**  
 15 Q Was it for more than ten years?  
 16 **A No.**  
 17 Q In order to serve on the Manufacturers Advisory  
 18 Board, did Madison-Kipp need to be a policyholder  
 19 of Kemper?  
 20 **A Yes.**  
 21 Q So by that point in time, by 1960, Madison-Kipp  
 22 had at least one insurance policy?  
 23 **A Some form of insurance.**  
 24 Q Do you have any idea what type of insurance  
 25 coverage that was?

Page 159

1 **A No, I don't.**  
 2 Q Did Madison-Kipp buy all of its insurance from  
 3 Kemper because of the relationship that you had  
 4 with Kemper Companies?  
 5 **A No.**  
 6 Q Did they buy insurance coverage from a variety of  
 7 different insurers?  
 8 **A Yes.**  
 9 Q Did they buy both primary and excess coverage, do  
 10 you know?  
 11 **A That I don't know.**  
 12 Q Do you know -- are you aware of the fact that  
 13 Madison-Kipp obtained general liability coverage  
 14 from Kemper at least over some period of time?  
 15 **A I really couldn't say yes or no.**  
 16 Q Who would know that?  
 17 **A It would be, again, all responsibility for**  
 18 **insurance coverages rest with the chief financial**  
 19 **officer, whomever that happened to be at the time.**  
 20 Q So if I wanted to go back and trace Madison-Kipp's  
 21 general liability coverage, I would presumably  
 22 start with Mr. Riesen; is that correct?  
 23 **A You probably would start with Mr. Daniel as a**  
 24 **guide.**  
 25 Q And then talk to Mr. Riesen for the time period

Page 160

1 before that?  
 2 **A Yes.**  
 3 Q Are you aware of whether Madison-Kipp still has  
 4 any insurance records that relate to payment of  
 5 premiums?  
 6 **A I'm not aware.**  
 7 Q Do you know how long Madison-Kipp keeps checks,  
 8 for example?  
 9 **A I assume it's the legal requirement.**  
 10 Q Have you had Michael Best -- have you tasked  
 11 Michael Best with responsibility for determining  
 12 what insurance coverage was available to  
 13 Madison-Kipp?  
 14 **A I believe they have been involved in that process.**  
 15 Q Do you know when Madison-Kipp first asked  
 16 Michael Best to determine what insurance coverage  
 17 was available?  
 18 **A No, I don't.**  
 19 Q Are you aware of the fact that Continental  
 20 Casualty Company has been defending Madison-Kipp  
 21 on their reservation of rights with respect to the  
 22 actions that we've been discussing today?  
 23 **A Yes, I am.**  
 24 Q Has any other insurance company provided any  
 25 defense costs to Madison-Kipp with respect to

Page 161

1 those matters?  
 2 **A I don't know.**  
 3 Q Now, you said that you were on the Manufacturers  
 4 Advisory Board starting in 1960. When did you  
 5 become an original director of Kemper Corporation?  
 6 **A When it was founded and I can't remember the date.**  
 7 Q Was that also in the 1960's?  
 8 **A Probably later than that but it's ascertainable**  
 9 **obviously.**  
 10 Q What responsibilities did you have as an original  
 11 director of the Kemper Corporation?  
 12 **A Standard director's responsibilities for a public**  
 13 **corporation.**  
 14 Q Did you have responsibility for major claims and  
 15 oversight of major claims in any way?  
 16 **A No, not really.**  
 17 Q And when did you serve on the board of directors  
 18 of Lumbermens?  
 19 **A It was sometime during my tenure on the Kemper**  
 20 **Corporation board, and so at one point I served on**  
 21 **both boards.**  
 22 Q When was the last time that you can recall that  
 23 you served on the board of Lumbermens?  
 24 **A When I reached the age of 72. Five years ago.**  
 25 Q So as of --

Page 162

1 **A About seven years ago.**  
 2 Q So as of about 2005 you were on the board of  
 3 Lumbermens; correct?  
 4 **A 2005?**  
 5 Q Correct.  
 6 **A That would have been close, yeah.**  
 7 Q Now, the contamination claims that we're talking  
 8 about that we've been discussing all day long  
 9 first came in in 1994; right?  
 10 **A That's what I have read in terms of the documents,**  
 11 **yes.**  
 12 Q Did you make any effort to determine whether or  
 13 not Kemper had issued insurance policies to  
 14 Madison-Kipp in 1994 while you were still on the  
 15 board of Lumbermens?  
 16 **A No, I did not.**  
 17 Q Do you know if anyone did?  
 18 **A I'm not aware of it, no.**  
 19 Q Are you aware of any agreements that Madison-Kipp  
 20 has reached with Kemper concerning any insurance  
 21 coverage that Kemper ever issued to Madison-Kipp?  
 22 **A Agreements?**  
 23 Q Agreements concerning whether claims would be  
 24 tendered under those policies or whether claims  
 25 would be paid under particular policies. Are you

Page 163

1 aware of any agreement at all with respect to any  
 2 insurance that Kemper ever issued to Madison-Kipp?  
 3 **A No.**  
 4 Q Are you aware of a dispute involving refuse  
 5 hideaway in 1994?  
 6 **A There was a dispute in refuse hideaway, yes.**  
 7 Q And can you tell me what that was?  
 8 **A We were named as a de minimis contributor,**  
 9 **de minimus.**  
 10 Q And did you tender the refuse hideaway claims --  
 11 did Madison-Kipp tender its refuse hideaway claims  
 12 to any insurer?  
 13 **A I don't know.**  
 14 Q Do you know whether there was any agreement with  
 15 Kemper concerning the refuse hideaway claims?  
 16 **A I don't know, no.**  
 17 Q And would that likely have been Mr. Riesen if  
 18 anyone would know that?  
 19 **A Yes, Mr. Riesen, or from a historically**  
 20 **knowledgeable point of view, Mike Daniel might**  
 21 **know it as well.**  
 22 Q Do you know when Madison-Kipp tendered the PCE  
 23 contamination claims to Continental Casualty  
 24 Company?  
 25 **A No, I don't.**

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1 Q Do you know whether Madison-Kipp tendered those  
 2 claims to any other insurer?  
 3 **A I don't know that either.**  
 4 Q Do you know whether there was a request made to  
 5 any insurer in 2003 to defend and indemnify  
 6 Madison-Kipp with respect to the PCE  
 7 contamination?  
 8 **A I don't know that, no.**  
 9 Q Do you know whether Madison-Kipp ever submitted a  
 10 single bill to Continental Casualty Company prior  
 11 to the end of 2011?  
 12 **A I don't know that.**  
 13 Q Whose decision is it within Madison-Kipp as to  
 14 whether or not reimbursement is requested by an  
 15 insurer?  
 16 **A It would be the chief financial officer.**  
 17 Q Do you know whether there was any determination  
 18 made in 2003 concerning whether Kemper had issued  
 19 certain general liability policies to  
 20 Madison-Kipp?  
 21 **A No.**  
 22 Q No, you don't know?  
 23 **A I don't know.**  
 24 Q You told me that if you wanted to know who the  
 25 other insurers might be, you would talk to

Page 165

1 Mr. Daniels; is that correct?  
 2 **A Yes.**  
 3 Q Do you know what records he would utilize to  
 4 determine the answer to that question?  
 5 **A No, I really don't, and it might be that he would**  
 6 **have to refer to records that were a part of**  
 7 **Mr. Riesen's activities as well.**  
 8 Q Are records at Madison-Kipp with respect to  
 9 insurance coverage kept on a per-person basis?  
 10 **A By per-person, I don't understand the term.**  
 11 Q It was a poorly worded question. For example, are  
 12 there Riesen files and Daniel files as opposed to  
 13 Continental Casualty Company files or insurance  
 14 files?  
 15 **A My understanding is that there is a single**  
 16 **Madison-Kipp file in which you would find all**  
 17 **insurance information.**  
 18 Q Between the period of time of 1994 and today, are  
 19 the only people that you know of within  
 20 Madison-Kipp who would have dealt with any  
 21 insurance issues Mr. Riesen and Mr. Daniels?  
 22 **A Yes.**  
 23 Q And in terms of decisions made to request  
 24 reimbursement or to ask the insurers to pay for a  
 25 particular item, would those decisions have been

Page 166

1 made by Mr. Riesen or Mr. Daniels?

2 **A Yes.**

3 Q Do you know Mr. Maloney, Jack Maloney?

4 **A Yes.**

5 Q And who is Mr. Maloney?

6 **A He was for many years the agency, the agent that**

7 **handles our relationship with a Kemper broker in**

8 **Milwaukee.**

9 Q And who was the Kemper broker in Milwaukee?

10 **A I'm not -- don't remember its name. Kemper had**

11 **its own brokerage there for a time, I believe, but**

12 **I'm not sure that that's the one that survives.**

13 Q And it -- what company did Mr. Maloney work for?

14 **A That I don't know, but I know that he did a**

15 **deposition or made a report that's available which**

16 **should answer those questions, I believe.**

17 Q Is Mr. Maloney deceased?

18 **A I really don't know. It wasn't too long ago that**

19 **he wrote the report that's available, but it would**

20 **have to be in the very recent past that he died.**

21 Q Okay. So you've seen a report from him in the

22 very recent past?

23 **A Yes.**

24 Q And can you describe for me what that report has

25 in it?

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1 **A No, I can't.**

2 Q Does it describe Madison-Kipp's insurance

3 coverage?

4 **A I really don't remember. I glanced at it, didn't**

5 **read it in detail, and what I did read I don't**

6 **remember.**

7 Q You didn't find the part on insurance fascinating?

8 **A Not particularly interesting. No offense.**

9 Q All right. Other than Mr. Maloney, is there

10 anyone outside of Madison-Kipp of whom you are

11 aware who had any responsibility at all for

12 obtaining Madison-Kipp's insurance coverage?

13 **A We may be using somebody now that's different from**

14 **Mr. Maloney, and I can't remember the name. It**

15 **could be Meldren [phonetic]. There's a firm in**

16 **Madison named -- I would be unsafe in spelling it**

17 **for you because I'm not sure it's even the right**

18 **word.**

19 Q Is Meldren the last name of the person or is it

20 the name of the company?

21 **A It's one of the names in the company.**

22 Q Is that an insurance brokerage?

23 **A I believe so, yes. And Mr. Daniel would be aware**

24 **of that as well.**

25 Q Do you know whether Madison-Kipp has had certain

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1 government contracts over the years?

2 **A Yes, we have.**

3 Q Can you tell me -- can you describe for me the

4 government contracts of which you are aware?

5 **A We made components for anti-aircraft shells and**

6 **mortars during the Second World War.**

7 Q And for what entity was that?

8 **A It would be the Army.**

9 Q Army, okay.

10 **A And we made some components for the Vietnam War.**

11 Q And some components for anti-aircraft shells or for

12 something else?

13 **A It was for something else and I don't remember**

14 **what the product was.**

15 Q Do you know what the component was for the

16 anti-aircraft shells in World War II?

17 **A It was the aluminum cone that screwed onto the**

18 **shell, and for the mortar it was the fin.**

19 Q Do you know what the period of time was when you

20 had that government contract in World War II?

21 **A I'm sure it was for most of the war.**

22 Q And how about for the Vietnam War?

23 **A I don't remember the dates.**

24 Q Any other government contracts that you know

25 Madison-Kipp had?

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1 **A I suppose an occasional service purchase for a**

2 **repair on a Madison-Kipp lubrication system going**

3 **way back.**

4 Q Way back meaning?

5 **A 1930s.**

6 Q And who would that have been for?

7 **A U.S. Navy.**

8 Q I'm assuming that you don't have any idea who the

9 individuals were with whom those contracts were?

10 **A I'm sorry.**

11 Q I just thought I'd ask. Can you tell me what

12 Madison-Kipp's yearly sales are?

13 **A About 90 million.**

14 Q And in terms of financial statements that

15 Madison-Kipp has, those are done on a yearly

16 basis; is that correct?

17 **A Yes.**

18 Q And it's a profit and loss statement?

19 **A Yes.**

20 Q And can you give me an idea of what Madison-Kipp's

21 profits were in the last couple of years?

22 MR. BUSCH: I'm going to -- until we

23 sign off on a confidentiality agreement, I'm

24 not -- I'm going to instruct him not to answer

25 that. I think it's confidential.

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1 THE WITNESS: Yeah, I don't want to do  
 2 that.  
 3 BY MS. ROSS:  
 4 Q Do you as a 10 percent owner receive distributions  
 5 from Madison-Kipp in some way?  
 6 A **No.**  
 7 Q There's no stock in Madison-Kipp, is there?  
 8 A **Yes, there is stock.**  
 9 Q There is stock, okay. And is your percentage  
 10 interest a percentage of stock that is available?  
 11 A **That's correct.**  
 12 MS. ROSS: John, we would like the  
 13 Madison-Kipp financial statements for the last  
 14 several years. If you want a formal request,  
 15 we're willing to do so.  
 16 MR. BUSCH: E-mail it to me and let's  
 17 kind of nail all this financial stuff down in a  
 18 confidentiality agreement.  
 19 MS. ROSS: That's fine. I need about  
 20 a two-minute break, if I can.  
 21 MR. BUSCH: Okay.  
 22 (A recess was taken.)  
 23 BY MS. ROSS:  
 24 Q I just have a couple more questions.  
 25 A **Sure.**

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1 Q Do you know a Maria McGrath?  
 2 A **I do not.**  
 3 Q Is it correct, Mr. Coleman, that because of the  
 4 close relationship between Madison-Kipp and the  
 5 Kemper Companies, that Madison-Kipp had Kemper  
 6 coverage for as many years as anyone would care to  
 7 remember? Is that a correct statement?  
 8 A **I believe that's correct.**  
 9 Q And if Madison-Kipp had excess coverage, that also  
 10 would have been with Kemper at least over a period  
 11 of time?  
 12 A **That I don't know.**  
 13 Q And do you know anything about whether  
 14 Madison-Kipp ever had any insurance coverage with  
 15 Employers Mutual Insurance Company?  
 16 A **Yes. I believe it was our worker's compensation.**  
 17 Q Do you know what period of time?  
 18 A **No, I don't.**  
 19 Q And can you tell me who Jim Ashley is?  
 20 A **Jim Ashley is a long-deceased partner of**  
 21 **McDermott, Will & Emery who was our corporate**  
 22 **counsel for many years.**  
 23 Q And with respect to the records from McDermott,  
 24 Will & Emery, do you know whether they still  
 25 maintain Madison-Kipp records?

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1 A **I would be very surprised if they did.**  
 2 Q And has Madison-Kipp had any kind of a  
 3 relationship with Ronald Maddox & Associates?  
 4 A **Probably 50 years ago.**  
 5 Q And what kind of a relationship did you have?  
 6 A **They were the audit firm for Madison-Kipp in late**  
 7 **fifties.**  
 8 Q Do you know whether Ronald Maddox & Associates  
 9 still exists?  
 10 A **It does not.**  
 11 Q And I assume you also don't know where any of  
 12 their records might be?  
 13 A **I do not.**  
 14 MS. ROSS: That's all I have. Thank  
 15 you very much.  
 16 EXAMINATION  
 17 BY MS. KREIL:  
 18 Q Hello. My name is Jennifer Kreil. I represent  
 19 United States Fire Insurance Company and I think I  
 20 may have only have one question for you. Do you  
 21 know whether Madison-Kipp tendered a claim to  
 22 United States Fire Insurance Company related to  
 23 the PCE contamination?  
 24 A **I don't know that.**  
 25 MS. KREIL: That's all I have.

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1 EXAMINATION  
 2 BY MR. COLLINS:  
 3 Q Let me just ask one more. We talked about Tom  
 4 Caldwell. Do you know where he is currently?  
 5 A **No, I don't know where he is.**  
 6 Q Do you know if he's still alive?  
 7 A **Yes, he's still alive.**  
 8 Q Do you know what his last known city he lived in?  
 9 Was it Madison or some other city?  
 10 A **No, it's not Madison and I don't recall.**  
 11 Q In Wisconsin?  
 12 A **Not that I know of, no.**  
 13 Q You don't know if he lived in Wisconsin last?  
 14 A **No, I know that he didn't live in Wisconsin.**  
 15 Q He did not. Do you know what state he lived in?  
 16 A **I do not.**  
 17 MR. COLLINS: I appreciate you coming  
 18 here today.  
 19 THE REPORTER: Before we go off the  
 20 record, I need to get transcript orders.  
 21 MR. BUSCH: I'll take electronic and a  
 22 mini, condensed. Whatever we've gotten before.  
 23 MS. ROSS: We'll take whatever we got  
 24 before.  
 25 MS. KREIL: Same for us.

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1 MR. COLLINS: We want whatever we got  
2 before. And can you bind the exhibits into the  
3 transcript, please. That's the way we've been  
4 doing it, so it's worked well.  
5 (At 3:45 p.m. the deposition  
6 concluded.)  
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1 STATE OF WISCONSIN )  
2 MILWAUKEE COUNTY ) SS:  
3 I, MICHELLE HAGEN, Registered  
4 Professional Reporter and Notary Public in and for the  
5 State of Wisconsin, do hereby certify that the deposition  
6 of JEROME REED COLEMAN was taken before me at Whyte  
7 Hirschboeck Dudek S.C., 33 East Main Street, Suite 300,  
8 Madison, Wisconsin, on the 25th day of October, 2012,  
9 commencing at 10:27 a.m.  
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 for the Western District of Wisconsin, in  
15 which Kathleen McHugh, et al., are the Plaintiffs and  
16 Madison-Kipp Corporation, et al., are the Defendants.  
17 A P P E A R A N C E S  
18 THE COLLINS LAW FIRM, P.C., 1770 North  
19 Park Street, Suite 200, Naperville, Illinois 69563, by  
20 MR. SHAWN COLLINS, smc@collinslaw.com, appeared on behalf  
21 of the Plaintiffs.  
22 VARGA, BERGER, LEDSKY, HAYES & CASEY,  
23 125 South Wacker Drive, Suite 1250, Chicago, Illinois  
24 60606-4473, by MR. NORMAN B. BERGER, nberger@vblhc.com,  
25 appeared on behalf of the Plaintiffs.

Page 176

1 MICHAEL, BEST & FRIEDRICH, LLP, 100  
2 East Wisconsin Avenue, Suite 3300, Milwaukee, Wisconsin  
3 53202, by MR. JOHN A. BUSCH, jabusch@michaelbest.com,  
4 appeared on behalf of the Defendant and Cross-Claimant  
5 Madison-Kipp Corporation.  
6 MICHAEL, BEST & FRIEDRICH, LLP, One  
7 South Pinckney Street, P.O. Box 1806, Madison, Wisconsin  
8 53701-1806, by MS. LEAH H. ZIEMBA,  
9 lhzienba@michaelbest.com, appeared on behalf of the  
10 Defendant and Cross-Claimant Madison-Kipp Corporation.  
11 TROUTMAN SANDERS, LLP, 55 West Monroe  
12 Street, Suite 3000, Chicago, Illinois 60603-5758, by MS.  
13 REBECCA L. ROSS, becky.ross@troutmansanders.com, appeared  
14 on behalf of the Defendant and Cross-Claim Defendant  
15 Continental Casualty Company.  
16 MEISSNER, TIERNEY, FISHER & NICHOLS,  
17 S.C., 111 East Kilbourn Avenue, Milwaukee, Wisconsin  
18 53202, by MS. JENNIFER A.B. KREIL, jbk@mtfn.com, appeared  
19 on behalf of the Defendant and Cross-Claim Defendant  
20 United States Fire Insurance Company.  
21 ALSO PRESENT: MS. DEANNA SCHNEIDER.  
22 That said deponent, before  
23 examination, was sworn to testify the truth, the whole  
24 truth, and nothing but the truth relative to said cause.  
25 That the foregoing is a full, true and

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1 correct record of all the proceedings had in the matter  
2 of the taking of said deposition, as reflected by my  
3 original machine shorthand notes taken at said time and  
4 place.  
5  
6  
7 \_\_\_\_\_  
8 Notary Public in and for  
9 the State of Wisconsin  
10 Dated this 2nd day of November, 2012,  
11 Milwaukee, Wisconsin.  
12 My commission expires August 10, 2014.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24 HALMA-JILEK REPORTING, INC.  
25 (414) 271-4466

# MKC

**Madison-Kipp Corporation**

**Address**  
201 Waubesa Street  
Post Office Box 3037  
Madison, Wisconsin  
53704

**Telephone**  
608-244-3511

**Facsimile**  
608-242-5320

Reed Coleman

*Review D. Hauer  
- PM out site  
- Circumventer Pkx  
- decision?  
- Miller?  
(read book)*

TOH —

THIS IS THE PROTECT AND PROCESS I AM REFERRING TO. THE GROUND WATER ISSUE IS AN IMPORTANT PART TO RESOLVE, BUT HOW TO WE THEN PROCEED TO CLOSURE?

PERHAPS — GROUND WATER OPERATING PERMIT ANALYSIS BY DJM (COST?) PROPOSAL PREPARATION

— IN THAT ORDER

LET'S REVIEW

*R.*

EXHIBIT 1  
WIT: Coleman  
DATE: 10-25-10  
Halma-Jilek Reporting, Inc.

MK006650



**Madison-Kipp  
Corporation**

**Address**  
201 Waubesa Street  
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53704

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# MEMO

*CONFIDENTIAL*

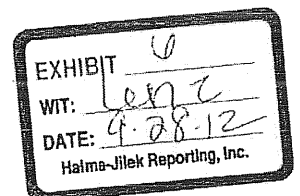
**To:** Lyle Crouse  
**From:** Reed Coleman  
**Subject:** Inquiries concerning remediation  
**Date:** March 25, 1996

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



MK006681



**Madison-Kipp  
Corporation**

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53704

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**Facsimile**  
608-244-4674

# MEMO

To: <sup>✓</sup> 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.

RP

EXHIBIT	5
WIT:	Lenz
DATE:	9/28/12
Halma-Jilek Reporting, Inc.	

MK006682



Date: October 18, 1994

To: Tom Caldwell and Lyle Crouse

From: Jack Schroeder

Subj: Analytical results from soil borings

Enclosed are the results of tests conducted by Dames & Moore regarding our ground water contamination investigation. Dames & Moore was on site today to survey the area for potential sources that could contribute to the high levels of contamination at MK-2. No obvious source was found and the recommendation by D & M was to have a few soil samples gathered around the area by hand auger. This would be tested by pid detector in their office and would not be reportable to the DNR. This will provide additional information to support whether the contamination at MK-2 is on-site or off-site contamination. Additional soil borings may be necessary, but recommendations for further actions will determined after results are received from the soil tests. I have authorized soil tests to be conducted. Soil testing will occur in 2-3 days. This will add no additional cost to D & M's original proposal.

It should be noted that according to Lenz, our property line ends about 1-2 feet from the northern wall of engineering offices. The remainder of the drive is leased from the City. If borings are to be done in that area, D & M will need to notify the City that we are investigating the potential source of contaminated ground water.

I reminded D & M that our goal is to conduct just enough investigation to support the theory to the DNR that the source of contamination is from off site so that our cost for investigation is held to a minimum. I will keep you updated as the investigation progresses. If you have any questions, let me know.

*Jack*

- where vinyl chloride from?
- chloroethylene - solvent, >
- concentrated from under buildy - via floor drain?

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Shawn M. Collins

**From:** Taffora, Raymond P (22244) [rptaffora@michaelbest.com]  
**Sent:** Wednesday, September 14, 2011 8:06 AM  
**To:** Hagedorn, Brian K - GOV  
**Subject:** Madison Kipp Background Paper  
**Attachments:** MKC Background.doc

Brian:

This is one of the matters I'd like to talk about with you.

Could you call me sometime today on it?

Thanks,

Ray

Raymond P. Taffora  
Michael Best & Friedrich LLP  
1 South Pinckney Street, Suite 700  
Madison, WI. 53703  
(608) 257-3501  
(608) 283-2244 (Direct)  
rptaffora@michaelbest.com

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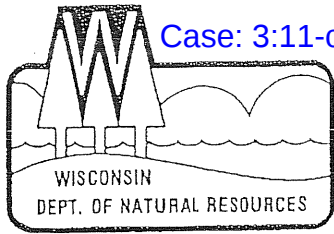
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X16

### Madison-Kipp Corporation Background

- Madison-Kipp Corporation (“MKC”) is an aluminum die-caster with a production facility located on Madison’s east side;
- MKC has been in existence for 113 years and employs more than 400 employees operating in three shifts;
- Many of the residences surrounding MKC used to house its employees, and MKC employs a number of employees who depend on the public transit system as a way to commute to and from work at this downtown location;
- Since the mid-1990s, MKC has been engaged in a voluntary and comprehensive soil and groundwater investigation and remediation project in cooperation with the Wisconsin Department of Natural Resources (“DNR”) to address the past release of chlorinated solvents used historically at the facility;
- MKC has performed substantial investigation and remediation work both on its site and off-site on neighboring properties, including the performance of in situ chemical oxidation (“ISCO”) and the installation of in-home vapor mitigation systems in several surrounding homes;
- Recently, and despite these cooperative and voluntary efforts between MKC and DNR, plaintiffs’ lawyers from Illinois sent a “notice of intent” pursuant to a federal statute indicating their intent to file suit against MKC on behalf of seven area homeowners;
- The notice alleges that the DNR is failing to require MKC to adequately address the matter and threatens suit unless the State of Wisconsin takes appropriate action to file a lawsuit in court against MKC to address the allegations;
- Known as a “private attorneys general” provision under the federal statute, a noticing party must wait 90 days before filing its action to allow the State of Wisconsin to take its own action;
- MKC would prefer to spend its resources defending allegations against the State of Wisconsin and restoring the environment than paying out-of-state plaintiffs’ counsel given that the federal statute provides for the plaintiffs’ attempted recovery of their fees and costs.



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Southern District Headquarters  
3911 Fish Hatchery Road  
Fitchburg, Wisconsin 53711  
TELEPHONE 608-275-3266  
TELEFAX 608-275-3338

George E. Meyer  
Secretary

July 18, 1994

File Ref: SPILLS  
Dane County

Mr Jack Schroeder  
Madison Kipp  
P O Box 3037  
Madison WI 53704

Subject: Madison Kipp, 201 Waubesa St, Madison

Dear Mr. Schroeder:

On April 7, 1994, you discussed with Department staff the contamination that was discovered on an adjacent property - Madison Brass Works. Additional groundwater data was submitted and the case was presented to the Southern District Closure Committee.

As you are aware, groundwater monitoring well MW-3 contains concentrations of tetrachloroethene (PCE) which exceed the enforcement standard as listed in Wisconsin Administrative Code. An investigation conducted by Madison Brass Works has confirmed that this contamination is originating from an upgradient location. The groundwater flow direction and absence of PCE elsewhere on the Madison Brass Works property has led the Department to conclude that the contamination is emanating from Madison Kipp property.

The spill law authorizes the Department of Natural Resources to enforce cleanup of contaminated sites, under s. 144.76 of the Wisconsin Statutes. As the owner of the property where a hazardous substance discharge has occurred, you are required to determine the horizontal and vertical extent of contamination and clean-up/properly dispose of the contaminants.

Your legal responsibilities are defined both in statute and in administrative rules. The hazardous substance spill law, s. 144.76 (3) Wisconsin Statutes, states:

RESPONSIBILITY. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands, or waters of the state.

Wisconsin Administrative Code NR 700 through NR 728 establishes requirements for interim actions, public information, site investigation, design and operation of remedial action systems, and case closure. Wisconsin Administrative Code NR 140 establishes groundwater standards.

It is important that an investigation begins at your site as soon as possible. The longer contamination is left in the environment, the farther it can spread and the more difficult and costly it becomes to cleanup. Since this cleanup must comply with Wisconsin laws and rules, professional engineering and hydrogeologic experience is necessary. Therefore, you should hire a professional environmental consultant who can assure you that Department policies and guidelines are being followed.

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Mr Jack Schroeder - July 18, 1994

2.

Your consultant will help you in providing the Department with the following:

- Submit written verification (such as a letter from the consultant) that you have hired an environmental consultant. Please submit this information within 30 days of the date of this letter.
- Submit an investigation workplan explaining what work will be performed to identify the extent of contamination. This workplan should include a time schedule. Also, please provide documentation of any previous work performed related to this release.
- Submit the investigation report defining the degree and extent of any soil and/or groundwater contamination.
- Provide a remedial action plan outlining the remedy selected.
- Provide a remedial action report with data supporting your consultant's conclusions and recommendations for future work or site closure.

In addition, you will be required to keep the Department informed on site progress by submitting 30, 60 or 90 day updates. You will be notified when to provide the status reports at the time you submit your investigation workplan. Also, you will receive an annual site status form every February. It will be necessary for you to complete this form and return it promptly to the address provided.

There are times when staffing levels do not allow us to keep current with workload demands. However, to maintain your compliance with the spill law and chs. NR 700 through NR 728, investigation and cleanup actions should not be unnecessarily delayed waiting for DNR responses. In the event that you experience delays, please refer to NR 716.09(3) regarding Department review of sites.

Your correspondence and reports regarding this site should be sent to Marilyn Jahnke, Department of Natural Resources, 3911 Fish Hatchery Road, Fitchburg WI 53711. Unless otherwise requested, please send only one copy of all plans and reports. Correspondence should be identified with the site name and address which is listed in the subject of this letter.

I have enclosed a list of environmental consultants and some important tips on selecting one. If you are eligible for Wisconsin's PECFA program (see end of letter), you will need to compare at least three consultant's proposals before making your selection. Also enclosed are materials on controlling costs, understanding the cleanup process, and choosing a site cleanup method. Please read this information carefully.

Reimbursement from the Petroleum Environmental Cleanup Fund (PECFA) is available for the costs of cleaning up the contamination from eligible petroleum storage tanks. The fund is administered by the Department of Industry, Labor and Human Relations (DILHR). Please contact DILHR at (608) 267-3753 for more information on eligibility and regulations for this program.

If you have any questions about this letter or your responsibilities, please call me at (608) 275-3212.

Sincerely,



Marilyn Jahnke, Program Assistant  
Emergency & Remedial Response Program  
Telephone: (608) 275-3212

## CORRESPONDENCE/MEMORANDUM

DATE: August 31, 2006

FILE REF: 02-13-001569

TO: File

FROM: Dino Tisoris *DT*

SUBJECT: 8-30-06 Meeting with representatives of Madison Kipp, 201 Waubesa Street, Madison, WI

On August 30, 2006, I met with Mark Meunier of Madison Kipp Corporation (MKC) and Bob Nauta, RSV Engineering, environmental consultant for MKC. Site investigation and remedial action activities in recent months have not been conducted I had 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 action activities necessary to address the PCE release at the MKC facility.

Mark Meunier 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 in recent months. The expectation is by the end of September 2006 sufficient resources will be available to proceed with the necessary actions to continue to investigate and remediate the site. I stated that the necessary 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 groundwater 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.

