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1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF WISCONSIN
 3 _____
 4 KATHLEEN McHUGH, and DEANNA
 5 SCHNEIDER, Individually and on behalf
 6 of all persons similarly situated,
 7 Plaintiffs,
 8 vs. CASE NO. 11-CV-724
 9 MADISON-KIPP CORPORATION,
 10 CONTINENTAL CASUALTY COMPANY,
 11 UNITED STATES FIRE INSURANCE
 12 COMPANY and ABC INSURANCE
 13 COMPANIES 1-50,
 14 Defendants,
 15 and
 16 MADISON-KIPP CORPORATION,
 17 Cross-Claimant,
 18 vs.
 19 CONTINENTAL CASUALTY COMPANY,
 20 COLUMBIA CASUALTY COMPANY and
 21 UNITED STATES FIRE INSURANCE
 22 COMPANY,
 23 Cross-Claim Defendants,
 24 _____
 25 (Caption continued)
 DEPOSITION OF
 JENNINE TRASK
 Milwaukee, Wisconsin
 October 30, 2012
 10:11 a.m. to 4:06 p.m.
 Kathy A. Halma, RPR

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1 and
 2 CONTINENTAL CASUALTY COMPANY and
 3 COLUMBIA CASUALTY COMPANY,
 4 Cross-Claim Defendants
 5 and
 6 LUMBERMENS MUTUAL CASUALTY
 7 COMPANY, AMERICAN MOTORISTS
 8 INSURANCE COMPANY, and JOHN DOE
 9 Third-Party Defendants.
 10 _____
 11 A P P E A R A N C E S
 12 THE COLLINS LAW FIRM, P.C. 1770 North
 13 Park Street, Suite 200, Naperville, Illinois, 60563, by
 14 MR. SHAWN M. COLLINS, appeared on behalf of the
 15 Plaintiffs.
 16 VARGA, BERGER, LEDSKY, HAYES & CASEY,
 17 125 South Wacker Drive, Suite 1250, Chicago, Illinois,
 18 60606-4473, by MR. NORMAN B. BERGER, appeared on behalf
 19 of the Plaintiffs.
 20 MICHAEL, BEST & FRIEDRICH, LLP, Two
 21 Riverwood Place, Suite 200, N19 W24133 Riverwood Drive,
 22 Waukesha, Wisconsin, 53188-1174, by MR. LEE M. SEESE,
 23 appeared on behalf of Madison-Kipp Corporation.
 24 MICHAEL, BEST & FRIEDRICH, LLP, One
 25 South Pinckney Street, Suite 700, Madison, Wisconsin,
 53703, by MS. LEAH H. ZIEMBA, appeared on behalf of
 Madison-Kipp Corporation.
 TROUTMAN SANDERS, LLP, 55 West Monroe
 Street, Suite 3000, Chicago, Illinois, 60603-5758, by
 MR. CHRISTOPHER H. WHITE, appeared on behalf of the
 Defendant Continental Casualty Company.
 MEISSNER, TIERNEY, FISHER & NICHOLS,
 S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee,
 Wisconsin, 53202-6622, by MR. MICHAEL J. COHEN,
 appeared on behalf of United States Fire Insurance

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 16 (The original transcript was sent to Attorney
 17 Berger.)
 18
 19 (The original exhibits were retained by the court
 20 reporter and attached to the original transcript.
 21 Copies were attached to all ordered copies.)
 22
 23
 24
 25

1 TRANSCRIPT OF PROCEEDINGS
 2 JENNINE TRASK, called as a witness
 3 herein by the Plaintiffs, after having been first
 4 duly sworn, was examined and testified as
 5 follows:
 6 EXAMINATION
 7 BY MR. BERGER:
 8 Q Let the record reflect that this is the
 9 deposition of Jennine Trask taken in the case of
 10 McHugh, et al, versus Madison-Kipp Corporation,
 11 et al, now pending in the U.S. District Court for
 12 the Western District of Wisconsin. It's case
 13 No. 11-CV-724.
 14 Will you state your name, please.
 15 A Jennine Trask.
 16 Q Okay. Ms. Trask, my name is Norman Berger. I
 17 represent the plaintiffs in the lawsuit filed
 18 against Madison-Kipp Corporation. Do you
 19 understand that?
 20 A Yes.
 21 Q Okay. Have you ever had your deposition taken
 22 before?
 23 A No.
 24 Q Never?
 25 A No.

1 Q I am going to be asking you a series of questions
 2 about what you know about the claims in the case
 3 and what you know about the work you have been
 4 doing for Madison-Kipp Corporation. I'm not
 5 trying to trick you with any of my questions. If
 6 you don't understand a question, please let me
 7 know and I will do my best to rephrase it. At
 8 times lawyers may interpose objections after I
 9 ask a question. Unless they instruct you not to
 10 answer, and I don't even know if you are
 11 represented here right now, but you can go ahead
 12 and answer the question anyway after they have
 13 made their objection for the record. Do you
 14 understand that?
 15 A Yes.
 16 Q Okay. Also, your answers have to be in the
 17 spoken word. Court reporters try, but really
 18 shouldn't be taking down gestures or nods of the
 19 head, so please try to do that. I would also ask
 20 you, as a courtesy to me, to try to wait until I
 21 finish asking my question before you start your
 22 answer, and I will give the same courtesy to you
 23 by waiting until you finish your answer before I
 24 ask my next question. Okay?
 25 A Yes.

1 Q Okay. Can you give me your date of birth,
 2 please.
 3 A 12/17/73.
 4 Q Okay. And by whom are you currently employed?
 5 A ARCADIS.
 6 Q In what position?
 7 A Principal engineer, project manager.
 8 Q How long have you worked for ARCADIS?
 9 A Fifteen years.
 10 Q Can you give me a description of your educational
 11 background, please, starting with when you
 12 graduated high school and all the formal
 13 education you have had since then.
 14 A I graduated high school in 1992. I then went to
 15 the University of Iowa where I got a BS in civil
 16 environmental engineering in 1996. I went back
 17 for my master's degree at MSOE, and I got my
 18 master's in environmental engineering in 2001.
 19 Q What's MSOE?
 20 A Milwaukee School of Engineering.
 21 Q Okay. That's here in Milwaukee?
 22 A Yes.
 23 Q All right. And is there any specific field that
 24 your master's degree is in?
 25 A I don't understand the question.

1 Q Okay. Is there any concentration that you have
 2 for your master's degree or is it just a master's
 3 in engineering?
 4 A Environmental engineering, yes.
 5 Q Okay. Did you work between graduating with your
 6 engineering degree from the University of Iowa
 7 and getting your master's degree?
 8 A Yes.
 9 Q Can you describe your employment history from
 10 graduation of college in '96, I think you stated
 11 it was --
 12 A Yes.
 13 Q -- until today?
 14 A When I graduated from high school or from
 15 college, I stayed in Iowa City and I worked for
 16 Veenstra and Kim Civil Engineering. Then I moved
 17 back to Milwaukee in 1997 where I started with
 18 ARCADIS. While I was at ARCADIS I completed my
 19 master's degree at MSOE.
 20 Q Okay. Were you working full time at ARCADIS
 21 while you were doing your master's work?
 22 A Yes.
 23 Q Okay. Tell me a little bit about what you did at
 24 Veenstra and Kim right out of college.
 25 A I did sewer design, subdivision design and water

1 supply.

2 Q Okay. Did you do any work there with respect to

3 industrial contamination?

4 A No.

5 Q Okay. So your first experience dealing with

6 industrial contamination is when you started work

7 at ARCADIS?

8 A Yes.

9 Q Are you married?

10 A Yes.

11 Q Do you have children?

12 A Yes.

13 Q Ages of the children?

14 A Ten, 8 and 6.

15 (Exhibit 1 was marked.)

16 BY MR. BERGER:

17 Q I'm going to show you what has been marked as

18 Trask Exhibit 1, which is a Notice of Subpoena

19 for Deposition noticing your deposition for

20 September 14th followed by a subpoena to testify

21 at deposition which subpoenaed you to testify on

22 October 15th and asked for documents. Then the

23 final document attached to this is an Amended

24 Notice of Deposition noticing your deposition for

25 today's date. Have you seen any of those

1 documents before?

2 A Yes.

3 Q Okay. Have you seen all of those documents

4 before?

5 A No.

6 Q Okay. What have you seen?

7 A The top two.

8 Q Okay. So you saw the first Notice of Deposition

9 and you saw the subpoena?

10 A Yes.

11 Q Okay. Were you the person who gathered documents

12 that have been produced by ARCADIS in response to

13 the subpoena?

14 A Yes.

15 Q Can you tell me what you did to gather documents

16 in response to the subpoena?

17 A Yes. We went through our file. We have a

18 Madison-Kipp file electronically and hard copy,

19 and we produced all the documents that were in

20 the hard copy and electronic files. We went

21 through email correspondence and the email

22 correspondence was produced.

23 Q In the documents that I have seen, and we

24 received about 10,000 or 15,000 documents

25 yesterday on disk, but in the documents we have

1 seen so far I haven't seen any billing records.

2 Did you look through those billing files at all?

3 A What do you mean by "billing records?"

4 Q Well, ARCADIS sends bills to Madison-Kipp or

5 Michael Best, doesn't it, for the work that it

6 does in this matter?

7 A Yes.

8 Q Are those documents maintained here?

9 A Yes.

10 Q Did you gather those documents?

11 A Yes.

12 Q Have you produced those documents?

13 A I'm not sure how to answer that. Yes.

14 Q Okay. So you gave them to lawyers?

15 A Yes.

16 Q Okay. Which lawyers did you give them to?

17 A They were shipped to Michael Best.

18 Q Okay. Anybody in particular at Michael Best?

19 A I had Word Processing send them. I believe they

20 went to Leah.

21 MR. BERGER: We haven't seen any billing

22 documents, Leah. Do you know --

23 MS. ZIEMBA: That's right. I think we

24 were going to talk about a protective order.

25 MR. SEESE: Right. I mean, I don't

1 think a deposition is a time to talk about

2 discovery, because we have several discovery

3 issues we want to talk about, too. I don't think

4 there's any opposition to producing billing

5 records. The concern with ARCADIS is

6 confidentiality. I think there was a

7 confidential sent to you folks back in December,

8 but we haven't heard anything back. We don't

9 have any objection beyond confidentiality

10 protections to producing the billing records.

11 MR. BERGER: Are those the only

12 documents of ARCADIS that have not been produced

13 or do you plan to produce a privilege log?

14 MR. SEESE: I don't even know if that's

15 a privilege log. Again, I mean, I'm not under

16 oath, I'm not a witness.

17 MR. BERGER: No, I understand that. I'm

18 trying to find that where we are in terms of

19 production.

20 MR. SEESE: So your question is whether

21 the billing records are going to be on a

22 privilege log, and my answer to that is no

23 because we don't did envision withholding them.

24 We envision producing them subject to a

25 confidentiality provision.

1 BY MR. BERGER:
 2 Q Ms. Trask, did you withhold any documents that
 3 ARCADIS has from the documents that you provided
 4 to Michael Best?
 5 A Not to my knowledge.
 6 Q Okay. Is Michael Best representing you or
 7 ARCADIS in this litigation?
 8 A No.
 9 Q Okay. So you don't have a lawyer representing
 10 you here today?
 11 A I do not have a lawyer representing me.
 12 Q Okay. Does ARCADIS have a lawyer?
 13 A Yes.
 14 Q And who is that?
 15 A Brandon Williams.
 16 Q Okay. Where is he located?
 17 A Denver.
 18 (Exhibit 2 was marked.)
 19 BY MR. BERGER:
 20 Q I'm going to show you what has been marked as
 21 Trask Exhibit 2 and ask you if you can identify
 22 that document.
 23 MR. COLLINS: It's the CV.
 24 THE WITNESS: It's my 2010 ARCADIS
 25 resume.

1 BY MR. BERGER:
 2 Q Is that your most current resume?
 3 A Yes.
 4 Q And what's the purpose for which this resume was
 5 prepared?
 6 A It's an annual routine to update our resumes.
 7 Q But this is the most recent one you have?
 8 A Um-hum.
 9 Q You have to say "yes."
 10 A Yes.
 11 Q So you did not update it in 2011 or 2012?
 12 A Correct.
 13 Q Why don't you describe for me just generally what
 14 your work experience has been since you started
 15 work with ARCADIS in 1997.
 16 A I started off with groundwater sampling, design
 17 work, design of remediation systems, in situ
 18 treatment mostly, construction oversight,
 19 contractor coordination, remedial systems,
 20 groundwater and SVE. Most recently more of a
 21 project manager overseeing the designs, and I'm a
 22 Principal Engineer, so I'm a PE. I have done a
 23 lot of vapor intrusion work, vapor mitigation.
 24 Q Okay. What's your current title or position with
 25 the company?

1 A Principal Engineer.
 2 Q Are you an owner of the company?
 3 A No.
 4 Q How long have you been a Principal Engineer?
 5 A At least two years.
 6 Q Okay. What was your title when you started with
 7 the company?
 8 A Engineer II.
 9 Q Can you walk me through your progression from
 10 Engineer II to your current position or title as
 11 Principal Engineer.
 12 A Engineer II, then Staff Engineer, Project
 13 Engineer, Senior Engineer and Principal Engineer.
 14 Q Can you tell me approximately how long you have
 15 served in each capacity?
 16 A Well, I don't know that.
 17 Q So you have been here about 14 or 15 years?
 18 A Just over 15.
 19 Q And you became a Principal Engineer approximately
 20 two years ago?
 21 A Yes.
 22 Q Would that have been at our around the time you
 23 prepared Exhibit 2?
 24 A I don't know.
 25 Q You don't know?

1 A No.
 2 Q You mentioned that you were the project manager?
 3 A Yes.
 4 Q And you are the project manager on the
 5 Madison-Kipp site?
 6 A Yes.
 7 Q How long have you been a project manager for
 8 ARCADIS?
 9 A At least 10 years.
 10 Q Tell me something about your experience -- or
 11 strike that.
 12 Describe for me your experience on vapor
 13 intrusion matters.
 14 A That's vague. Are you looking for my role or --
 15 Q Madison-Kipp is a vapor intrusion matter, is that
 16 right?
 17 A That's part of it.
 18 Q That's part of it. That's one of the issues
 19 involved. If you look at your CV, you have a
 20 heading entitled "Vapor Mitigation" on Page 3, is
 21 that right?
 22 A Yes.
 23 Q There are, as I see it, three matters identified
 24 under vapor mitigation, is that right?
 25 A Yes.

1 Q One in Glendale, Wisconsin, one in New Jersey and
 2 one in Phoenix, Arizona?
 3 A Yes.
 4 Q Okay. And those are all matters that you worked
 5 on prior to being retained on the Madison-Kipp
 6 matter?
 7 A Yes.
 8 Q Have you worked on vapor mitigation cases other
 9 than those three?
 10 A Yes.
 11 Q How many?
 12 A A dozen.
 13 Q Any of them involve PCE contamination?
 14 A Yes.
 15 Q Okay. Any of them industrial sites like
 16 Madison-Kipp Corporation?
 17 A Yes.
 18 Q Okay. How many?
 19 A I don't know.
 20 Q Were any of them dry cleaners?
 21 A Yes.
 22 Q Are you able to describe for me at all the number
 23 of other industrial PCE matters? I'm trying to
 24 exclude dry cleaners.
 25 MR. SEESE: I object to the form of

1 that. Go ahead and answer it, if you can.
 2 THE WITNESS: I have four that are
 3 coming to mind. Otherwise, I would have to go
 4 back and look at my project list.
 5 BY MR. BERGER:
 6 Q Can you identify those for me, please.
 7 A I had a project in Kingsford, Michigan, Great
 8 Neck, New York. I'm trying to think. I
 9 apologize. I'm trying to think of the names that
 10 I can say and not be confidential clients.
 11 Q Well, you have just given me the name of two
 12 cities right now. I don't think that would be a
 13 problem.
 14 A Right. No. Understood. Houghton is on here,
 15 but it's not listed under vapor.
 16 Q Okay. That's a municipal client in Houghton?
 17 A Yes.
 18 Q That was a PCE case?
 19 A No.
 20 Q I thought I was asking you about PCE.
 21 A Just PCE?
 22 Q PCE cases involving industrial sites.
 23 A Then I would just have those two that would come
 24 into my mind.
 25 Q Okay. What's Houghton? Is Houghton a TCE case

1 or a petroleum hydrocarbon case?
 2 A Houghton is methane.
 3 Q Okay. So you have been involved in two PCE cases
 4 other than MKC involving vapor mitigation or
 5 vapor migration, is that fair?
 6 MR. SEESE: Object to the form of that.
 7 I think it misstates what she said.
 8 BY MR. BERGER:
 9 Q Or you can recall two industrial PCE cases as you
 10 sit here now?
 11 A Specific PCE cases that I can recall right now,
 12 yes.
 13 Q Correct.
 14 A Yes.
 15 MR. SEESE: Just because I want to make
 16 sure, we are talking about non-dry cleaning PCE
 17 cases is what I thought your question was.
 18 MR. BERGER: That's correct.
 19 BY MR. BERGER:
 20 Q Is that right?
 21 A Yes.
 22 Q Have you ever served as an expert witness,
 23 testified in court as an expert witness?
 24 A No.
 25 Q Have you ever been qualified to testify as an

1 expert witness in court, to your knowledge?
 2 MR. SEESE: Object to form and
 3 foundation. You can answer.
 4 THE WITNESS: I'm not sure -- I don't
 5 know what you mean.
 6 BY MR. BERGER:
 7 Q Okay. You have never given a deposition before,
 8 is that right?
 9 A Correct.
 10 Q Okay. So to your knowledge you have never
 11 testified in any capacity as an expert witness?
 12 A Yes.
 13 Q That's true?
 14 A That's true.
 15 Q Do you plan to testify as an expert witness in
 16 this case?
 17 A No.
 18 Q Okay. Can you tell me who else at ARCADIS is
 19 working on the Madison-Kipp matter, other
 20 scientists?
 21 A From an expert standpoint?
 22 Q From any standpoint.
 23 A You just want names?
 24 Q Sure, or names and roles. Whatever is easiest
 25 for you.

1 A Toni Schoen, hydrogeologist. Matt Schnobrich.
 2 Q Can you spell Matt's last name?
 3 A S-C-H-N-O-B-R-I-C-H. Engineer. Chris Kubacki,
 4 engineer. There's probably over a dozen people.
 5 Is that what you are looking for?
 6 Q Well, what are their respective -- You are the
 7 project manager, as I understand it?
 8 A Correct, yes.
 9 Q Who reports to you on this matter, directly to
 10 you, in ARCADIS?
 11 A I can list them out.
 12 Q Okay.
 13 A Toni, Chris, Matt, Brian Ernst.
 14 Q How do you spell Brian's last name?
 15 A E-R-N-S-T.
 16 Q What's his position?
 17 A He's a geologist. Tim Alessi.
 18 Q How do you spell his last name?
 19 A A-L-E-S-S-I. He's a hydrogeologist. Ed Buck.
 20 He's an engineer. Kevin Connor. He's a
 21 toxicologist. Nadine Weinberg, W-E-I-N-B-E-R-G.
 22 She's a risk assessor. Rebecca Robbennolt.
 23 Q I'm sorry?
 24 A R-O-B-B-E-N-N-O-L-T. She's an engineer. Maija
 25 Seppanen.

1 Q M-A-Y-A?
 2 A M-A-I-J-A S-E-P-P-A-N-E-N. She's an engineer.
 3 Stacy Kinowski. She does database.
 4 Q What do you mean "she does database?" She enters
 5 data into a database that's maintained here on
 6 the project?
 7 A She tracks the data, yes.
 8 Q Okay.
 9 A I would have to see my employee list for the rest
 10 of them.
 11 Q Those are the principal ones that you can recall?
 12 A Yes.
 13 Q Are you a toxicologist?
 14 A No.
 15 Q Are you a risk assessor?
 16 A No.
 17 Q Do you hold yourself out as an expert in either
 18 of those fields?
 19 A No.
 20 Q Can you tell me what Kevin Connor's role is?
 21 A He reviewed PCB data.
 22 Q Did he review other data?
 23 A No.
 24 Q What's Nadine Weinberg's role?
 25 A She helped coordinate the vapor sampling.

1 Q Okay. You mentioned that she was a risk
 2 assessor, true?
 3 A Yes.
 4 Q Has she performed a risk assessment on the
 5 Madison-Kipp site?
 6 A No.
 7 Q Has anybody from ARCADIS, to your knowledge,
 8 performed a risk assessment on the Madison-Kipp
 9 site?
 10 A Not that I recall.
 11 Q Well, you are the project manager. You would
 12 know, would you not, if ARCADIS had done that?
 13 MR. SEESE: Object to form,
 14 argumentative.
 15 MR. BERGER: I'm not trying to argue.
 16 I'm trying to ask you if you know as the project
 17 manager whether ARCADIS has performed a risk
 18 assessment.
 19 THE WITNESS: We have not.
 20 BY MR. BERGER:
 21 Q Okay. Do you plan to?
 22 A Not at this time.
 23 Q Okay. Has anybody from -- Have any of these
 24 people been identified or designated to be expert
 25 witnesses in the case that we're talking about

1 today?
 2 MR. SEESE: Object to form and
 3 foundation. There's a scheduling order for the
 4 disclosure, so I'm not sure what the
 5 appropriateness is of trying to ask a fact
 6 witness about what Madison-Kipp's expert
 7 disclosure is going to be.
 8 MR. BERGER: You can answer the
 9 question.
 10 THE WITNESS: Yes.
 11 BY MR. BERGER:
 12 Q Okay. Who?
 13 A Nadine.
 14 Q Anybody else?
 15 A No.
 16 Q Can you tell me something about Nadine's --
 17 Strike that.
 18 Tell me what Nadine's educational
 19 background is.
 20 A I don't know.
 21 Q Okay. Does she have a PhD?
 22 A I don't know.
 23 Q You have no idea? Does she work in this office?
 24 A No.
 25 Q What office does she work in?

1 A Portland, Maine.
 2 Q Okay. Does anybody else on the list that you
 3 have just identified or is anybody else going to
 4 be an expert witness, to your knowledge?
 5 MR. SEESE: Object to form and
 6 foundation.
 7 THE WITNESS: No.
 8 BY MR. BERGER:
 9 Q So it's just Nadine Weinberg?
 10 A Yes.
 11 Q Are any of these other people that you identified
 12 working out of other ARCADIS offices besides the
 13 Milwaukee office?
 14 A Yes.
 15 Q Okay. Where is Tony Schone?
 16 A Milwaukee.
 17 Q Matt Schnobrich?
 18 A Newtown.
 19 Q Newtown what?
 20 A Pennsylvania.
 21 Q Chris Kubacki?
 22 A Milwaukee.
 23 Q Brian Ernst?
 24 A Milwaukee.
 25 Q Tim Alessi?

1 A Milwaukee.
 2 Q Ed Buck?
 3 A Milwaukee.
 4 Q Kevin Connor?
 5 A I don't know.
 6 Q Nadine you said is in Maine?
 7 A Yes.
 8 Q Rebecca Robbenolt?
 9 A Milwaukee.
 10 Q Maija?
 11 A Milwaukee.
 12 Q And was it Stacy?
 13 A Milwaukee.
 14 Q Have you ever worked on behalf of residents who
 15 were impacted by environmental contamination
 16 before?
 17 A No.
 18 Q And I'm including homeowners. Do you understand
 19 that?
 20 A Yes.
 21 Q Okay. So in all of your projects you have been
 22 engaged essentially by industry or I suppose by
 23 municipalities?
 24 A Yes.
 25 Q Okay. All right. How many cases have you worked

1 on behalf of municipalities?
 2 A What do you mean by "case?"
 3 Q Well, that's a good question. On how many
 4 matters. How often. Any way that you feel
 5 comfortable telling me. Would you say that
 6 95 percent of your work is on behalf of industry?
 7 A The majority of the work is industry.
 8 Q Okay. And you have never worked for homeowners
 9 or residents with respect to an industrial
 10 contamination matter, is that true?
 11 A Yes.
 12 Q Okay. Have you done work prior to the
 13 Madison-Kipp case -- Strike that.
 14 When was the first time you became
 15 involved with the Madison-Kipp matter?
 16 A February 2012.
 17 Q And describe for me, please, how it was you
 18 became involved.
 19 A A colleague has a contact at Madison-Kipp.
 20 Q Who is that colleague?
 21 A Evan Nyer.
 22 Q Evan Nyer. How do you spell Evan's last name?
 23 A N-Y-E-R.
 24 Q Okay. And he works at ARCADIS?
 25 A Yes.

1 Q Here in the Milwaukee office?
 2 A No.
 3 Q Where does he work?
 4 A Tampa.
 5 Q Okay. And tell me how it is that Evan contacted
 6 you about the Madison-Kipp case.
 7 A What do you mean?
 8 Q Well, I wanted to know how it is you became
 9 involved, and as I understand your answer, you
 10 have told me that a colleague was contacted by
 11 Madison-Kipp and that colleague was Evan Nyer?
 12 A Yes.
 13 Q All right. Did Evan Nyer call you?
 14 A Yes.
 15 Q And what did he tell you?
 16 A I don't recall.
 17 Q Can you tell me generally?
 18 A That he wanted to set up a meeting to talk with
 19 Madison-Kipp.
 20 Q Okay. Did he tell you how he had been contacted?
 21 A On the golf course.
 22 Q He was on the golf course with an employee of
 23 Madison-Kipp?
 24 A Yes.
 25 Q Okay. Did he tell you who?

1 A Yes.

2 Q Who?

3 A Jim Harney.

4 Q Jim Harney?

5 A Yes.

6 Q Jim Harney is an employee of Madison-Kipp Corporation.

7 Corporation.

8 MR. SEESE: Object to form and

9 foundation.

10 THE WITNESS: Yes, to my understanding

11 he's hired -- he was hired by Madison-Kipp.

12 BY MR. BERGER:

13 Q Jim Harney was?

14 A Yes.

15 Q Was I right?

16 A Yes.

17 Q So was he actually an employee of the company, Madison-Kipp Corporation?

18 Madison-Kipp Corporation?

19 MR. SEESE: Object to form and

20 foundation.

21 THE WITNESS: I don't know the

22 relationship.

23 BY MR. BERGER:

24 Q Okay. But your understanding is your colleague,

25 Mr. Nyer, was playing golf with Mr. Harney, and

1 what about that experience, as you understand it,

2 made Nyer call you?

3 A I wasn't out on the golf course. I don't know

4 what the conversation was.

5 Q Okay. What did Nyer tell you generally, as best

6 you can recall? I'm not looking for specific

7 words.

8 A He requested support for potential vapor

9 intrusion, vapor mitigation.

10 Q Okay. So your colleague Nyer from the Tampa

11 office calls you and says, "I met a guy who has a

12 vapor intrusion problem in Madison, Wisconsin,

13 can you help me with it?"

14 MR. SEESE: Object to form. You can

15 answer.

16 THE WITNESS: Yes.

17 BY MR. BERGER:

18 Q That's fair?

19 A In general.

20 Q Okay. That's what I'm trying to find out. In

21 general. So why don't you tell me what happens

22 next.

23 A We met with Madison-Kipp and their attorneys.

24 Q Who is "we"?

25 A Evan and myself.

1 Q Where did that meeting take place?

2 A Here.

3 Q At your office?

4 A In Milwaukee.

5 Q Okay. And your best recollection is that was in

6 February?

7 A Yes.

8 Q Of 2012?

9 A Yes.

10 Q Okay. Who attended that meeting?

11 A Evan Nyer and me. I can't -- Michael Best. I

12 can't recall who was there from Michael Best.

13 Q Was there more than one person there?

14 A I don't know.

15 Q Was Mr. Seese there? He's the gentleman sitting

16 next to you.

17 A No.

18 Q Was David Crass there?

19 A I don't know.

20 Q Was John Busch there?

21 A I don't know.

22 Q Was Leah Ziemba there?

23 A No.

24 Q So as you sit here right now, you have no idea

25 who from Michael Best attended that meeting or

1 how many of them were there, is that true?

2 A Yes.

3 Q Okay. Do you know why somebody from Michael Best

4 was at that meeting?

5 A On behalf of Madison-Kipp.

6 Q They were there representing Madison-Kipp?

7 A Yes.

8 Q Okay. Did your colleague tell you when he asked

9 you to meet with Madison-Kipp and told you about

10 this vapor intrusion problem, that their lawyers

11 would be contacting you or you needed to contact

12 their lawyers?

13 A No.

14 Q Okay. Who did you contact to set up that

15 meeting?

16 A I did not contact --

17 Q Anybody?

18 A Not to my recollection.

19 Q Okay. That's all I can get here is what you

20 recall. I'm just trying to get your best memory.

21 I'm not trying to have you answer one way or the

22 other. I just want to find out what you recall.

23 So was it your colleague who set up the meeting?

24 A Yes.

25 Q Okay. And he coordinated with you the time and

Page 33

1 the location?

2 A Yes.

3 Q And that, as best you can recall, that was

4 February of this year?

5 A Yes.

6 Q Okay. All right. And one or more people who you

7 can't recall from Michael Best attended. Who

8 attended from Madison-Kipp Corporation?

9 A Jim Harney.

10 Q Okay.

11 A And Mark Meunier.

12 Q Tell me what you recall about that meeting.

13 Strike that.

14 Did anybody else attend other than you,

15 your colleague, the two folks from Madison-Kipp,

16 who you have identified, and this unidentifiable

17 group from Michael Best, Madison-Kipp's lawyers?

18 A No.

19 Q Okay. Tell me what happened at that meeting.

20 A We discussed the site.

21 Q Well, you didn't know anything about the site at

22 that time, is that fair?

23 A Yes.

24 Q Okay. And your colleague didn't know anything

25 about the site at that time, is that true?

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1 A He knew his previous conversations with Jim. I

2 was not part of those, and I barely had time to

3 make the meeting, so I had not done any research

4 prior to the meeting.

5 Q So you hadn't reviewed any data, any

6 investigation reports, nothing?

7 A Correct.

8 Q Okay. Tell me what you recall about the meeting.

9 A We discussed the site and potential steps

10 forward. It was very general since I --

11 Q You didn't know anything about the site?

12 A Right.

13 Q And your colleague, what was his name again?

14 A Evan Nyer.

15 Q Evan Nyer only knew what Harney told him on the

16 golf course?

17 A Yes.

18 Q So did somebody make a presentation about what

19 was going on at the site on behalf of

20 Madison-Kipp?

21 A I don't recall.

22 Q They must have, though, right? Either

23 Madison-Kipp or its lawyers told you something?

24 A Yes.

25 MR. SEESE: Object to the form of that.

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1 BY MR. BERGER:

2 Q Was a guy named Bob Nauta there?

3 A No.

4 Q Do you know who Mr. Nauta is?

5 A Yes.

6 Q You have met Mr. Nauta?

7 A Yes.

8 Q Okay. But he was not at the meeting?

9 A No.

10 Q Okay. What do you recall being told at that

11 meeting about what was going on at the

12 Madison-Kipp Corporation site?

13 A I can't recall specifics.

14 Q Do you recall anything in general about what you

15 were told at the meeting?

16 A No.

17 Q Were you told that Madison-Kipp Corporation had

18 been sued by residents around the plant?

19 A I don't know if that was discussed during that

20 meeting.

21 Q Okay. I'm trying to find out what you do

22 remember about that meeting.

23 MR. SEESE: Hold on. She answered your

24 question.

25 MR. BERGER: I know. I'm just trying to

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1 explain what I'm trying to -- what you remember.

2 BY MR. BERGER:

3 Q Do you remember anything generally about the

4 meeting?

5 A Not really, no.

6 Q Okay. And what happened after that?

7 A I believe we provided them some of our

8 information on other sites we had worked on.

9 Q After the meeting?

10 A Yes.

11 Q Okay. Did you provide information -- Did you or

12 your colleague provide information about your

13 capabilities at the meeting?

14 A Did we provide our skillset at the meeting?

15 Q Correct.

16 A Yes.

17 Q Okay. So that is something you recall. What did

18 you or your colleague tell them about what

19 ARCADIS could do for them at the meeting?

20 A That we had vapor intrusion, vapor mitigation

21 experience.

22 Q Okay. Did your colleague have that experience?

23 A Yes.

24 Q Okay. Do you know what his experience was?

25 A What do you mean?

1 Q Does he have experience in the field of vapor
2 intrusion and vapor mitigation?
3 A Yes.
4 Q Other than being at this meeting, has your
5 colleague who arranged this meeting worked on
6 this matter?
7 A Yes.
8 Q Okay. What's his role?
9 A He's more of a program manager, not an active,
10 day-to-day role.
11 Q So he hasn't had an active, day-to-day scientific
12 role on this project, is that fair?
13 A Not day-to-day.
14 Q Okay. I think you said a program role. What do
15 you mean when you say he has a program role?
16 A That would be a typical ARCADIS role for him as a
17 program manager. He doesn't have a specific
18 title related to this project.
19 Q So was he the billing person on the project? Is
20 that what his role is?
21 A No.
22 Q Is he the guy who brought the business in? I'm
23 trying to figure out --
24 A Yes.
25 Q He is the guy who brought the business in. He

1 doesn't send the bills, though?
2 A No.
3 Q Okay. What is it that he actually does on the
4 project?
5 A Senior leadership. A senior resource.
6 Q Is he somebody you talk to on any regular basis
7 concerning the matter, you as the project
8 manager?
9 A Yes.
10 Q What do you talk to him about?
11 A I provide him updates of project scope and
12 schedule.
13 Q Does he report to anybody at Madison-Kipp on the
14 matter?
15 A No, not to my knowledge.
16 Q Okay. So you just report to him so he knows
17 what's going on with the client and the matter
18 that he brought into the company?
19 A Yes.
20 Q Okay. That pretty much describes what he does?
21 A Yes.
22 Q Has he been involved in any technical meetings
23 that you have had concerning the site since your
24 project started?
25 A Yes.

1 Q Okay. What technical meetings has he been
2 involved with?
3 A Technical groundwater discussions.
4 Q Okay. What's his area of expertise?
5 A In situ remediation.
6 Q Okay. So he's somebody that you have consulted
7 on the in situ remediation aspect of the
8 Madison-Kipp project?
9 A Yes.
10 Q Have you consulted him on any other issues?
11 A No.
12 Q Okay.
13 A Not to my knowledge. Aside from keeping him
14 informed on the progress, scope and schedule.
15 Q Okay. So you reached out to him for his thoughts
16 on in situ remediation technology for
17 groundwater?
18 A Yes.
19 Q And I take it that's going on -- that's something
20 that's ongoing right now?
21 A Yes.
22 Q Okay. Prior to your involvement in this
23 Madison-Kipp case, had you been involved in any
24 other projects where VOC vapors were detected
25 under or inside homes?

1 A Yes.
2 Q Okay. On how many different matters has that
3 been the case?
4 A VOCs?
5 Q Correct.
6 A One.
7 Q Okay. And was that one of the matters you
8 identified?
9 A No.
10 Q Okay. Can you identify that matter for me?
11 A The site is in Ohio.
12 Q Where in Ohio?
13 A I don't know.
14 Q You don't know the name of the town?
15 A No.
16 Q How long ago did you work on that site?
17 A 2010 or 2011.
18 Q Are you still working on that?
19 A No.
20 Q Can you identify the client?
21 A No.
22 Q Is it because it's confidential?
23 A Yes.
24 Q Okay. Is ARCADIS still engaged in that matter or
25 no?

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1 A Yes.

2 Q Okay. But you are not doing anymore work on it?

3 A I am not doing any work on it, correct.

4 Q Do you know why you are no longer working on

5 that?

6 A Yes.

7 Q Why?

8 A We worked on the initial sampling protocol and

9 mitigation, and that phase is complete.

10 Q When you say "mitigation," what do you mean?

11 A Sub-slab systems.

12 Q Under homes?

13 A Yes.

14 Q Sub-slab mitigation systems under homes?

15 A Yes.

16 Q Do you know what the VOCs involved in that case

17 were?

18 A PCE.

19 Q Was that from a dry cleaners?

20 A I don't know.

21 Q You don't know where the source of PCE was there,

22 what the source was in that case?

23 A No.

24 Q But there were PCE vapors under homes?

25 A Yes.

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1 Q How many homes had PCE vapors under them?

2 A I don't know.

3 Q Approximately?

4 A I don't know.

5 Q You designed the systems, but you don't know how

6 many homes, is that right?

7 A Yes.

8 Q Okay. Can you tell me whether there were more or

9 less than 10 homes?

10 A No.

11 Q Can you tell me whether there were more or less

12 than 100 homes?

13 A Less.

14 Q Okay. More or less than 50 homes?

15 A Less.

16 Q More or less than 25 homes?

17 A I don't know.

18 Q Somewhere between 10 and 50 homes?

19 A Yes.

20 Q And you can't be any more specific than that?

21 A No.

22 Q Did you play any role in the determination of

23 what homes would have vapor mitigation sub-slab

24 systems installed?

25 A No.

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1 Q Do you know who did?

2 A No.

3 Q Can you tell me how it is -- Well, strike that.

4 What was your role then?

5 A Review of the system design.

6 Q And who created the system design?

7 A Who as in ARCADIS?

8 Q If it was ARCADIS.

9 A ARCADIS did.

10 Q So ARCADIS designed sub-slab mitigation systems

11 for between 10 and 50 homes someplace in Ohio?

12 A Yes.

13 Q And somebody asked you to review the sub-slab

14 system design?

15 A Yes.

16 MR. SEESE: Object to the form of that.

17 I think it misstates her testimony. She said 25,

18 but go ahead and answer.

19 BY MR. BERGER:

20 Q Is it between 10 and 25 homes or 10 and 50 homes?

21 A I don't know.

22 Q Okay. Somewhere between 10 and 50 is what I

23 thought. Is that right?

24 A Is it right what you said?

25 Q Is that correct, that the best you can recall is

Page 44

1 that there were somewhere between 10 and 50 homes

2 involved in this?

3 A Yes.

4 Q Okay. And you reviewed --

5 MR. SEESE: I will withdraw my objection

6 then.

7 MR. BERGER: Okay. Thank you.

8 BY MR. BERGER:

9 Q And you reviewed a sub-slab mitigation design

10 prepared by somebody else at ARCADIS?

11 A Yes.

12 Q Okay. Was that one sub-slab system design that

13 was going to be used for all of the homes

14 involved in that matter or was that for a

15 specific home or more?

16 A There were multiple designs.

17 Q And you reviewed multiple designs?

18 A Yes.

19 Q Okay. And there were multiple designs because

20 homes vary and sub-slab mitigation systems need

21 to vary to accommodate the homes, is that fair?

22 A Yes.

23 Q And you don't recall how many -- approximately

24 how many home designs you reviewed?

25 A No, there was a team reviewing them.

1 Q And you were part of the team?

2 A Yes.

3 Q Did you have any other involvement in that

4 project?

5 A No.

6 Q So you don't know anything about how the VOC

7 vapors got under the homes in that case and you

8 played no role in determining whether a home

9 would get mitigation, is that fair?

10 A Yes.

11 Q Other than that one matter, have you been

12 involved in any other cases where there has been

13 VOC vapors underneath residences?

14 MR. SEESE: Object to the form.

15 THE WITNESS: Not that I recall.

16 BY MR. BERGER:

17 Q Well, that's all we can get. Incidentally, if

18 you want to take a break at any time, simply let

19 me know that and we can take a break.

20 A Okay.

21 Q If you look at Exhibit 2, which is your CV, I

22 take it this is a document that you and ARCADIS

23 prepare and use for purposes of marketing your

24 services. Is that fair to say?

25 A Yes.

1 Q Okay. Is there any significant experience that

2 you have had in the environmental area that you

3 didn't identify on this exhibit?

4 MR. SEESE: Object to the form. You can

5 answer.

6 THE WITNESS: I don't understand.

7 BY MR. BERGER:

8 Q Do you hold yourself out as an expert in any

9 particular areas of environmental science or

10 remediation?

11 MR. SEESE: Object to the form of that.

12 THE WITNESS: What's the definition of

13 "expert?"

14 BY MR. BERGER:

15 Q Do you consider yourself an expert, according to

16 your definition, in any particular field of

17 environmental science?

18 MR. SEESE: Object to the form of that.

19 MR. BERGER: You can answer.

20 THE WITNESS: No, I don't know what the

21 definition of "expert" is.

22 BY MR. BERGER:

23 Q Have you had any formal education other than the

24 education that's identified on your CV?

25 A No.

1 Q All right. So you had this meeting with your

2 colleague and these two folks from Madison-Kipp

3 and some people from Michael Best, the law firm

4 representing Madison-Kipp. What happened next

5 after that with respect to this project as you

6 recall?

7 A We provided our qualifications.

8 Q And how did you do that?

9 A During the meeting, and I'm trying to remember if

10 we submitted any documents after that. I don't

11 recall.

12 Q Do you recall generally what you said at the

13 meeting about your qualifications?

14 A That we had experience with in situ treatments,

15 vapor intrusion and vapor mitigation.

16 Q Relating to VOCs?

17 A Yes.

18 Q Okay. Do you recall anything else significant

19 that you said?

20 MR. SEESE: Object to the form.

21 THE WITNESS: No.

22 BY MR. BERGER:

23 Q Did you talk at all about ARCADIS's ability to

24 provide expert witness work?

25 A I don't know.

1 Q You don't remember one way or the other?

2 A I don't know.

3 Q Do you recall anything else about the meeting?

4 Does anything else stand out in your mind about

5 the meeting?

6 A No.

7 Q What's the next thing that you do recall in the

8 relationship and your involvement?

9 A An agreement with Michael Best, proposed scope of

10 work, would have come after that at some point.

11 Q So sometime after the meeting you came to an

12 agreement, ARCADIS came to an agreement with

13 Michael Best to do work on this project?

14 A Yes.

15 (Exhibit 3 was marked.)

16 BY MR. BERGER:

17 Q I'm going to show you what's been marked as

18 Exhibit 3.

19 A Thank you.

20 MR. BERGER: Why don't we take a short

21 break.

22 (A recess was taken.)

23 (Exhibits 4 through 12 were marked.)

24 MR. BERGER: Lee, can you tell us

25 whether you are going to be giving us a privilege

1 log for the ARCADIS documents or whether you are
2 planning to withhold any documents from the
3 ARCADIS production on grounds of privilege?

4 MR. SEESE: Yes, there will be documents
5 withheld on the grounds of privilege, and for
6 documents that are withheld, there will be a
7 privilege log, yes.

8 MR. BERGER: From ARCADIS?

9 MR. SEESE: From ARCADIS, yes.

10 MR. BERGER: Can you tell us when we are
11 going to get that?

12 MR. SEESE: No, because I don't know
13 right now. I can give you speculation. I don't
14 know. I'm not the primary person working with
15 that. I know it's under wraps -- not under
16 wraps, it's under way.

17 MR. BERGER: Well, obviously, we would
18 like that sooner rather than later.

19 MR. SEESE: I guess as long as we're
20 going to talk about discovery disputes, I would
21 like to point out that there are numerous
22 deficiencies in the discovery responses of the
23 plaintiffs. You are going to be receiving a
24 letter from my counsel on that, as well. So of
25 the plaintiffs in the case haven't produced any

1 documents whatsoever, and the production that's
2 been made is deficient in several respects. We
3 will be talking later about that.

4 MR. BERGER: I don't think this is the
5 place to talk about that. We're happy to talk
6 with you about it. The reason I raised the issue
7 I raised is because it relates to ARCADIS's
8 production, and we are taking the ARCADIS project
9 manager right now. So you and I can walk around
10 with a court reporter for months and talk about
11 problems we have with the case, but I'm trying to
12 focus on ARCADIS here.

13 I also want you guys to know that in
14 light of the production that we just received,
15 10,000 or 15,000 documents yesterday, I don't
16 think we are going to finish with Ms. Trask
17 anyway today, but we are going to be reserving
18 our right to examine her concerning those
19 documents.

20 MR. SEESE: Well, I'm going to respond
21 to that on the record. I think we can deal with
22 that at a later time. I don't want to have a
23 fight where one is not necessary, but this was
24 noticed at your request and you knew what
25 documents you had and did not at the time. I

1 don't know why we go into any discovery
2 records -- discovery disputes while we have a
3 court reporter, but I think if we are going to
4 put them to the side, we put them all to the
5 side.

6 MS. ZIEMBA: I would like to just add
7 that you specifically asked for three reports in
8 the -- that you have there, and those were in the
9 recent production, but I gave you the Bates
10 ranges for those, so you should have had those.

11 MR. COLLINS: Well, some of the
12 documents you gave us yesterday were months old,
13 too. We are about to talk about one from
14 February that we should have had many months ago.
15 Also, if you are going to -- We're certainly not
16 going to close up a deposition when you won't
17 even tell us when we are getting a privilege log
18 relating to the documents that this witness has
19 generated. That's just not the way it's going to
20 work.

21 MR. SEESE: I understand that's your
22 position.

23 MR. BERGER: Okay. Let's get back to
24 Ms. Trask.
25

1 BY MR. BERGER:

2 Q You mentioned this golf outing between Mr. Nyer,
3 your colleague and Mr. Harney from Madison-Kipp
4 Corporation. Did you have any understanding how
5 that came to be?

6 A No.

7 Q So you don't know whether they planned to meet
8 and talk about an issue over golf or whether it
9 was serendipity that they happened to be on a
10 golf course together in Florida?

11 A I don't know.

12 Q You have no idea whatsoever?

13 A No.

14 Q Okay. You said that Mr. Harney was at that first
15 meeting that you had in these offices here. Have
16 you been -- Have you seen him or talked to him
17 since that first meeting?

18 A Yes.

19 Q Okay. On how many occasions?

20 A Six to ten.

21 Q And is he still involved with you on this matter?

22 A No.

23 Q Okay. Do you know when his involvement ceased or
24 why his involvement ceased?

25 A No.

1 Q Did you ever come to understand what his
2 relationship was with Madison-Kipp Corporation?
3 A No.
4 Q Do you know whether he was an officer of the
5 company or an employee of the company?
6 A I don't know.
7 Q Okay. So you have absolutely no idea what his
8 role was, if any, with respect to this project,
9 is that fair?
10 MR. SEESE: I object to the form of that
11 as argumentative. You can go ahead and answer.
12 THE WITNESS: With respect to this
13 project?
14 BY MR. BERGER:
15 Q Well, you told me he was on the golf course with
16 your colleague, Mr. Nyer, and he was at this
17 meeting and then he was at another six to ten
18 meetings. What is your understanding of who he
19 is and what his role was?
20 MR. SEESE: Object to the form of that.
21 THE WITNESS: I don't know aside from
22 the initial contact with Evan and Jim.
23 BY MR. BERGER:
24 Q Do you know why it is you were talking to him,
25 you talked to him another six to ten times, or

1 was he just present at some meetings?
2 A He was present at meetings.
3 Q And where did those meetings take place?
4 A Madison.
5 Q At the Madison-Kipp Corporation facility?
6 A Sometimes I would just see him at the offices,
7 sometimes he was in the meeting.
8 Q Okay. And you have no understanding whatsoever
9 what his role was with respect to the project
10 that you are working on for Madison-Kipp, is that
11 fair?
12 A Yes.
13 Q But you do know that he's no longer involved in
14 this project, is that true?
15 A My understanding is I'm not copying him on
16 emails.
17 Q Were you told not to copy him on emails?
18 A I don't know if that was a directive or if he
19 just no longer was at the meetings. We didn't
20 copy him on emails anymore.
21 Q Do you have an understanding as to whether or not
22 he's still employed with Madison-Kipp?
23 A No.
24 Q One way or the other, you have no understanding?
25 A No.

1 Q Okay. Tell me what you did to prepare for this
2 deposition today.
3 A I talked to my in-house counsel, Brandon.
4 Q Okay. Did you meet with counsel for Madison-Kipp
5 before the deposition about the deposition?
6 A Yes.
7 Q Who did you meet with?
8 A I had a call to talk about where and when and who
9 would be here with Lee and Leah.
10 Q You had a call with Lee and Leah?
11 A Yes.
12 Q Okay. Did you talk to anybody else at Michael
13 Best or any other lawyers on behalf of
14 Madison-Kipp Corporation to prepare for the
15 deposition?
16 A To prepare for the deposition?
17 Q Correct.
18 A No.
19 Q Okay. And you never met with them to prepare for
20 the deposition?
21 A No.
22 Q Do you recall how long the call was?
23 A No.
24 Q Was it a long call? A short call?
25 A No.

1 Q It was not a long call?
2 A No.
3 Q When did the call take place?
4 A I would have to check my calendar.
5 Q Approximately.
6 A This week, so -- So today is Tuesday?
7 Q Today is Tuesday.
8 A Yesterday.
9 Q Okay. And you didn't speak with Mr. Seese and
10 Ms. Ziemba or Mr. Crass or anybody else at
11 Michael Best about this deposition, is that
12 right?
13 A Other than the call?
14 Q Correct.
15 A Yes.
16 Q That is correct?
17 A That is correct.
18 Q Okay. How long a call did you have with your
19 lawyer about this deposition preparation?
20 A I don't know.
21 Q Do you recall when that call was?
22 A I have talked to him on several occasions over
23 the last couple of weeks.
24 Q About preparing for the deposition?
25 A I wouldn't say preparing. More about time

1 changes and location issues.
 2 Q Did you have any discussions with anybody about
 3 how to be a deponent?
 4 A Yes.
 5 Q And who were those discussions with?
 6 A Brandon.
 7 Q Okay. And other than Brandon, you have had no
 8 discussions with any of the Michael Best lawyers
 9 or any other lawyers representing Madison-Kipp
 10 about how to approach the deposition?
 11 A No.
 12 Q Okay. Have you had any communications with any
 13 of the lawyers for the insurance companies
 14 involved in this case?
 15 A No.
 16 Q At all?
 17 A Regarding?
 18 Q Anything.
 19 A There have been meetings that they were likely
 20 at.
 21 Q Okay. How often have counsel for the insurance
 22 companies been present at meetings since you have
 23 been involved?
 24 A I don't know.
 25 Q Are they at all the substantive meetings with

1 Madison-Kipp concerning the work that you're
 2 doing?
 3 MR. SEESE: I want to caution the
 4 witness. He's asking a general question right
 5 there that I think you can answer, but to the
 6 extent he asks for privileged information, I'm
 7 going to instruct you not to answer.
 8 BY MR. BERGER:
 9 Q Has your lawyer been present at any of these
 10 meetings?
 11 A No.
 12 Q Okay. Are the lawyers for the insurance
 13 companies at the meetings that you have with
 14 Madison-Kipp?
 15 A Not routinely.
 16 Q Okay. How often have they been there?
 17 A I don't know.
 18 Q Does any meeting stand out in your mind as one
 19 where the insurance carriers were there or
 20 lawyers for the insurance carriers were there?
 21 A We had one technical meeting that I recall.
 22 Q And when was that?
 23 A Within the last month.
 24 Q Where was that technical meeting?
 25 A At Michael Best.

1 Q And what was the general subject matter of that
 2 meeting?
 3 A It was technical.
 4 Q I understand that. What was it about? Was it
 5 about groundwater? Was it about soil vapor? Was
 6 it about remediation? Can you give me some
 7 explanation as to what the topic of that meeting
 8 was?
 9 A It was a technical update on work that had been
 10 completed and anticipated steps.
 11 Q Okay. And that was in the last month?
 12 A Yes.
 13 Q Okay. And that was at Michael Best?
 14 A Yes.
 15 Q Madison-Kipp's lawyer's office?
 16 A Yes.
 17 Q In Milwaukee?
 18 A No.
 19 Q In Madison?
 20 A Yes.
 21 Q Okay. And who attended?
 22 A From ARCADIS?
 23 Q That's a start. From ARCADIS.
 24 A Myself and Matt Schnobrich.
 25 Q Okay. Who attended from Michael Best?

1 A Leah Ziemba and Dave Crass.
 2 Q And who attended from Madison-Kipp?
 3 A I would have to see the list of names.
 4 Q Do you recall?
 5 A I don't know.
 6 Q Do you know if Mr. Meunier was there?
 7 A No, they were not there.
 8 Q So the Madison-Kipp employees were not at that
 9 meeting?
 10 A Correct. They were not there.
 11 Q It was you, your colleague from ARCADIS,
 12 Mr. Crass, Ms. Ziemba, who are Madison-Kipp's
 13 lawyers, and there was some lawyers from the
 14 insurance companies at that meeting?
 15 A Yes.
 16 Q Okay. And that was at the Michael Best offices
 17 in Madison?
 18 A Yes.
 19 Q And the purpose of the meeting was to talk about
 20 where things were technically, is that right?
 21 A Yes.
 22 Q In terms of what had been done to that point and
 23 what was expected in the future?
 24 A Yes.
 25 Q Okay. Was that meeting in October?

1 A Yes.

2 Q Okay. Today being the 30th of October, was it --

3 can you place that meeting other than to say it

4 was sometime between the 1st and today?

5 A It was not last week.

6 Q Was it the week before last?

7 A I don't know.

8 Q Sometime in the last two to three weeks?

9 A Yes.

10 Q Okay. What was discussed at that meeting?

11 MR. SEESE: I'm going to object and

12 instruct her not to answer. It's a privileged

13 communication. The insurers are part of the

14 joint defense group, and if you want her to

15 answer that, you're going to have to get the

16 judge to make her do it.

17 BY MR. BERGER:

18 Q Did you make a presentation as to your technical

19 findings at that meeting?

20 MR. SEESE: Same objection.

21 MR. BERGER: So you are going to

22 instruct her not to answer any questions

23 concerning the substance of that meeting?

24 MR. SEESE: Yes.

25

1 BY MR. BERGER:

2 Q Okay. He's not your lawyer. Are you going to do

3 what he tells you?

4 A Yes.

5 Q And not tell me anything based upon his

6 instruction?

7 A Yes.

8 Q Do you recall which lawyers were there for the

9 insurance companies?

10 A I don't know.

11 Q Was Becky Ross there?

12 A Yes.

13 Q Okay. Any of these folks here?

14 A Yes.

15 Q Which one?

16 A Both.

17 Q Both who? Both these gentlemen here?

18 A Yes.

19 Q Mr. Cohen?

20 A Yes.

21 Q And Mr. White, is that correct?

22 MR. WHITE: That's correct.

23 MR. COLLINS: So I guess those are not

24 very memorable people. Can I have 60 seconds

25 with you?

1 MR. BERGER: Let's take a short recess.

2 (A recess was taken.)

3 (Exhibit 3 was marked.)

4 BY MR. BERGER:

5 Q Did you know that Mr. Harney was a venture

6 capitalist who was involved in securing capital

7 for Madison-Kipp to continue operating and was

8 not an employee of Madison-Kipp Corporation?

9 MR. SEESE: Object to form and

10 foundation. You can answer.

11 THE WITNESS: No.

12 BY MR. BERGER:

13 Q You never heard that?

14 A No.

15 Q You said you were sending him copies of emails at

16 some point and then that stopped, is that right?

17 A Yes.

18 Q Did you notice that his email address was not an

19 email address at Madison-Kipp Corporation? Does

20 that ring a bell at all?

21 A He had two email addresses.

22 Q One at Madison-Kipp Corporation and one someplace

23 else?

24 A Yes.

25 Q Do you know what the other one was?

1 A No.

2 Q And that would be in your email files, is that

3 right?

4 A Yes.

5 Q And you sent him emails at both locations?

6 A Yes.

7 Q When he was involved in the meetings with you,

8 did he have input on the amount of money that was

9 being spent by Madison-Kipp Corporation to

10 address the environmental problem or problems?

11 MR. SEESE: Hold on. I will object to

12 that as privileged. I don't want her getting

13 into any communications between any of the

14 representatives at Madison-Kipp and the

15 representatives at ARCADIS. Exhibit 3 shows him

16 as consulting, and that's privileged. I will

17 instruct her not to answer.

18 BY MR. BERGER:

19 Q And you are going to follow Mr. Seese's

20 instruction?

21 A Yes.

22 Q Okay. Let's look at what we marked as Trask

23 Exhibit 3, the first page of which appears to be

24 an email dated Thursday, February 2 from you to

25 David Crass with a carbon copy to Leah Ziemba and

1 Evan Nyer, subject confidential consulting
 2 relationship. Then the next two pages are a
 3 February 1, 2012 letter to you from Mr. Crass.
 4 Have you seen the documents which comprise
 5 Exhibit 3 before?
 6 A Yes.
 7 Q What are those?
 8 A A signed confidential consulting agreement.
 9 Q And then there's the transmittal transmitting
 10 that signed agreement?
 11 A Yes.
 12 Q And if you look at the third page, who's Richard
 13 Studebaker, Jr.?
 14 A The resource manager in Milwaukee.
 15 Q So he's the ARCADIS person who signed the
 16 agreement on behalf of ARCADIS, is that right?
 17 A Yes.
 18 Q And this document here is the agreement pursuant
 19 to which you and your company are doing their
 20 work with Madison-Kipp, is that true?
 21 MR. COHEN: Objection, vague.
 22 THE WITNESS: I don't understand the
 23 question.
 24 BY MR. BERGER:
 25 Q Is this the contract, the agreement that governs

1 the work that you are doing for Madison-Kipp
 2 Corporation?
 3 MR. SEESE: Object to the form of that.
 4 Can we have an agreement that an objection by one
 5 is an objection by all?
 6 MR. BERGER: Sure, except they are not
 7 objections by us.
 8 MR. SEESE: Understood.
 9 MR. COHEN: All the right minded people.
 10 BY MR. BERGER:
 11 Q Is it your understanding that this is the
 12 agreement pursuant to which you and your firm are
 13 working on the Madison-Kipp matter?
 14 A This is the confidential consulting agreement
 15 related to Madison-Kipp.
 16 Q Okay. And related to the work that you and your
 17 firm are doing for Madison-Kipp, is that right?
 18 A Yes.
 19 Q Okay. And you reviewed this document, is that
 20 right?
 21 A Yes.
 22 Q Okay. And that document was signed by
 23 Mr. Studebaker on behalf of your company, is that
 24 right?
 25 A Yes.

1 Q Do you report to Mr. Studebaker?
 2 A Yes.
 3 Q Okay. And do you report to him concerning this
 4 matter?
 5 A I don't understand.
 6 Q Okay. You have people that report to you,
 7 correct?
 8 A Yes.
 9 Q All right. Do you have people that you report to
 10 within ARCADIS?
 11 A Yes.
 12 Q And who are those people?
 13 A Rick is who I report to in Milwaukee.
 14 Q Okay. So the guy who signed this contract on
 15 behalf of ARCADIS is your boss with respect to
 16 the Madison-Kipp case?
 17 A Yes.
 18 Q Okay. At ARCADIS, is that right?
 19 A Rick is my boss, yes.
 20 Q Okay. Now you said that you started working for
 21 ARCADIS in 1997. Was ARCADIS called ARCADIS
 22 then?
 23 A No.
 24 Q What was it called?
 25 A I'd have to check to be sure. I believe Geraghty

1 & Miller still at that time.
 2 Q Okay. At some point Geraghty & Miller changed
 3 its name to ARCADIS?
 4 A Yes.
 5 Q And do you recall generally when that took place?
 6 A No.
 7 Q Okay. But Geraghty & Miller is the company that
 8 hired you?
 9 A Yes.
 10 Q And as far as you are concerned, they are
 11 basically the same company, just a name change?
 12 A Yes.
 13 Q Okay. All right. Other than your work for
 14 ARCADIS, have you had any other employment in the
 15 environmental field?
 16 A Not since I graduated, no.
 17 Q Did you do any significant work in the
 18 environmental field before you graduated?
 19 MR. SEESE: Object to form. You can
 20 answer.
 21 THE WITNESS: What do you mean by
 22 "significant."
 23 BY MR. BERGER:
 24 Q You said "not since I have graduated," and that
 25 made me think maybe you did environmental work

1 before you graduated. Did you do environmental
 2 work before you graduated?
 3 A Yes.
 4 Q What did you do?
 5 A Environmental lab work, soils.
 6 Q Can you describe that for me?
 7 A I worked in a soils lab.
 8 Q At the University of Iowa?
 9 A No, at Giles.
 10 Q Okay. And what kind of soils laboratory work did
 11 you do? Was it geophysical? Was it hazardous
 12 substance?
 13 A I don't recall hazardous substance. More
 14 characteristics of clay, sand.
 15 Q Okay. All right. Any other significant
 16 environmental work that you did anywhere else
 17 other than ARCADIS?
 18 MR. SEESE: Object to form.
 19 THE WITNESS: No.
 20 BY MR. BERGER:
 21 Q Okay. If you'd look at the first paragraph of
 22 the February 1st letter. Incidentally, does this
 23 help you date -- Does Exhibit 3 at all help you
 24 date that first meeting you had with your
 25 colleague, Mr. Nyer, Mr. Harney and the other

1 folks you had concerning possibly working on
 2 this?
 3 A Yes.
 4 Q Okay. Tell me how it helps you date that.
 5 A Based on the first sentence; "It was a pleasure
 6 meeting you yesterday."
 7 Q So you think that that meeting that you had with
 8 Mr. Harney, Mr. Nyer and the unidentified folks
 9 from Michael Best was on the last day of January,
 10 2012, whatever that was?
 11 A Based on this, yes.
 12 Q And the next day you came to an agreement to work
 13 on this matter, is that right?
 14 A We agreed to this confidential consulting
 15 relationship.
 16 Q Is that right?
 17 A Yes.
 18 Q And you have been working for Madison-Kipp since
 19 that time?
 20 A Yes.
 21 Q If you look at the first paragraph, among the
 22 services that you are performing are services to
 23 assist Michael Best in the defense of lawsuits
 24 relating to the Madison-Kipp problem, is that
 25 true?

1 A According to this, yes.
 2 Q Okay. And that's your understanding, that one of
 3 the things that you are doing for Madison-Kipp is
 4 helping it defend this lawsuit, fair?
 5 A I don't know what you mean by defend a lawsuit.
 6 Q It says "in defense of lawsuits." That's one of
 7 the things that you understand you are helping
 8 Madison-Kipp do and its lawyers?
 9 A ARCADIS.
 10 Q Yes, that's what I mean, ARCADIS. And you are
 11 the project manager at ARCADIS?
 12 A From a technical standpoint, yes.
 13 Q Correct. And one of the things that you are
 14 helping assisting in is the defense of this
 15 lawsuit?
 16 A I don't know.
 17 Q Well, it says that here, doesn't it?
 18 A It says, "To assist MB&F in rendering legal
 19 advice to Madison-Kipp Corporation."
 20 Q Okay. For what purpose?
 21 A In the context of environmental investigations
 22 concerning the Madison, Wisconsin site and
 23 defense of lawsuits resulting therefrom.
 24 Q Okay. So one of the things that you are doing is
 25 helping Madison-Kipp and its lawyers defend this

1 lawsuit?
 2 MR. SEESE: Object to the form of that.
 3 THE WITNESS: ARCADIS, yes.
 4 BY MR. BERGER:
 5 Q Yes. I don't mean Jennine Trask individually, I
 6 mean you in your role with ARCADIS. That's one
 7 of the things that you are doing here?
 8 A I work from a technical standpoint. ARCADIS on a
 9 whole has involvement.
 10 Q I understand that. So your understanding is that
 11 one of the things ARCADIS is doing is helping
 12 Madison-Kipp and its lawyers defend this lawsuit?
 13 A ARCADIS, yes.
 14 Q How about you?
 15 A I do the technical work.
 16 Q You are taking positions, aren't you?
 17 A I don't know what you mean.
 18 MR. SEESE: Object to the form of that.
 19 BY MR. BERGER:
 20 Q You are writing letters to the State of Wisconsin
 21 arguing in favor of Madison-Kipp, aren't you?
 22 MR. SEESE: Object to the form of that.
 23 MR. BERGER: You can answer my question.
 24 THE WITNESS: I am providing technical
 25 information and recommendations.

1 BY MR. BERGER:
 2 Q Right. You are providing recommendations to the
 3 state and you are urging that they take action or
 4 not take action, aren't you, on behalf of
 5 Madison-Kipp?
 6 MR. SEESE: Object to the form of that.
 7 THE WITNESS: No.
 8 BY MR. BERGER:
 9 Q You are not? You have written letters to the
 10 State of Wisconsin telling them that, in fact,
 11 fairly recently, that you don't believe that PAHs
 12 should be a driver in cleanup, haven't you?
 13 A Can you show me where that was so I can see how
 14 it is in context?
 15 Q Yes, but I'm asking you without the letter. Do
 16 you know as you sit there right now whether you
 17 have ever written a letter to the State of
 18 Wisconsin telling them that you don't believe
 19 that PAHs should be a driver in cleanup? Do you
 20 remember that or not. If you have no idea, tell
 21 me.
 22 MR. SEESE: Object to form. Go ahead.
 23 BY MR. BERGER:
 24 Q I'm trying to be real patient, here, okay, and I
 25 want you to tell me the truth. Do you recall

1 whether or not you ever sent such a letter to DNR
 2 on behalf of Madison-Kipp?
 3 MR. SEESE: Now you are raising your
 4 voice at the witness, and you don't need to do
 5 that. Let's take a five-minute break and have
 6 everybody calm down and come back.
 7 MR. COLLINS: It needs to be said for
 8 the record there was nothing other than calm
 9 about what he said.
 10 MR. SEESE: What he said, maybe, but you
 11 are raising your voice. She's doing her best.
 12 MR. BERGER: Look it. You don't
 13 remember her, okay?
 14 MR. SEESE: No, I don't.
 15 MR. BERGER: And I've been trying to be
 16 really, really polite. I have taken many
 17 depositions before, okay, and I'm being horsed
 18 around here.
 19 MR. SEESE: You are not being horsed
 20 around here.
 21 MR. COLLINS: Oh, yes; oh, yes.
 22 MR. SEESE: She's doing her best to give
 23 you straight-forward answers.
 24 MR. BERGER: Look it. We can about here
 25 for five days, if that's what we have to do.

1 MR. SEESE: Let's be here for five days
 2 then. We're taking a five-minute break now.
 3 (A recess was taken.)
 4 MR. BERGER: Can your read my last
 5 question back, please?
 6 COURT REPORTER: "I'm trying to be real
 7 patient, here, okay, and I want you to tell me
 8 the truth. Do you recall whether or not you ever
 9 sent such a letter to DNR on behalf of
 10 Madison-Kipp?"
 11 THE WITNESS: Regarding PAHs?
 12 BY MR. BERGER:
 13 Q Do you recall whether you ever sent a letter to
 14 the State of Wisconsin on behalf of Madison-Kipp
 15 telling the State of Wisconsin that you don't
 16 believe that PAHs should be a driver in
 17 remediation activities?
 18 MR. SEESE: Object to the form of that.
 19 If you have got a question about a document, you should
 20 be giving it to the witness. Subject to that, you can
 21 answer the question.
 22 MR. BERGER: You can answer the
 23 question.
 24 THE WITNESS: Based on the data, PAHs
 25 should not be the driver.

1 BY MR. BERGER:
 2 Q That was your opinion, right?
 3 MR. SEESE: Object to the form.
 4 BY MR. BERGER:
 5 Q That was your opinion, right?
 6 MR. SEESE: Same objection.
 7 THE WITNESS: Based on the data.
 8 BY MR. BERGER:
 9 Q Based on everything you know as a human being,
 10 that was your opinion that you rendered to the
 11 State of Wisconsin on behalf of Madison-Kipp to
 12 try to urge the State of Wisconsin not to use PAH
 13 contamination levels on residential properties as
 14 a driver of their cleanup decisions?
 15 MR. SEESE: Object to the form of that.
 16 You can answer.
 17 THE WITNESS: As a driver of the cleanup
 18 on site, yes.
 19 BY MR. BERGER:
 20 Q So that was a position that you took arguing on
 21 behalf of Madison-Kipp, is that fair?
 22 MR. SEESE: Object to the form of that.
 23 BY MR. BERGER:
 24 Q You were advocating on behalf of Madison-Kipp
 25 with the State of Wisconsin, correct?

1 MR. SEESE: Object to the form of that.
 2 THE WITNESS: We made a statement that
 3 based on the data that PAHs should not be this
 4 driver.
 5 BY MR. BERGER:
 6 Q And on whose behalf did "we," meaning ARCADIS,
 7 meaning you and your colleagues, make that
 8 statement?
 9 A On behalf of the Madison-Kipp project.
 10 Q And that is in connection with helping
 11 Madison-Kipp defend the enforcement actions taken
 12 or contemplated by the State of Wisconsin, is
 13 that true?
 14 MR. SEESE: Object to the form of that.
 15 THE WITNESS: No, that's based on the
 16 investigation and the technical results.
 17 BY MR. BERGER:
 18 Q I understand what your statement is based on, but
 19 what you are trying to do is influence the State
 20 of Wisconsin in its decision making as to how
 21 it's going to enforce against Madison-Kipp, is
 22 that true?
 23 MR. SEESE: Object. You are arguing
 24 with the witness now.
 25 MR. BERGER: No, I want an answer to my

1 question, and I really don't want to argue with
 2 you.
 3 THE WITNESS: We provide the technical
 4 information in our recommendations based on the
 5 technical data, not to argue.
 6 BY MR. BERGER:
 7 Q Well, you took a position, didn't you?
 8 A Yes.
 9 Q Okay. And that position that you took was
 10 advocating on behalf of Madison-Kipp?
 11 MR. SEESE: Object to form. Now you are
 12 misstating her testimony.
 13 THE WITNESS: It was presenting the data
 14 in our professional opinion.
 15 BY MR. BERGER:
 16 Q Correct. On behalf of Madison-Kipp?
 17 A Yes.
 18 Q Okay. So ARCADIS is presenting its professional
 19 opinions in support of Madison-Kipp in its
 20 defense of enforcement activities taken by or
 21 contemplated by the State of Wisconsin?
 22 MR. SEESE: Object to form.
 23 MR. BERGER: Okay.
 24 THE WITNESS: I guess I'm not
 25 understanding the question.

1 BY MR. BERGER:
 2 Q Okay. When you write to the State of
 3 Wisconsin -- Strike that.
 4 You know that the State of Wisconsin has
 5 taken enforcement action against Madison-Kipp
 6 with respect to the contamination that's it's
 7 caused. You know that, don't you?
 8 A Yes.
 9 Q Okay. And you know that they have taken
 10 enforcement action against Madison-Kipp going
 11 back to 1994. Do you know that?
 12 MR. SEESE: Object to form.
 13 THE WITNESS: No.
 14 BY MR. BERGER:
 15 Q But you know they have recently, is that right?
 16 A Have recently?
 17 Q Taken enforcement action against Madison-Kipp.
 18 MR. SEESE: Object to form.
 19 THE WITNESS: I know that there was an
 20 article in the paper.
 21 BY MR. BERGER:
 22 Q Well, now the State of Wisconsin has sued
 23 Madison-Kipp, filed a lawsuit. You know that,
 24 right?
 25 A Yes.

1 Q Have you ever looked at that lawsuit?
 2 A No.
 3 Q You know that the State of Wisconsin has been
 4 asking Madison-Kipp to investigate and clean up
 5 contamination on its property going back to 1994.
 6 You know that, don't you?
 7 MR. SEESE: Object to the form of that.
 8 THE WITNESS: I know that we're
 9 investigating on site. I don't know the legal
 10 back to 1994 statement.
 11 BY MR. BERGER:
 12 Q You prepare reports on behalf of Madison-Kipp,
 13 don't you?
 14 A Yes.
 15 Q And you are the project manager who signs those
 16 reports on behalf of ARCADIS for Madison-Kipp,
 17 right?
 18 A Yes.
 19 Q And when you are preparing those reports, you
 20 review documents and put information in those
 21 reports based upon your review of documents and
 22 information concerning the site, isn't that
 23 right?
 24 A Yes.
 25 Q And haven't you put in your reports that the

1 State of Wisconsin asked Madison-Kipp to
2 investigate and clean up the contamination on its
3 site since 1994? Hasn't that been one of the
4 facts that you put in your reports?

5 MR. SEESE: Object to form.

6 THE WITNESS: I recall that there was a
7 letter regarding investigating based on an
8 off-site project.

9 BY MR. BERGER:

10 Q Okay. And you recall that that letter told
11 Madison-Kipp to investigate and clean up the
12 contamination on its property. You know that,
13 right?

14 MR. SEESE: Object to form.

15 THE WITNESS: I don't know the specifics
16 in the letter.

17 BY MR. BERGER:

18 Q Do you have any general understanding of what it
19 was that the State of Wisconsin was asking
20 Madison-Kipp to do?

21 A Investigation.

22 Q Of what?

23 A Related to PCB that was detected off site.

24 Q Okay. Was it asking it to investigate their
25 site?

1 MR. SEESE: Object to form and
2 foundation.

3 THE WITNESS: I don't know. I'd have to
4 read the letter.

5 BY MR. BERGER:

6 Q Why did you send a letter regarding PAHs to the
7 State of Wisconsin?

8 A We did a PAH investigation.

9 Q Why?

10 A It was part of the analyte suite requested by the
11 state.

12 Q So the state was asking Madison-Kipp to analyze
13 for PAHs on the site, is that right?

14 A Yes.

15 Q Among other contaminants, like PCBs and VOCs, is
16 that right?

17 A Yes.

18 Q Why?

19 A Why were they asking them to investigate?

20 Q Yes.

21 MR. SEESE: Object to form and
22 foundation.

23 THE WITNESS: Based on investigations
24 that had been completed at the site over the past
25 decade.

1 BY MR. BERGER:

2 Q Okay. And what about those investigations led to
3 the state asking Madison-Kipp to sample for PAHs,
4 PCBs and VOCs in soil?

5 MR. SEESE: Object to form and
6 foundation.

7 THE WITNESS: The VOCs would be related
8 to the initial investigation request. That would
9 be my understanding. PAHs were added to the list
10 when we were doing PCBs.

11 BY MR. BERGER:

12 Q To whose list?

13 A They were added when we were -- When we did a
14 work plan for PCB investigation, the state
15 requested the PAHs.

16 Q Why?

17 A I don't know.

18 Q You have no idea?

19 A No.

20 Q Okay. Why did you tell the state that you didn't
21 think PAHs should be a driver for cleanup?

22 MR. SEESE: Object to the form.

23 THE WITNESS: There were several reasons
24 in the PAH summary letter.
25

1 BY MR. BERGER:

2 Q There were more exceedences for PAHs, weren't
3 there, of standards than any of the other
4 chemicals?

5 MR. SEESE: Object to the form of that.

6 THE WITNESS: Yes.

7 BY MR. BERGER:

8 Q And you were concerned that if that was a driver,
9 Madison-Kipp would have to spend a lot of money
10 cleaning up soil, is that right?

11 A If that was the driver, they would have to clean
12 up soil.

13 Q More soil than if it wasn't the driver?

14 A Our concern is not the cost. Our concern is what
15 the technical data is.

16 Q Okay. My question is why didn't you want, even
17 though there were more exceedences for PAHs, why
18 didn't you want the PAHs to be the driver?

19 MR. SEESE: Object to the form of that.

20 THE WITNESS: Why didn't I want?

21 BY MR. BERGER:

22 Q Why were you telling the state that you didn't
23 want the PAHs to be the driver for cleanup?

24 A Based on the data results in nearby adjacent
25 properties and the risk associated with PAHs.

1 Q Okay. You know that there were more exceedences
2 of standards for PAHs than there were for PCBs or
3 VOCs. You know that, don't you, in the top two
4 feet of soil?

5 A Yes.

6 Q Okay. Why then didn't you want -- So if PAHs
7 were the driver, more soil would have to be
8 cleaned up, is that true, than if they were not
9 the driver?

10 MR. SEESE: Object to form.

11 THE WITNESS: If they are the driver as
12 in --

13 MR. BERGER: As in your letter. Can you
14 mark that? What's the next number?

15 COURT REPORTER: Thirteen.
16 (Exhibit 13 was marked.)

17 BY MR. BERGER:

18 Q I'm showing you what's been marked as Trask
19 Exhibit 13, which is a September 11, 2012 letter
20 to Michael Schmoller on ARCADIS letterhead signed
21 by Jennine Trask, Project Manager, and Nadine
22 Weinberg on Page 5 of 5. The subject is Off-Site
23 Residential Polycyclic Aromatic Hydrocarbon
24 Results Summary. Have you looked at that
25 document?

1 A Yes.

2 Q Is that your signature on the fifth page?

3 A Yes.

4 Q Okay. Who's Mike Schmoller?

5 A Mike Schmoller is with the WDNR.

6 Q What's his role on the Madison-Kipp site, if you
7 know?

8 A Project manager.

9 Q So he's the principal contact that the WDNR has
10 on the Madison-Kipp investigation and cleanup, is
11 that right?

12 A Yes.

13 Q As you understand things?

14 A Yes.

15 Q Is that right?

16 A Yes.

17 Q And you are the project manager for Madison-Kipp?

18 A Yes.

19 Q Okay. And on the last page you say, "As a
20 result, PAHs should not be a driver for off-site
21 remediation in relation to the Madison-Kipp
22 site." Those are your words?

23 A Yes.

24 Q What did you mean by "driver"?

25 A The lead compound for evaluation of the off-site

1 residences.

2 Q You didn't want PAHs to be the compound that
3 determines how much off-site remediation has to
4 be implemented, is that true?

5 A Yes.

6 Q Okay. And you are talking there, aren't you,
7 about residential results, right?

8 A Yes.

9 Q And you are talking there about results on my
10 clients' property, right?

11 A Yes.

12 Q And you knew if you were successful in getting
13 the state to agree to this argument that PAHs not
14 be the driver, that less residential soil would
15 be remediated, true?

16 MR. SEESE: Object to form.

17 THE WITNESS: Yes.

18 BY MR. BERGER:

19 Q And you were doing that on behalf of
20 Madison-Kipp, true?

21 A Yes.

22 Q And if you go back to your agreement, Exhibit 3,
23 that is one of the things that you were doing to
24 assist Madison-Kipp and its lawyers defend
25 lawsuits, isn't it?

1 MR. SEESE: Object to the form of that.

2 THE WITNESS: That's not necessarily the
3 intent of our production. Again, this is based
4 on data based on our recommendation.

5 BY MR. BERGER:

6 Q And that's one of the things that you were doing
7 to assist Madison-Kipp Corporation in defense of
8 actions relating to the contamination on its
9 site?

10 A This was produced on behalf of Madison-Kipp, yes.

11 Q In connection with its efforts to defend against
12 the state?

13 A To investigate.

14 Q To defend against the enforcement activities of
15 the State of Wisconsin?

16 MR. SEESE: Object to form. Now you are
17 just arguing with the witness again.

18 MR. BERGER: I'm not getting an answer.

19 MR. SEESE: You are getting an answer,
20 you just don't like it.

21 MR. BERGER: You know what, I didn't
22 come here to argue with you, Lee. We can call
23 the judge. Everytime I ask a question, you
24 object. It's really improper.

25 MR. SEESE: That's not true.

1 BY MR. BERGER:
 2 Q This letter is an example -- Exhibit 13 is an
 3 example of one of the things that you and ARCADIS
 4 were doing to help Madison-Kipp defend against
 5 the State of Wisconsin's enforcement activities?
 6 MR. SEESE: Object to the form of that.
 7 You are mischaracterizing Exhibit 3.
 8 THE WITNESS: This was not prepared with
 9 the intent of defending anything, just
 10 documenting the results and providing a
 11 recommendation.
 12 BY MR. BERGER:
 13 Q But the recommendation is for less cleanup, isn't
 14 it?
 15 A No, the recommendation is for PAHs to not be the
 16 driver.
 17 Q So less soil remediation takes place. We just
 18 went through that, right?
 19 A Less evaluation of what the next steps would be.
 20 Q Why did you send this letter? Who asked you to
 21 send this letter, Exhibit 13?
 22 A I don't know specifically.
 23 Q Did David Crass ask you to send it?
 24 A I don't know.
 25 Q Did you send a draft to Mr. Crass to look at

1 before you sent it?
 2 A Yes.
 3 Q Is that typically your practice? Strike that.
 4 It is your practice to send all of
 5 these -- Drafts of all of the letters that you
 6 send on behalf of Madison-Kipp to the WDNR, it's
 7 your practice to send drafts of those letters to
 8 Madison-Kipp's lawyers first, isn't it?
 9 A Yes.
 10 Q Okay. In fact, that's one of the things that
 11 Exhibit 3, which is your agreement, tells you you
 12 have to do. The first sentence of Paragraph 2 of
 13 your agreement says that you are working under
 14 our direction, meaning Michael Best's direction.
 15 Is that your understanding?
 16 A Yes.
 17 Q And Michael Best, those are the people that give
 18 you your orders with respect to the work that you
 19 are doing, aren't they?
 20 MR. SEESE: Object to form.
 21 THE WITNESS: I don't know what you mean
 22 by "orders."
 23 BY MR. BERGER:
 24 Q They are giving you direction.
 25 A Not with how we technically do our work, no.

1 Q I understand they are not telling you how to take
 2 a sample, but they are telling you that you have
 3 to run by your submittals to the state, you have
 4 to run them by them first, don't you?
 5 A Yes.
 6 Q And you have to get their permission to send a
 7 letter to the state taking a position, don't you?
 8 MR. SEESE: Object to form.
 9 THE WITNESS: Our documents go through
 10 Michael Best, yes.
 11 BY MR. BERGER:
 12 Q To get their approval?
 13 A Right, yes.
 14 Q And telling the state in Exhibit 13 that PAHs
 15 should not be a driver for the cleanup of my
 16 clients' residential soils was an issue that you
 17 talked about with Madison-Kipp's lawyers before
 18 you sent the letter, isn't it?
 19 A They would have seen a draft of that before it
 20 would have been submitted.
 21 Q They wanted you to take that position on behalf
 22 of Madison-Kipp, didn't they?
 23 A No.
 24 Q They did not?
 25 A They didn't tell me what we should put in a

1 recommendation.
 2 Q Okay. Did you discuss that recommendation with
 3 them?
 4 A Yes.
 5 Q And did they approve that?
 6 A Yes.
 7 MR. SEESE: Norm, when you get a chance
 8 in your next couple questions, the witness has
 9 requested a lunch break at about 12:00 or 12:15.
 10 MR. BERGER: We can break now, if you
 11 want.
 12 MR. SEESE: If you have got a question
 13 or an area you want to --
 14 MR. BERGER: Just let me follow up on
 15 one thing.
 16 BY MR. BERGER:
 17 Q Was it anybody at MKC's idea to put that in the
 18 letter, what should be the driver?
 19 A No.
 20 Q Okay. That was something that was discussed
 21 between you and MKC's lawyers?
 22 A The recommendations came from ARCADIS.
 23 Q Okay. And you talked about that with MKC's
 24 lawyers?
 25 A Yes.

1 Q Was that your recommendation or was that Nadine
2 Weinberg's recommendation or both of yours?
3 A Both.
4 Q Okay. Do you know that it's possible -- One of
5 the things you say in this letter is that there
6 are other sources, potential sources, of PAHs in
7 soil, right? If you look at the second page, you
8 talk about asphalt, cigarette smoking, backyard
9 grilling, vehicle exhaust. Do you see that?
10 A Yes.
11 Q Okay. Were you urging that because there are
12 other sources, combustion sources for PAHs, that
13 the state should conclude that the PAHs found on
14 my clients' property were from those sources and
15 not from chemicals dumped or spilled by
16 Madison-Kipp?
17 MR. SEESE: Object to form.
18 THE WITNESS: We documented that PAHs
19 are ubiquitous in nature and gave examples of
20 other sources.
21 BY MR. BERGER:
22 Q Okay. But at the time you documented that, you
23 knew that there were chemicals spilled at
24 Madison-Kipp that were found on my clients'
25 properties that are not ubiquitous in nature; for

1 example, PCBs, VOCs. You knew that, right?
2 A Did I know that PCBs and VOCs had been detected
3 on soils off site?
4 Q Correct.
5 A Yes.
6 Q And you also knew that those are not ubiquitous
7 in nature. Those are manmade. You knew that,
8 right?
9 A Yes.
10 Q Okay. So were you trying to get the state to
11 believe that even though there were manmade
12 chemicals on my clients' property, that the PAHs
13 that were found on my clients' property were not
14 from the same manmade sources as these other
15 chemicals? In other words, they were from
16 grilling in their backyard? Was that the
17 argument you were making?
18 MR. SEESE: Object to form.
19 THE WITNESS: PAHs are ubiquitous in
20 nature. That's the argument we were making.
21 BY MR. BERGER:
22 Q When you made that argument, you knew there were
23 chemicals on my clients' property that are not
24 ubiquitous in nature that appeared to be coming
25 from or were coming from Madison-Kipp, true?

1 MR. COHEN: Objection, asked and
2 answered.
3 THE WITNESS: There were other
4 contaminants that were found off site. This was
5 specifically a documentation of the PAHs.
6 BY MR. BERGER:
7 Q I understand that.
8 A Then I don't understand the question.
9 Q Those PAHs were found among other chemicals that
10 appeared to be coming from Madison-Kipp, is that
11 true?
12 MR. SEESE: Object to the form of that.
13 THE WITNESS: There were PAHs that were
14 nowhere near the VOCs and PAHs or the PCBs. I
15 apologize.
16 BY MR. SEESE:
17 Q There were also PAHs found together with the PCBs
18 and the VOCs?
19 A I would have to check specific locations.
20 Q You don't know. Let me ask you do you know this.
21 Do you know that there are chemical signatures
22 for the kinds of PAHs that are the result of
23 combustion like grilling? Did you know that?
24 A No.
25 Q Did you know that it's possible to determine

1 whether PAHs -- Do you know that by doing a more
2 complete analysis of the specific PAHs, it's
3 possible to determine whether the source is more
4 likely from a ubiquitous source, like combustion,
5 or from an industrial source? Did you know that?
6 MR. SEESE: Object to form.
7 THE WITNESS: I'm not a PAH expert.
8 BY MR. BERGER:
9 Q Okay. But you were writing a letter making an
10 argument about the significance of the PAHs to
11 the WDNR.
12 MR. SEESE: Object to form there, too.
13 BY MR. BERGER:
14 Q Correct?
15 A With colleagues that are PAH experts.
16 Q So that colleague is a PAH expert?
17 A She's a risk person, yes.
18 Q Is she a PAH expert?
19 A I don't know.
20 Q Did you talk with her about whether or not there
21 was a way to determine whether the PAHs detected
22 on my clients' property were associated with
23 natural or background or ubiquitous processes
24 like combustion or whether they were from an
25 industrial source?

1 A No.

2 Q Wouldn't you have wanted to know that before you

3 write a letter arguing that they should be left

4 there and should not be a driver of cleanup?

5 A That there's a method to analyze?

6 Q Correct.

7 A Would I have wanted to know that?

8 Q Correct.

9 A Yes.

10 MR. BERGER: Okay. Why don't we take a

11 break.

12 (A luncheon recess was taken.)

13 BY MR. BERGER:

14 Q Do you have in front of you Exhibit 13?

15 A Yes.

16 Q We were talking about that, the PAH letter. I

17 think you said that it wasn't your idea to send

18 that letter, is that right?

19 A No, I don't know whose idea it was. We have

20 conference calls to discuss technical

21 information.

22 Q You don't remember whose idea it was?

23 A I do not remember.

24 Q And are Madison-Kipp's lawyers, the Michael Best

25 folks, on those conference calls?

1 A Yes.

2 Q Are they on all the conference calls?

3 A They are on all the conference calls that

4 Madison-Kipp is on, yes.

5 Q Okay. Are they ever on conference calls with you

6 where Madison-Kipp is?

7 A We do not have conference calls with Michael Best

8 without Madison-Kipp.

9 Q So all the conference calls you have with

10 Madison-Kipp where you are discussing your work

11 and proposed work and plan of action are with

12 Madison-Kipp and its lawyers at Michael Best?

13 A That's my recollection, yes.

14 Q And you don't know whose idea it was to send

15 Trask 13?

16 A No.

17 Q And you don't know whether it was your idea?

18 A No.

19 Q Do you have whether it was Madison-Kipp's

20 lawyer's idea?

21 A I don't know.

22 Q You have no recollection whatsoever as you sit

23 here right now as to whose idea that was?

24 A No.

25 Q Okay. I'm going to show you what's been marked

1 as Trask Exhibit 4, which is a multipage document

2 with ARCADIS Bates numbers on it, the first page

3 of which is entitled "Professional Services

4 Agreement." Do you see that?

5 A Yes.

6 Q Have you ever seen it before?

7 A Yes.

8 Q What is it?

9 A It's our Professional Services Agreement with

10 Madison-Kipp.

11 Q Okay. If you look at Exhibit 3, and that was

12 signed in February by your same boss, February of

13 2012?

14 A Yes.

15 Q Okay. If you look at Exhibit 3, do you see the

16 second paragraph where it says -- The second

17 sentence says, "The work contemplates services of

18 a character and quality that are a necessary

19 adjunct to our services as lawyers." Do you see

20 that?

21 A Yes.

22 Q And then it says, "Although you are under

23 contract with Kipp for the performances of

24 services in conducting this work, all

25 communications between you and your office and

1 MB&F, as well as communications with the

2 management and employees of Kipp, shall be

3 confidential and made solely for the purpose of

4 assisting counsel in rendering legal advice to

5 Kipp." Do you see that?

6 A Yes.

7 Q Okay. And where it says in there, "You are under

8 contract with Kipp for the performance of

9 services," Exhibit 4 is that contract, isn't it?

10 A Yes.

11 Q Okay. Shortly after you -- I'm done with that

12 document.

13 Shortly after you became engaged to work

14 on this, and when I say "you" I mean you and your

15 firm, ARCADIS, you were the project manager from

16 the beginning, isn't that right?

17 A Yes.

18 Q Did you or anybody at ARCADIS ever interview

19 employees of Madison-Kipp Corporation who were

20 employees at the time PCE, PCBs and any other

21 hazardous chemicals were dumped or disposed of on

22 the site?

23 MR. SEESE: Object to form.

24 THE WITNESS: We did not complete

25 interviews.

1 BY MR. BERGER:
 2 Q Okay. Did you make any attempt to interview any
 3 operational Madison-Kipp employees, current or
 4 past, about how these substances were released
 5 and disposed of on the site?
 6 A No.
 7 Q Okay. So did you ever look at Madison-Kipp
 8 operational documents which showed how much PCE,
 9 PCBs, PAHs, how much of those materials were
 10 purchased or used by Madison-Kipp during its
 11 years of operation?
 12 A No.
 13 Q Did you or anybody from ARCADIS ever ask to see
 14 those documents?
 15 A No.
 16 Q Did you or anybody from ARCADIS ever interview
 17 employees of Madison-Kipp concerning the amounts
 18 of PCE, solvents, hydraulic oils and the like
 19 were used at the facility?
 20 A No.
 21 Q So I take it neither you or anybody at ARCADIS
 22 has ever attempted to calculate how much PCE was
 23 used and disposed of by Madison-Kipp?
 24 A We have not calculated how much PCE was disposed
 25 of by Madison-Kipp, no.

1 Q Have you ever calculated how much they used?
 2 A No.
 3 Q You know it's possible to do such calculations,
 4 don't you?
 5 A Yes.
 6 Q Okay. Have you done them in other engagements?
 7 A No.
 8 Q Okay. You are aware that other environmental
 9 consultants do such calculations, aren't you?
 10 A I don't know.
 11 Q You have no idea?
 12 A No.
 13 Q Did you or anybody at ARCADIS ever make any kind
 14 of investigation, independent investigation, as
 15 to how chemicals were released or disposed of at
 16 the facility?
 17 A I don't know what you mean by "independent
 18 investigation."
 19 Q On your own.
 20 A Not under contract with Madison-Kipp, no.
 21 Q Under contract with Michael Best?
 22 A No.
 23 Q Under contract with anybody?
 24 A Can you repeat it?
 25 Q Can I repeat what?

1 A Your question.
 2 Q Which one?
 3 A The original one.
 4 Q Yes. I can come close.
 5 A Okay.
 6 Q Did you or ARCADIS ever undertake an independent
 7 investigation as to how chemicals were released
 8 or disposed of at the Madison-Kipp facility?
 9 A No.
 10 Q I noticed that in documents that you prepared and
 11 signed concerning the soil vapor extraction work
 12 that you did at Madison-Kipp you present a
 13 calculation as to the amount of PCE recovered by
 14 that system. Does that ring a bell?
 15 A We do mass removed calculations for the SVE
 16 system.
 17 Q So you try to figure out how much of that PCE you
 18 are removing from the property?
 19 A We document it, yes.
 20 Q As I recall, you state that in pounds, is that
 21 right?
 22 A Yes.
 23 Q Okay. And as I recall, at least after the
 24 first -- in one of your operational reports you
 25 concluded that you had removed approximately

1 10 pounds of PCE. Does that ring a bell?
 2 A I don't recall.
 3 Q Okay. We will show it to you later. Wouldn't
 4 you want to know how much PCE was released at the
 5 facility so you could make a meaningful
 6 evaluation of what the significance of the amount
 7 of PCE removed is?
 8 A The SVE is for vapor migration. That's the
 9 primary goal of the SVE system.
 10 Q I understand that. But wouldn't you want to
 11 know, if you are calculating how much you
 12 recovered, wouldn't you want to put that on top
 13 of the amount released to figure out what
 14 percentage or -- of source material you had
 15 removed and how effective the SVE system was or
 16 is as an interim mitigation measure?
 17 A If that can be calculated after investigations
 18 are complete, we would do that.
 19 Q Okay. But you haven't made any attempt to do
 20 that?
 21 A No.
 22 Q Do you plan to make any attempt to do that?
 23 A Not at this time with the scope of work we have
 24 approved.
 25 Q Has Madison-Kipp ever asked you to do that?

1 A No.
 2 Q Has Madison-Kipp's lawyers at Michael Best ever
 3 asked you to do that?
 4 A No.
 5 Q Is it important to you as an environmental
 6 scientist to know how and when PCE was disposed
 7 of at the site when trying to come to conclusions
 8 as to the nature and extent of the problem and
 9 how to remediate it?
 10 A We rely on the data for the nature and extent
 11 that we collect during an investigation.
 12 Q So you don't think it's important to know how the
 13 stuff got there, over what time period and in
 14 what amounts? You just rely on your sample
 15 results?
 16 A At this time, yes.
 17 Q Okay. What I would like you to do right now is
 18 give me an overview of the work that ARCADIS has
 19 performed at the Madison-Kipp site from February
 20 to the present.
 21 A An SVE system was installed in the northeast
 22 portion of the site. We did PCB investigation
 23 work on and off site. We have installed two
 24 bedrock walls on site. We did off-site vapor
 25 sampling. We have initiated additional off-site

1 deeper monitoring wells. We installed and
 2 sampled vapor probes in the bike path area to the
 3 north of the site. That's what I can recall. If
 4 I looked at a report, it might help with more.
 5 Q I don't recall you identifying soil borings on
 6 site.
 7 A We did soil borings as part of the PCB
 8 investigation on site.
 9 Q And what about soil sampling underneath or in the
 10 building?
 11 A Yes, we have collected soil samples from
 12 underneath the building.
 13 Q When did you do the soil samples from underneath
 14 the building work?
 15 A That was completed last Thursday.
 16 Q Okay. Do you have any results from the soil
 17 sampling activity underneath the building?
 18 A We don't have any analytical results, no.
 19 Q Do you have any non-analytical -- Let me redo
 20 that one.
 21 Do you have any non-analytical results?
 22 For example, did you have somebody out there with
 23 a PID or some other gross --
 24 A We did screening.
 25 Q Okay. And do you have results from screening?

1 A I have not seen the results from the screening.
 2 Q Have you heard about them?
 3 A In general terms I have heard about that.
 4 Q Tell me what you know about them.
 5 A That the readings for the soil borings inside the
 6 building were low.
 7 Q Can you quantify that at all?
 8 A No.
 9 Q So other than they are low, you haven't heard
 10 anything?
 11 A Yes, that's correct.
 12 Q Were there detections -- I take it when you are
 13 talking about readings, you are talking about
 14 VOCs?
 15 A The PID readings?
 16 Q Correct.
 17 A Yes.
 18 Q And those pick up VOCs?
 19 A Mostly, yes.
 20 Q Okay. Were there detections?
 21 A I haven't seen the logs.
 22 Q Were you told?
 23 A I was told they were low, so I'm assuming there
 24 were some low detections.
 25 Q Okay. Were you told anything about the

1 percentage of borings that had detections in
 2 them?
 3 A No.
 4 Q Were you told about whether or not any
 5 pre-product or product was encountered in any of
 6 the borings?
 7 A No.
 8 Q Okay. Did you ask for any of this information?
 9 A No.
 10 Q Okay. Who reported to you on the borings under
 11 the building?
 12 A Toni Schoen.
 13 Q Is that a she?
 14 A Um-hum.
 15 Q You have to say yes.
 16 A Yes.
 17 Q Was she the one out there on site doing the work?
 18 A No.
 19 Q Who was outside doing the work?
 20 A Jay Reed.
 21 Q Is that one of your employees or is that a
 22 subcontractor?
 23 A That's an ARCADIS employee.
 24 Q Okay. When do you expect to have the analytical
 25 results back from the sub-slab soil sampling?

1 A Mid November.
 2 Q Okay. All right. Have I now identified, as best
 3 you can recall with my little help, all of the
 4 work that you have done at the site, at least in
 5 general terms?
 6 A Yes.
 7 Q Okay. I'm going to show you a stack of documents
 8 which have been marked Trask Exhibits 5 through
 9 12. Five is a document dated February 2012
 10 entitled, "Soil Vapor Extraction Pilot Test
 11 Summary and Phase I System Design." Trask 6 is a
 12 document entitled, "Phase 1 Soil Vapor Extraction
 13 System Construction Summary." That's dated
 14 May 12. Trask 7 is a document entitled, "Site
 15 Investigation Work Plan" dated May 12th. Eight
 16 is a document entitled, "Madison-Kipp Corporation
 17 Bedrock Characterization Work Plan" dated
 18 May 12th. Nine is a document entitled, "Work
 19 Plan for Supplemental Polychlorinated Biphenyl
 20 Investigation" dated July 2012. Ten, which
 21 probably should have been before 9, is entitled,
 22 "Work Plan for Polychlorinated Biphenyl
 23 Investigation." And that one was also dated
 24 May 2012. Eleven is a document entitled, "On
 25 Site Soil Investigation?"

1 MR. COLLINS: Off site.
 2 MR. BERGER: I'm sorry. "Off Site Soil
 3 Investigation Report" dated October 2012. Twelve
 4 is a document entitled, "Work Plan for
 5 Polychlorinated Biphenyl Recommended Activities"
 6 dated October 2012. And then why don't we mark
 7 this as Trask 14. We will mark as Trask 14 a
 8 letter dated October 17, 2012 concerning in situ
 9 chemical oxidation groundwater pilot test work
 10 plan.
 11 (Exhibit 14 was marked.)
 12 MR. COLLINS: Do we need to state for
 13 the record the exhibit numbers again or does
 14 everybody have it? I passed those around kind of
 15 quickly.
 16 MR. BERGER: Off the record.
 17 (A discussion was had off the record.)
 18 BY MR. BERGER:
 19 Q I'm showing you Exhibits 5 through 12 and 14, and
 20 I would ask you as the project manager to
 21 identify each of those documents.
 22 A By title?
 23 Q Yes, or you can tell me what they are.
 24 A Exhibit 5 is the Soil Vapor Extraction Pilot Test
 25 Summary and Phase 1 System Design Report.

1 Exhibit 6 is the Phase 1 SVE System Construction
 2 Summary. Exhibit 7 is the Site Investigation
 3 Work Plan. Exhibit 8 is the Bedrock
 4 Characterization Work Plan. Exhibit 9 is the
 5 Work Plan for Supplemental PCB Investigation.
 6 Exhibit 10 is the Work Plan for PCB
 7 Investigation. Exhibit 11 is the Off-Site Soil
 8 Investigation Report. Exhibit 12 is the Work
 9 Plan for PCB Recommended Activities. Exhibit 14
 10 is the In Situ Chem-Ox Groundwater Pilot Test
 11 Work Plan.
 12 Q Now we just received 11, 12 and 14 among many
 13 thousands of pages of documents yesterday. I
 14 want to know from you whether Exhibits 5 through
 15 12 and 14 comprise the entire universe of formal,
 16 final work plans or reports or I should say work
 17 plans and reports that you and ARCADIS have
 18 prepared with respect to your work in this
 19 matter?
 20 A I'd really have to check files for sure, but you
 21 do not have the -- Oh, no, you do. This was the
 22 latest PCB work plan. Sorry. So, yes, I would
 23 have to double-check my files, but to my
 24 knowledge, yes.
 25 Q Okay. Well, what I'd like you to do is take a

1 look at the documents and think about whether or
 2 not there's anything missing there, because I
 3 want to know that I have seen the entire universe
 4 of formal work plans and reports that you and
 5 ARCADIS have prepared from the time you were
 6 retained in February to this date.
 7 A I don't see the work plan for the interior
 8 building investigation.
 9 Q I have not seen that, either. Was there a work
 10 plan for the interior investigation?
 11 A Yes.
 12 Q Okay. Is that something you could grab now and
 13 make a copy of it so we can mark it?
 14 A Yes.
 15 MR. BERGER: Why don't we take a short
 16 break.
 17 (A recess was taken.)
 18 (Exhibit 15 was marked.)
 19 BY MR. BERGER:
 20 Q I'm handing you, Ms. Trask, what's been marked
 21 Trask Deposition Exhibit 15, which is a
 22 September 2, 2012 Site Investigation Work Plan
 23 Addendum, Building Subsurface Investigation and
 24 other stuff. I'd ask you to identify that,
 25 please.

1 A Exhibit 15 is the Site Investigation Work Plan
 2 Addendum for the Building Subsurface
 3 Investigation.
 4 Q Okay. And that is an addendum to what has been
 5 marked Trask Exhibit 7, is that right?
 6 A Yes.
 7 Q Is that the only addendum to Trask Exhibit 7, to
 8 your knowledge?
 9 A There is an addendum for the final location of
 10 the off-site wells. I'm trying to recall if it
 11 was submitted as a formal work plan or a letter.
 12 Q Well, do you want to go see, because I haven't
 13 seen that one, either. Do you mind taking a
 14 short break? That relates to where the off-site
 15 groundwater monitoring wells are located?
 16 A Yes.
 17 Q Okay. Do you recall the date of that?
 18 A No.
 19 Q Okay. Do you mind?
 20 A Um-hum, yes.
 21 MR. BERGER: I think she meant no.
 22 (A recess was taken.)
 23 (Exhibit 16 was marked.)
 24 BY MR. BERGER:
 25 Q I'm showing what's been marked as Trask

1 Exhibit 16, which is a September 13, 2012 letter
 2 to Mr. Schmoller from ARCADIS signed by you and
 3 Toni Schoen. The subject is Site Investigation
 4 Work Plan Addendum, Madison-Kipp Corporation."
 5 Can you identify Exhibit 16 for me, please.
 6 A Exhibit 16 is the Site Investigation Work Plan
 7 Addendum.
 8 Q Now you have before you Exhibits 5 through 12 and
 9 14 through 16, and do those now include all of
 10 the formal work plans and reports that ARCADIS
 11 has submitted in this case to date?
 12 A We submit Bimonthly Summary Reports. They are
 13 not work plans. I don't know if you expect them
 14 to be in this.
 15 Q I have seen Bimonthly Summary Reports. Let's
 16 except those out right now. Excepting the
 17 Bimonthly Summary Reports, do these appear to be
 18 all of the work plans and formal reports that
 19 have been prepared and submitted to date on this
 20 matter?
 21 A Yes.
 22 Q Okay. And 15 and 16 are the only two addenda to
 23 the Site Investigation Work Plan which was
 24 Exhibit 7, is that right?
 25 A Yes.

1 Q Okay. With respect to the bimonthly reports, can
 2 you tell me when you started submitting bimonthly
 3 reports to DNR?
 4 A We started with the bimonthly reports around the
 5 time the PCB investigation started.
 6 Q Okay. So not beginning in February, this would
 7 have been in April or May?
 8 A I would have to check our files, but that sounds
 9 about the time frame.
 10 Q And have they been submitted -- But those are not
 11 final reports, is that right?
 12 A What do you mean by "final?"
 13 Q Well, if you look at -- which I did, the Site
 14 Investigation Work Plan, I believe you said in
 15 the Site Investigation Work Plan which was
 16 Exhibit 7 that you were going to prepare a --
 17 what I will call a final report concerning all of
 18 your investigation activities. Do you recall
 19 that?
 20 A A Site Investigation Report?
 21 Q Correct.
 22 A Yes.
 23 Q And in that Site Investigation Report, it said on
 24 Page 40 of Exhibit 7, "Following receipt of the
 25 soil and groundwater analytical results, ARCADIS

1 will prepare a report." I assumed that to mean
 2 once you were done with all of the investigation.
 3 I'm looking at Exhibit 7, Page 40, Bates
 4 No. 7218.
 5 A Yes.
 6 Q I understood that to mean that when you were all
 7 done with all of your investigation work, you
 8 would prepare a comprehensive site investigation
 9 report.
 10 A Yes.
 11 Q Is that true?
 12 A Yes.
 13 Q That's still the plan?
 14 A Yes.
 15 Q And that has not been done yet?
 16 A It has not been done yet.
 17 Q I'm sorry. I interrupted you, and I promised I
 18 would try not to. It has not been done yet and
 19 you are still gathering data?
 20 A Yes.
 21 Q Do you know when you will be preparing that
 22 comprehensive site investigation report?
 23 A First quarter 2013.
 24 Q Okay. And can you be any more specific than
 25 that, or that's just the goal?

1 A It will depend on the schedule this winter with
 2 installing the wells and getting the groundwater
 3 sampling done.
 4 Q And I would presume it would depend on the
 5 results and whether any more investigation work
 6 is contemplated or undertaken?
 7 A Yes.
 8 Q Okay. Just so I know what this report is
 9 conceived to be, that will be a report of all
 10 data relating to soil, groundwater and vapor
 11 investigations, is that right?
 12 A Yes for soil and groundwater. I don't know about
 13 vapor.
 14 Q It may be or it may not be?
 15 A Yes.
 16 Q Do you know one way or another now?
 17 A Pardon me?
 18 Q Whether it will be or won't be now, do you know
 19 one way or another whether the vapor
 20 investigation results will be part of that
 21 report?
 22 A Yes, they will be.
 23 Q They will be part of that report?
 24 A Yes.
 25 Q So that report will -- It will be comprehensive.

1 It will include soil, groundwater and gas?
 2 A Yes.
 3 Q Okay. I take it there are no drafts of that
 4 report prepared yet?
 5 A No.
 6 Q And I presume that would be both on site and off
 7 site, since the investigations that you have been
 8 and are performing are both on site and off site?
 9 A I don't know. The off-site results have been
 10 presented. I don't know how they will be part of
 11 the Site Investigation Report.
 12 Q One way or the other, whether they will be or
 13 won't be part of it? You don't know?
 14 A I don't know.
 15 Q Okay. Do you know who will make that decision?
 16 A ARCADIS would make a recommendation.
 17 Q To who?
 18 A To Madison-Kipp.
 19 Q So the lawyers?
 20 A And to Michael Best.
 21 Q Okay. And then they would tell you what you were
 22 going to do, how it was going to be reported?
 23 A Yes.
 24 Q Okay. You know what a groundwater plume map is,
 25 don't you?

1 A Yes.
 2 Q I have not seen any groundwater plume maps with
 3 respect to the Madison-Kipp site prepared by
 4 ARCADIS. My question is has ARCADIS prepared any
 5 groundwater plume maps with respect to the
 6 Madison-Kipp facility?
 7 A No.
 8 Q And that's true with respect to both shallow and
 9 deeper groundwater, isn't it?
 10 A Yes.
 11 Q You have seen gas plume maps, haven't you?
 12 A Are you referring to Madison-Kipp gas plume maps?
 13 Q I'm referring to gas plume maps in general.
 14 A I don't know.
 15 Q You don't know whether you have ever seen one?
 16 A I don't know.
 17 Q Do you know whether the extent of the gas plume
 18 can be mapped?
 19 A I think it can be mapped, yes.
 20 Q Okay. And you have never seen any gas plume maps
 21 related to the Madison-Kipp facility?
 22 A No.
 23 Q And ARCADIS has not prepared any gas plume maps
 24 related to the Madison-Kipp facility?
 25 A No.

1 Q Okay. You understand that plume maps are drawn
 2 to, among other things, depict the extent of
 3 contamination. Is that fair?
 4 A Yes.
 5 Q It is true that as we sit here today the full
 6 extent of the groundwater contamination has not
 7 been determined at the Madison-Kipp facility?
 8 A Yes.
 9 Q And that's true with respect to both shallow and
 10 deep groundwater, is it not?
 11 A No.
 12 Q In what way is it not true as to both shallow and
 13 deep groundwater?
 14 A Shallow groundwater wells have been installed and
 15 sampled around the perimeter that do not have
 16 VOCs related to Madison-Kipp.
 17 Q Okay. So you think the extent of shallow
 18 groundwater contamination has been determined?
 19 Shallow groundwater contamination emanating from
 20 the Madison-Kipp facility, you believe that the
 21 extent of that shallow groundwater contamination
 22 has been determined?
 23 A Yes.
 24 Q But it has not been drawn?
 25 A Yes.

1 Q That's true?

2 A That's true.

3 Q Okay. It is true that the extent of vapor

4 contamination has not been determined, isn't it?

5 A Contamination as in detections?

6 Q Correct.

7 A Not from ARCADIS data. I don't know if we have

8 all the WDNR data.

9 Q But to your knowledge you have never seen a final

10 delineation of how far the PCE gas plume or

11 plumes is going off the Madison-Kipp property, is

12 that true?

13 A I have not seen.

14 Q Okay. And you certainly have not seen any

15 drawing depicting the size of the gas plume?

16 A I have not seen that.

17 MR. BERGER: Okay. I'd like you to take

18 a look at Exhibit 8, please. Actually, before

19 you look at that, I'm going to mark another

20 document.

21 MR. SEESE: Off the record.

22 (A discussion was had off the record.)

23 (Exhibits 17 through 20 were marked.)

24 BY MR. BERGER:

25 Q I have just marked as Trask Deposition Exhibit 17

1 the May 9, 2012 Bimonthly Progress Report

2 addressed to Linda Hanefeld and signed by Jennine

3 Trask and Chris Kubacki. I have marked as a

4 Trask Exhibit 18 the Bimonthly Progress Report to

5 Hanefeld signed by you and Kubacki dated

6 May 15th. I have marked as Exhibit 19 a June 29,

7 2012 Bimonthly Progress Report to Linda Hanefeld

8 signed by you and Chris Kubacki. I have marked

9 as Exhibit 20 an August 15, 2012 Bimonthly

10 Progress Report to Linda Hanefeld and signed, I

11 believe, by you and is it Mr. Kubacki?

12 A Yes.

13 Q Okay. Do you recognize those documents?

14 A Yes.

15 Q Are those all progress reports that you submitted

16 to DNR on behalf of Madison-Kipp in connection

17 with your work in this case?

18 A Yes.

19 Q Okay. Those are the only ones that I have seen

20 in the production, not including the disks that

21 came yesterday, but can you tell me there's --

22 The first one I have there is dated May 9th, and

23 it relates to PCBs. I think what you told me

24 earlier or testified to earlier was that you

25 started submitting these Bimonthly Progress

1 Reports when the PCB work was done. Is that

2 fair?

3 A Around that time zone, yes.

4 Q Do you know whether -- Well, this is May 9th.

5 Can you tell me whether Exhibit 17 is the first

6 Bimonthly Progress Report you submitted to the

7 DNR with respect to your work in this case?

8 A I don't know if this was the first one.

9 Q Okay. Do you recall one earlier?

10 A No.

11 Q Okay. The second document, Exhibit Trask

12 Exhibit 18, is dated May 15th. Then the third

13 one is about a month and one-half later dated

14 June 29th. Can you tell me whether there was a

15 Bimonthly Progress Report between Exhibit 18 and

16 Exhibit 19, one or more?

17 A There were two in between.

18 Q Okay. Do you know approximately when those would

19 have been sent?

20 A Approximately June 1st and June 15th.

21 Q Okay. Do you recall right now what those

22 concerned?

23 A No. They followed the same basic pattern, you

24 know, but I don't know what specifically would

25 have been reported.

1 Q Okay. And then after the June 29th one I

2 don't -- the next one I have marked, Exhibit 20,

3 is dated August 15. Would there have been one or

4 more bimonthly progress reports between

5 Exhibit 19 and Exhibit 20?

6 A Yes.

7 Q Do you recall how many there were?

8 A Two.

9 Q Okay. One approximately August 15th -- excuse

10 me, July 15th and one approximately July 30th?

11 A It would have been before July 30th, since this

12 one -- the August 15th one starts July 28th, but

13 it would have been the end of July.

14 Q Okay. But you are certain that there were two

15 between Exhibits 19 and 20?

16 A I would have to check the files, but the

17 procedure was approximately every two weeks.

18 Q I understand that, but I know that work wasn't

19 necessarily going on that quickly in terms of

20 having something to report, so I'm just wondering

21 whether you can recall what was done or whether

22 there was sometimes when you went a month or so

23 without submitting one.

24 A I do not recall not submitting one.

25 Q Okay. And how many have been submitted since

1 August 15th, Exhibit 20, Bimonthly Progress
 2 Reports?
 3 A The end of August, the middle of September, the
 4 end of September and the middle of October. I'd
 5 have to check, but that was the time frame we
 6 were doing them.
 7 Q Okay. Why were you submitting bimonthly reports?
 8 A That was a request from WDNR.
 9 Q And I notice these, Exhibits 17 through 20, were
 10 sent to Linda Hanefeld and not sent to
 11 Mr. Schmoller. Is there a particular reason why
 12 you were sending these directly to Hanefeld as
 13 opposed to Schmoller?
 14 A The request --
 15 MR. SEESE: Object to the form of that,
 16 but you can answer.
 17 THE WITNESS: The request for bimonthly
 18 reports came from Linda is my recollection.
 19 BY MR. BERGER:
 20 Q Okay. When did she make that request?
 21 A Sometime around the PCB investigation.
 22 Q Did she make that request to you personally or
 23 did she make that request to you in a meeting
 24 where you were present?
 25 A No, my recollection is a letter from Linda.

1 Q Asking for bimonthly reports?
 2 A The letter from Linda asks for bimonthly reports.
 3 Q And she sent that to Mr. Meunier at Madison-Kipp?
 4 A I don't know who it was addressed to.
 5 Q Have you had -- Strike that.
 6 Have you been meeting with officials
 7 from WDNR on any regular basis since you began
 8 work on this project?
 9 A Yes.
 10 Q Okay. Tell me on what basis you have been
 11 meeting with DNR.
 12 A The regular schedule was every other week
 13 modified based on if there was data to talk
 14 about.
 15 Q When did that regular schedule begin?
 16 A About the same time as the bimonthly reports.
 17 Q And about the time that PCBs became an issue at
 18 the site?
 19 A Yes.
 20 Q Okay. And how often have you been meeting with
 21 DNR?
 22 A I'd have to check the calendar. Twice a month,
 23 but not necessarily every other week.
 24 Approximately.
 25 Q Okay. So have you met with DNR about this matter

1 eight to ten times or not quite that many?
 2 A They are not all in-person meetings. Sometimes
 3 we just have a conference call every other week.
 4 Q Okay. Can you tell me how many in-person
 5 meetings you have had with representatives of
 6 DNR?
 7 A I don't know.
 8 Q Four or five, maybe?
 9 A I would say four to six.
 10 Q Okay. And where have those meetings taken place?
 11 A At the WDNR.
 12 Q Okay. In Madison?
 13 A There have been some at the Madison office and
 14 some in Fitchburg.
 15 Q Okay. When was the last time you met with DNR
 16 about this case?
 17 A We met with them earlier in October.
 18 Q And what was the purpose of that meeting?
 19 A To present the technical data collected to date.
 20 Q And would that all be data that is contained in
 21 the exhibits that we have marked here?
 22 A Yes.
 23 Q Okay. And did you make any recommendations --
 24 Who attended that meeting?
 25 A Mike Schmoller, Linda Hanefeld, Steve Tinker,

1 John Hausbeck, Henry Nehls-Lowe, and I believe
 2 there was a PR person there who I don't recall.
 3 Q A DNR PR person?
 4 A Yes, somebody who was -- who was there in place
 5 of Darcy Foss.
 6 Q Okay. And any of the Madison-Kipp
 7 representatives there besides you?
 8 A Yes. From ARCADIS Matt Schnobrich was there.
 9 Q Matt who?
 10 A Matt Schnobrich.
 11 Q Okay. And what's Matt's role again on this
 12 matter?
 13 A In situ groundwater remediation.
 14 Q Who else? And you were there, right?
 15 A Yes.
 16 Q Anybody else from ARCADIS?
 17 A No.
 18 Q Any of the lawyers for Madison-Kipp?
 19 A Yes.
 20 Q Who?
 21 A Dave Crass.
 22 Q Who else?
 23 A He was the only lawyer there for Madison-Kipp.
 24 Q Has Madison-Kipp had a lawyer at all of the
 25 meetings where you have attended -- Strike that.

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1 Has Madison-Kipp had a lawyer at all of
 2 the meetings that you have had with DNR?
 3 A Yes.
 4 Q And has that lawyer been David Crass?
 5 A I can't recall that he was at all of them, but,
 6 yes, he generally participates in those meetings.
 7 Q He's been the primary point person for
 8 Madison-Kipp with respect to negotiations with
 9 DNR, as you understand it? Is that true?
 10 A Yes.
 11 Q Okay. Yes?
 12 A Yes.
 13 Q Okay. Can you tell me when in October that
 14 meeting took place?
 15 A I don't know. Middle of October. Around the
 16 middle of October.
 17 Q So just in the last couple weeks?
 18 A Yes. I'd have to check my calendar.
 19 Q What was discussed at that meeting?
 20 A The work that had been completed.
 21 Q Okay. Did anybody make a presentation on behalf
 22 of Madison-Kipp?
 23 A Yes, we had slides.
 24 Q Who prepared the slides?
 25 A ARCADIS.

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1 Q Okay. And what information was contained in
 2 those slides?
 3 A A summary of the investigation work and steps
 4 moving forward.
 5 Q Okay. Did ARCADIS recommend remediation in those
 6 slides or contain recommendations as to
 7 remediation in those slides or were the slides
 8 recommendations for further investigation work?
 9 A The slides presented the pilot test work plan.
 10 Q Okay. Which we have marked today?
 11 A Yes.
 12 Q And just briefly describe for me what that pilot
 13 test work plan is.
 14 A The pilot test work plan is to complete a pilot
 15 test using tracers and visco, installation of
 16 several wells to get a better handle on the
 17 hydraulics for the potential remedial design.
 18 Q Okay. So in layperson's terms that work plan is
 19 a plan to investigate how the various layers of
 20 groundwater behave and what their characteristics
 21 are so ARCADIS can consider an appropriate
 22 approach to remediation. Is that fair?
 23 A The pilot test is to determine how we can
 24 distribute any sort of reagent into the
 25 subsurface, yes.

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1 Q And the reagent would destroy PCE?
 2 A Visco destroys PCE, yes.
 3 Q And the reagent is part of that?
 4 A And that's what we've proposed for the pilot
 5 test.
 6 Q What reagent is it?
 7 A Sodium permanganate.
 8 Q Have you ever used that before as a reagent in a
 9 VOC case?
 10 A I have not.
 11 Q Okay. But your company has, I take it?
 12 A Yes.
 13 Q And that reagent destroys PCE, is that right?
 14 A Yes.
 15 Q Doesn't it have the effect of potentially
 16 creating or pushing vapors out?
 17 A No.
 18 Q I want to direct your attention to Exhibit 8,
 19 which is the Bedrock Characterization Work Plan,
 20 and that document was dated May of 2012. Was
 21 that submitted at the same time as the Work Plan
 22 for Polychlorinated Biphenyl Investigation and at
 23 the same time as the Site Investigation Work
 24 Plan? The Site Investigation Work Plan is 7 and
 25 the Polychlorinated Biphenyl Investigation was

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1 10. They are all dated May 2012; they refer to
 2 each other. My question to you is did you submit
 3 all three of these plans together?
 4 A No.
 5 Q Tell me what you can about the relative dates and
 6 times of submission of these three plans.
 7 A The Work Plan for PCB Investigation was submitted
 8 May 21st. The Site Investigation Work Plan was
 9 submitted May 31st. The Bedrock Characterization
 10 Work Plan was submitted May 22nd.
 11 Q Okay. So Exhibit 8 was the first of these three
 12 work plans, but the other two followed on fairly
 13 closely from each other?
 14 A Yes.
 15 Q Was there any particular rhyme or reason for that
 16 order?
 17 A Yes, there was a schedule for PCBs laid out by
 18 WDNR.
 19 Q So they wanted PCBs to be addressed quicker or --
 20 A Not in relation to other compounds. Simply there
 21 was a schedule for the PCBs.
 22 Q So that's why it was submitted at a separate
 23 time?
 24 A Yes.
 25 Q Okay. And how about why the Site Investigation

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1 Work Plan and the Bedrock Characterization Work
 2 Plan were not submitted at the same time? They
 3 were submitted about a week apart.
 4 A I'm sorry. Which number was the Site
 5 Investigation Work Plan?
 6 Q The Site Investigation Work Plan is 7 and the
 7 Bedrock Characterization Work Plan is 8. Eight
 8 was dated May 22nd and 7 was dated May 31. I'm
 9 trying to figure out whether there was a reason
 10 you submitted the bedrock one before you
 11 submitted the Site Investigation Work Plan.
 12 A Not that I recall.
 13 Q Okay. It's just when you got them done?
 14 A Not that I recall.
 15 Q Okay. Let's look at Exhibit 8. Exhibit 8 is the
 16 Madison-Kipp Corporation Bedrock Characterization
 17 Work Plan, and I want to direct your attention to
 18 Page 1 of that, the Introduction. Do you see
 19 that?
 20 A Yep.
 21 Q Did you write this work plan?
 22 A I wrote parts of this work plan.
 23 Q Okay. Were you the senior person on this
 24 project?
 25 A I am the project manager. Ed has more years

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1 experience.
 2 Q Okay. But you were the person running the
 3 project for the company?
 4 A Yes.
 5 Q Okay. So you reviewed it and signed off on it,
 6 is that right?
 7 A Yes.
 8 Q Okay. If you would look at the Introduction, who
 9 else besides you wrote this?
 10 A Toni and Ed.
 11 Q Okay. The two other signatories?
 12 A Yes.
 13 Q Which parts did you write?
 14 A I don't recall.
 15 Q Okay. In the second paragraph you state that the
 16 ultimate goal for the site is to develop and
 17 implement a long-term remedial strategy that
 18 prevents or eliminates the potential for vapor
 19 intrusion into structures, prevents or eliminates
 20 the potential for direct contact with soil and
 21 groundwater contamination and facilitates
 22 groundwater restoration or containment. Do you
 23 see that?
 24 A Yes.
 25 Q And that was true, wasn't it, when you wrote it?

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1 A Yes.
 2 Q Okay. And it said that a successful remedial
 3 strategy is dependent on the assembly and testing
 4 of the conceptual site model which is defined as
 5 CSM. Do you see that?
 6 A Yes.
 7 Q And then it looks like you have a definition
 8 there of a CSM, isn't that right? It synthesizes
 9 all relevant data at the facility and release
 10 history, geologic and hydrogeologic conditions,
 11 nature and extent of contamination, potential
 12 receptors and transport mechanisms, et cetera, to
 13 provide a technical basis for remedial decision
 14 making. Is that a fair definition of what you
 15 believe a conceptual site model is?
 16 A Yes.
 17 Q Okay. Did you expect that a conceptual site
 18 model would be reduced to writing?
 19 A I don't know what you mean.
 20 Q Well, your work plan is reduced to writing,
 21 right? It's put in a document?
 22 A That we would summarize the CSM?
 23 Q Put the conceptual site model in writing.
 24 A The conceptual site model would typically be part
 25 of a complete site investigation report.

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1 Q Okay. So that's a yes?
 2 A I didn't understand your question.
 3 Q I understand.
 4 A Yes.
 5 Q So you're contemplating developing this
 6 conceptual site model which is going to form the
 7 basis for remedial decision making and putting
 8 that in writing?
 9 A Yes.
 10 Q And that has not been done yet?
 11 A No.
 12 Q Okay. That's going to be in the first quarter of
 13 2013 when you prepare your site investigation
 14 report?
 15 A Yes.
 16 Q Okay. Do you know whether or not -- Strike that.
 17 You know that vapors have been
 18 detected -- PCE has been detected in vapors under
 19 most of the homes that have been sampled on
 20 Marquette Street and Waubesa Street, and actually
 21 most of the homes that have been sampled on Dixon
 22 Street. You know that, right?
 23 A Yes.
 24 Q Okay. Do you know whether groundwater
 25 contamination is contributing to the sub-slab PCE

1 vapors that are under these homes?
 2 A No.
 3 Q Is that something you would like to know?
 4 A Yes.
 5 Q Okay. You know that even after the SVE system
 6 was installed and operated, PCE has been detected
 7 in gases sub-slab under homes in the area where
 8 the SVE system has been installed and operated.
 9 You know that, right?
 10 A Yes.
 11 Q Okay. Do you know whether those gases that are
 12 still being detected, even though the SVE system
 13 is operating, are coming from groundwater?
 14 A No.
 15 Q Do you know as we sit here now whether the
 16 groundwater underneath the homes on Marquette
 17 Street and Waubesa Street is contaminated with
 18 PCE?
 19 A No.
 20 Q Is that true with respect to both shallow and
 21 deep groundwater?
 22 A That is true.
 23 Q Okay. When you were engaged to undertake this
 24 project, at some point did you review the
 25 historical data that had been developed by

1 Madison-Kipp's consultant, Mr. Nauta, in his
 2 various iterations? He worked for Dames & Moore,
 3 and then he worked for RSC Engineering and then
 4 he worked for himself, RJN. Do you know that?
 5 A Yes.
 6 Q Did you review the work that Mr. Nauta undertook
 7 and the results that he undertook on behalf of
 8 Madison-Kipp in connection with getting up to
 9 speed on the matter in performing the work that
 10 you have done?
 11 A We reviewed data that had been released.
 12 Q I saw some emails indicating that Nauta
 13 transmitted -- electronically submitted his prior
 14 site data to you in early May of 2012. Does that
 15 sound accurate to you that that's the first time
 16 he would have transmitted to you all of the site
 17 data?
 18 A I don't know.
 19 Q Do you recall when you first asked to see all the
 20 site data?
 21 A Not specifically, no.
 22 Q So it may be that the first time you got all the
 23 prior data was in May of 2012?
 24 A I would have to see the email.
 25 Q So you don't have any recollection one way or the

1 other?
 2 A No.
 3 Q Did you ever undertake a review of Mr. Nauta's
 4 work and come to a conclusion concerning the
 5 quality of the work that he did?
 6 A No.
 7 Q Okay. Did anybody ask you to do that or not to
 8 do that?
 9 A No.
 10 Q Just never crossed your mind?
 11 A We reviewed the data. We didn't evaluate the
 12 data.
 13 Q Did you review the prior correspondence between
 14 Madison-Kipp and DNR?
 15 A Yes, we had a couple of annual groundwater
 16 reports.
 17 Q Did you ever come to any conclusions concerning
 18 the adequacy of Mr. Nauta's work or the diligence
 19 with which MKC has pursued its investigation and
 20 cleanup responsibilities?
 21 A No.
 22 Q Did you know that Mr. Crass has been involved in
 23 coordinating Madison-Kipp's response to this
 24 problem since the mid 1990s?
 25 MR. SEESE: Object to the form of that.

1 MR. BERGER: You can answer.
 2 THE WITNESS: I did not know the extent
 3 or the relationship.
 4 BY MR. BERGER:
 5 Q I'm going to show you what's been marked as
 6 Schmoller Deposition Exhibit No. 4, which is a
 7 July 18, 1994 letter to Jack Schroeder at
 8 Madison-Kipp from the Marilyn Jahnke at the
 9 Wisconsin DNR. Have you ever seen this letter
 10 before?
 11 A Not that I recall.
 12 Q Okay. In this letter to Madison-Kipp the DNR
 13 says in the third paragraph, the second sentence,
 14 "As the owner of property where a hazardous
 15 substance discharge has occurred, you are
 16 required to determine the horizontal and vertical
 17 extent of contamination and cleanup/properly
 18 dispose of the contaminants." Do you see that?
 19 A Yes.
 20 Q Okay. And we're sitting here now 18-plus years
 21 later and that has not been completed yet, to
 22 your knowledge, is that right?
 23 A We are still doing an ongoing investigation.
 24 Q So it hasn't been completed?
 25 A Yes.

1 Q In the last paragraph -- Excuse me. On the first
2 page, the last paragraph, the second -- Strike
3 that.

4 The last paragraph begins, "It is
5 important that an investigation begins at your
6 site as soon as possible. The longer
7 contamination is left in the environment, the
8 farther it can spread and the more difficult and
9 costly it becomes to clean up." Do you see that?

10 A Yes.

11 Q Do you agree with that?

12 MR. SEESE: Object to form and
13 foundation.

14 THE WITNESS: It depends on the site.

15 BY MR. BERGER:

16 Q Do you agree with that generally?

17 MR. SEESE: Asked and answered.

18 THE WITNESS: It would depend on the
19 site characteristics.

20 BY MR. BERGER:

21 Q Okay. Were you dealing with the release of PCE
22 into a groundwater formation and PCE vapors
23 migrating in soils, okay, do you think it's
24 important that the sooner an investigation and
25 cleanup is undertaken, the better? Do you agree

1 with that in that context?

2 MR. SEESE: Object to form.

3 MR. BERGER: If you don't know, you can
4 say you don't know.

5 MR. SEESE: Object to form and
6 foundation.

7 THE WITNESS: Can you repeat that?

8 COURT REPORTER: "Okay. Were you
9 dealing with the release of PCE into a
10 groundwater formation and PCE vapors migrating in
11 soils, okay, do you think it's important that the
12 sooner an investigation and cleanup is
13 undertaken, the better? Do you agree with that
14 in that context?"

15 MR. COHEN: Objection, incomplete
16 hypothetical.

17 THE WITNESS: Yes.

18 BY MR. BERGER:

19 Q Okay. In Exhibit 15, which is your proposed
20 investigation for the building subsurface which
21 you submitted on September 28, 2012 and as I
22 understand implemented last Thursday, did you --
23 do you know why it -- do you know of any prior
24 sub-slab investigation that had been done at this
25 facility?

1 A No.

2 Q No?

3 A No.

4 Q Do you know why no such investigation was done
5 for more than 18 years after the receipt of
6 Schmoller Exhibit 4?

7 A No.

8 Q Did you ever ask anybody why it's taken more than
9 18 years to look under the building?

10 A No.

11 Q The technology that you are implementing to do
12 this or that you implemented to do that
13 investigation, that technology was around 18
14 years ago, wasn't it?

15 MR. SEESE: Object to form, calls for
16 speculation. You can answer.

17 THE WITNESS: I don't know in 1994.

18 BY MR. BERGER:

19 Q Okay. But technology existed in the 1990s to do
20 comprehensive groundwater investigation and to do
21 comprehensive soil investigation, didn't it? If
22 you don't know, you can tell me you don't know.

23 A Yes, yes.

24 Q Yes what? Are you agreeing with me that the
25 technology was available in 1994?

1 A Oh, I don't know anything about 1994.

2 Q You have no idea whether there was technology
3 available in 1994 to do comprehensive soil and
4 groundwater for the presence of PCE?

5 MR. SEESE: Object to form and
6 foundation. You can answer.

7 THE WITNESS: No, I don't know.

8 BY MR. BERGER:

9 Q You don't know one way or the other?

10 A No.

11 (Exhibit 21 was marked.)

12 BY MR. BERGER:

13 Q I'm showing you what's been marked as Trask
14 Exhibit 21, which is a May 4, 2012 letter to
15 Mr. Meunier of Madison-Kipp from Ms. Hanefeld at
16 the DNR. Have you ever seen this document
17 before?

18 A Yes.

19 Q So somebody sent you a copy of this letter that
20 Ms. Hanefeld sent to Mr. Meunier?

21 A Yes.

22 Q And do you know who sent it to you?

23 A No.

24 Q Would it have been Mr. Crass?

25 A I don't know.

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1 Q Do you see in the letter the letter is a follow
 2 up or a response to letters from Mr. Crass to
 3 DNR? Do you see that?
 4 A Yes.
 5 Q And do you see in the second paragraph
 6 Ms. Hanefeld states that, among other things, DNR
 7 stands by its April 19th letter, which apparently
 8 Mr. Crass took issue with, but Ms. Hanefeld is
 9 saying she stands by her letter which concluded
 10 that MKC has not been forthcoming in clearly
 11 articulating to us, meaning DNR and the public, a
 12 clear, comprehensive and timely path forward to
 13 resolve the environmental contamination issues on
 14 and off your property? Do you see that?
 15 MR. SEESE: Object to the form of that.
 16 I don't know what the question is.
 17 THE WITNESS: I see it, yes.
 18 BY MR. BERGER:
 19 Q Okay. Do you have an opinion or conclusion as to
 20 whether, based on your review of the records and
 21 the documents in this case, whether MKC has been
 22 forthcoming in articulating a clear,
 23 comprehensive and timely path forward to
 24 resolving the environmental contamination issues
 25 on and off its property?

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1 MR. SEESE: Objection to form.
 2 Objection, calls for speculation. Objection,
 3 calls for improper opinion testimony under rule
 4 701. You can answer.
 5 THE WITNESS: No.
 6 BY MR. BERGER:
 7 Q You don't have an opinion one way or the other?
 8 MR. SEESE: Same objections.
 9 THE WITNESS: No.
 10 BY MR. BERGER:
 11 Q Okay. You read this letter when you got it,
 12 didn't you?
 13 A Yes.
 14 Q If you look at the bottom of Page 3 and the top
 15 of Page 4, Ms. Hanefeld is asking for a lot of
 16 information concerning the operations of MKC,
 17 including the source of the spent oil, what years
 18 the oils were used and spread, where was it
 19 stored, where was the spent oil stored, how much
 20 of the oil was spread, how often, what time,
 21 where it was spread. Do you see those questions?
 22 A Yes.
 23 Q Did you ever ask Madison-Kipp for answers to
 24 those questions?
 25 A Not directly, no.

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1 Q Do you know whether Madison-Kipp ever responded
 2 to those questions that were asked by
 3 Ms. Hanefeld in Exhibit 21?
 4 A I would need to check the PCB summaries or plans.
 5 Q So there might be some answers concerning the
 6 history of the PCB uses in the work plans?
 7 A Yes.
 8 Q Okay. And where would those answers have come
 9 from?
 10 A Madison-Kipp.
 11 Q Okay. But not in response to any investigation
 12 that you undertook?
 13 A No.
 14 Q Okay. Just what Madison-Kipp might have told you
 15 or what might have been in a report that
 16 Mr. Nauta prepared?
 17 MR. SEESE: Object to form.
 18 THE WITNESS: I don't know.
 19 BY MR. BERGER:
 20 Q You don't know where the information would have
 21 come from?
 22 A I don't know if it was Madison-Kipp or a report
 23 from Bob.
 24 Q So you don't know what the source of any of the
 25 information was?

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1 A What information?
 2 Q Well, you said some of the answers to the
 3 questions in Ms. Hanefeld's letter may have been
 4 in the reports that you submitted. My question
 5 is -- And you and ARCADIS did not do any
 6 investigation. We know that. My question is do
 7 you know what the source of that information
 8 would have been?
 9 MR. SEESE: Object to the form of that.
 10 THE WITNESS: Madison-Kipp.
 11 BY MR. BERGER:
 12 Q Okay. Madison-Kipp told you something and you
 13 put it in a report?
 14 A As I said, I would have to go back through the
 15 reports to even see what's -- what we would have
 16 documented.
 17 Q Okay. Did you ever sit down with anybody at
 18 Madison-Kipp as the project manager and tell them
 19 that you needed to know what chemicals like PCE,
 20 PCBs, PAHs and the like were used in what
 21 quantities and where they may have been disposed
 22 of?
 23 A We did not discuss quantities of anything that --
 24 of any of those contaminants at the site.
 25 Q Okay. Did you ask them where they may have been

1 used?

2 A Yes.

3 Q Who did you ask?

4 A Mark Meunier and one of the operations gentlemen.

5 I don't know his name.

6 Q Okay. Did you talk to a guy named Mr. Lenz, Jim

7 Lenz?

8 A No.

9 Q Have you read Mr. Lenz's deposition in this case?

10 A No.

11 Q Did you know that Mr. Lenz interviewed three or

12 four old-time, former employees who told him

13 where and how PCE had been spilled and disposed

14 of at the property?

15 MR. SEESE: Object to form, misstates

16 the testimony. You can answer.

17 THE WITNESS: No.

18 BY MR. BERGER:

19 Q Would you want to know that when you are scoping

20 an investigation?

21 A We used the data that was previously provided to

22 supplement any data gaps. That's what our

23 investigation did.

24 Q When you say "the data previously provided," you

25 looked at what was in the reports that Mr. Nauta

1 prepared?

2 A Yes.

3 Q Okay. Can you tell me approximately how much

4 ARCADIS has billed Madison-Kipp to date for its

5 work since February of 2012?

6 MR. SEESE: I will object to that. I

7 think there's no objection in principle to

8 disclosing the substance, but I know that

9 ARCADIS' lawyer is uncomfortable disclosing that

10 information without a Protective Order.

11 MR. COLLINS: An amount?

12 MR. BERGER: I don't understand.

13 MR. SEESE: That's fair. If you are

14 talking about a general amount, I think that's

15 fine. I will withdraw my objection. A general

16 amount, that's fair. So if you are comfortable,

17 I will withdraw my objection.

18 BY MR. BERGER:

19 Q I'm not here to make you comfortable. I would

20 like an answer to my question, and I think it's a

21 relevant inquiry. Can you tell me approximately

22 how much ARCADIS has billed and been paid for its

23 work on this case to date?

24 A I don't know bill and been paid. The billed

25 amount would be in the area of \$1.2 million.

1 Q Do you know approximately how much has been

2 budgeted or is contemplated to be billed in the

3 coming months through the development of the site

4 investigation report, including the conceptual

5 site model in the first quarter of 2013?

6 A Around \$4 million.

7 Q Does that include the \$1.2 million?

8 A Yes.

9 Q So the total through that time will be about

10 \$4 million?

11 A Yes.

12 Q Okay. Do you know who's going to pay that,

13 whether it's Madison-Kipp or Madison-Kipp's

14 insurers or some combination of the two?

15 A I don't know. Our invoices go to Madison-Kipp.

16 Q And what are your payment terms, do you know?

17 A Payment terms as far as?

18 Q When are your invoices due, when is payment due.

19 A Forty-five days.

20 Q Okay. Has Madison-Kipp been current to this

21 point?

22 A I would have to double-check. I haven't checked

23 this week, but for the most part, yes.

24 MR. BERGER: Let's take a short break.

25 (A recess was taken.)

1 BY MR. BERGER:

2 Q Has ARCADIS been submitting written cost

3 estimates to Michael Best or to Madison-Kipp or

4 its insurance carriers for the work that has been

5 performed and is going to be performed in the

6 coming months?

7 A Yes.

8 Q Okay. I don't think we have -- Can you tell me

9 what form those have been in?

10 A What do you mean by "form"?

11 Q What do they look like? Did you prepare them?

12 A Yes.

13 Q Okay. And what do you do with them?

14 A Submit them via email.

15 Q To?

16 A To Madison-Kipp and Michael Best.

17 Q Is there a particular title of the document?

18 A No.

19 Q Okay. Is it called a budget or something like

20 that?

21 A Proposal.

22 Q And it has cost estimates in it?

23 A Yes.

24 Q Okay. Were those among the documents that you

25 pulled and sent to the lawyers?

1 A Yes.

2 MR. BERGER: We would like to see those.

3 I don't think we have seen those.

4 MR. SEESE: This is what we opened the

5 deposition about. I think there's no objection

6 to producing them subject to, you know, a

7 protective order.

8 BY MR. BERGER:

9 Q Okay. Do the estimates that you have submitted

10 include estimates for cleanup, remediation?

11 A There have been ballpark estimates for

12 remediation.

13 Q And what are those ballpark estimates?

14 A What do you mean?

15 MR. SEESE: Hold on. I'm going to

16 object to that as privileged. That's privileged

17 work product. I think you have to lay a

18 foundation that these are communications with the

19 Michael Best firm.

20 BY MR. BERGER:

21 Q Let me ask you this. Do you know what the final

22 remedy is going to be for the site?

23 A No.

24 Q Do you have any idea by when all of this

25 contamination is going to be cleaned up?

1 MR. COHEN: Objection to form.

2 THE WITNESS: No.

3 BY MR. BERGER:

4 Q Do you have any time frame at all in mind as to

5 the date by which the contamination will have

6 been cleaned up?

7 A No.

8 Q Okay. Do you have a range, a total range,

9 cleanup work range, estimate work range?

10 A Are you referring to costs again?

11 Q Yes.

12 A I don't recall what those numbers are.

13 Q Can you give me an approximate range?

14 MR. SEESE: If these are communications

15 you have had with Dave Crass or anyone else on

16 the defense team, I will object as privileged.

17 If you are talking about something that's gone

18 outside of that in documents, you know, proposals

19 submitted, then I think my instruction now is

20 we -- you can answer that and get the information

21 when there is a protective order in place.

22 THE WITNESS: They have not been

23 submitted as proposals, to my knowledge.

24 BY MR. BERGER:

25 Q Okay. But you have prepared ranges of cost

1 estimates for the entire cleanup and you have

2 submitted them to Madison-Kipp's lawyers?

3 A Yes.

4 Q Okay. Can you tell me when you last did that?

5 A This month.

6 Q Okay. Were you asked to do that by the lawyers?

7 A Yes.

8 Q Did they tell you for what purpose? Strike that.

9 MR. SEESE: Objection, privileged.

10 Don't answer that one.

11 BY MR. BERGER:

12 Q Have you done work for Michael Best prior to this

13 case?

14 A Yes.

15 Q Okay. Tell me about the work that you have done

16 for Michael Best prior to this case.

17 A I did work for Michael Best in the late '90s on

18 investigation and remediation.

19 Q For the Milwaukee office?

20 A For the Milwaukee office.

21 Q Was that David Crass?

22 A No.

23 Q Did you know Mr. Crass before you started work on

24 this case?

25 A No.

1 Q Okay. Who did you do work for at Michael Best?

2 A Don Gallo.

3 Q Don Gallo?

4 A Yes.

5 Q Is he still there?

6 A No.

7 Q Did you do any other work for Michael Best?

8 A No.

9 Q Any other work for Mr. Crass?

10 A No.

11 Q Are you doing work for any other of Michael

12 Best's clients right now other than Madison-Kipp?

13 A I can speak I am not.

14 Q Do you know if ARCADIS is?

15 A I don't know.

16 Q Okay. Do you know what the sources of the PCE

17 vapors under the residences in the area are in

18 the area of Madison-Kipp? Well, I will withdraw

19 that question.

20 Do you know of any source other than the

21 Madison-Kipp facility that is the source of the

22 PCE vapors under the homes in the area?

23 A No.

24 Q And you believe the source is the Madison-Kipp

25 facility?

1 MR. SEESE: Object to form.
 2 THE WITNESS: I don't know.
 3 BY MR. BERGER:
 4 Q You have no idea where the PCE vapors are coming
 5 from?
 6 MR. SEESE: Object to form.
 7 THE WITNESS: We haven't done a study on
 8 that.
 9 BY MR. BERGER:
 10 Q When you say "we haven't done a study on that,"
 11 what do you mean?
 12 A We haven't matched PCE in the sub-slab compared
 13 to PCE found on site.
 14 Q Do you have any doubt in your mind that the
 15 Madison-Kipp site property is the source of the
 16 PCE vapors in the residential area surrounding
 17 the facility?
 18 A Do I have any doubt?
 19 Q Correct.
 20 A In some areas I do have doubt, yes.
 21 Q And what areas would those be?
 22 A Off site to the northeast.
 23 Q Which is on Dixon Street?
 24 A No, no. There was results at 106 Marquette.
 25 Q So in one house you think there may be a source

1 in addition to Madison-Kipp that could be a
 2 source of PCE vapors on that property?
 3 A We have proposed additional borings. There may
 4 be some indication of fill material there.
 5 Q But you don't know of any industrial operation in
 6 the area of those homes that is -- that you
 7 believe is a source of the PCE vapors on the
 8 site?
 9 A I do not know of another industry close, no.
 10 Q You agree, don't you, that at all the homes where
 11 sub-slab detections of PCB have been identified
 12 that that demonstrates a completed migration
 13 pathway from the Madison-Kipp facility to the
 14 home?
 15 A Did you say PCB?
 16 Q If I did, I didn't mean to. I will strike that.
 17 You agree that where PCE has been
 18 detected in sub-slab vapors in the neighborhood
 19 around Madison-Kipp that there is a -- that that
 20 is evidence that there is a completed vapor
 21 migration pathway from the Madison-Kipp facility
 22 site to that home?
 23 A I don't know.
 24 Q You don't know. Do you have an opinion or an
 25 understanding one way or the other whether there

1 is a migration vapor migration pathway from the
 2 Madison-Kipp facility to the homes surrounding
 3 the plant?
 4 A The vapor is going to migrate, yes. Whether that
 5 vapor migration off the site is completely
 6 responsible for the PCE in the sub-slab, I don't
 7 have that answer.
 8 Q Okay. But do you believe there is a vapor
 9 migration pathway from the plant to the sub-slab
 10 of the homes surrounding the site based upon what
 11 you know about the geology and about the site
 12 conditions?
 13 A I don't know.
 14 Q One way or the other, is that right?
 15 A Yes.
 16 Q So that's an unknown to you?
 17 A Yes.
 18 Q Okay. Do you know how much PCE is on the
 19 Madison-Kipp property?
 20 A No.
 21 Q So that's an unknown to you?
 22 A Yes.
 23 Q Okay. Do you know how much PCE is tied up in the
 24 soil on the Madison-Kipp property?
 25 A Estimates could be made based on the soil data.

1 I don't have a number. I have not done that
 2 calculation.
 3 Q Do you know how much PCE is in the groundwater on
 4 the Madison-Kipp site or in the plume emanating
 5 from the Madison-Kipp site?
 6 A No.
 7 Q So those are all unknowns to you?
 8 A Yes.
 9 Q Okay. Whether there's a completed vapor
 10 migration pathway to the homes, that's an unknown
 11 to you?
 12 A Yes.
 13 Q How much PCE is on the site in the various media
 14 is a complete unknown to you?
 15 A No. As I said, estimates could be made from soil
 16 data we have.
 17 Q But you haven't done that?
 18 A I have not done that calculation, no.
 19 Q Do you know all of the areas on the Madison-Kipp
 20 site that serve as sources of PCE contamination
 21 to the soil and the groundwater on the site?
 22 A That's a part of the ongoing site investigation.
 23 Q And so as you sit here now, you don't know?
 24 A Right.
 25 Q Okay. You know that the DNR has determined that

1 because of all of the unknowns and because the
2 DNR has concluded that there is a vapor migration
3 pathway from the Madison-Kipp site to the homes
4 on Marquette and Waubesa Street because of those
5 things, all of the homes or homeowners should be
6 offered sub-slab vapor mitigation systems. You
7 know that, don't you?

8 MR. SEESE: Object to form.

9 THE WITNESS: I know that they have
10 offered some mitigation systems. I don't know
11 exactly which homes they have offered.

12 BY MR. BERGER:

13 Q Do you know that they have offered sub-slab
14 mitigation systems to all homes where there have
15 been more than two or more detects of PCE in the
16 sub-slab gas? Did you know that?

17 A Again, I knew they had offered homes. The
18 criteria based on two detects, I did not know
19 that.

20 Q You did not know that. Have you had any
21 discussions with Madison-Kipp or its lawyers
22 about whether MKC should be paying for those
23 systems, Madison-Kipp?

24 A No.

25 Q Do you believe it's foolish for the DNR to be

1 offering sub-slab mitigation systems to the
2 homeowners who have had PCE detected in their
3 sub-slab on more than one occasion?

4 MR. SEESE: Object to form.

5 THE WITNESS: Do I believe its foolish?

6 BY MR. BERGER:

7 Q Correct.

8 A I don't know if I would use the word "foolish,"
9 no.

10 Q Do you believe it's overkill?

11 A I believe it's an extra safety precaution that
12 they are choosing to proceed with.

13 Q Okay. You said you have kids, right?

14 A Yes.

15 Q How much PCE do you think your kids ought to be
16 exposed to?

17 MR. SEESE: Object to form and
18 foundation, calls for speculation.

19 MR. COLLINS: I hope not.

20 THE WITNESS: I don't know.

21 BY MR. BERGER:

22 Q Do you know -- Did you ever hear of the term
23 MCLG?

24 A No. MCL, yes. MCLG, no.

25 Q MCLG is MCL goal. You have never heard that

1 term?

2 A Yes, I have.

3 Q Do you know what the MCLG is for PCE?

4 A In soil or vapor?

5 Q In groundwater.

6 A In groundwater, no.

7 Q It's zero. Do you know why the MCLG is zero?

8 A I didn't know it was zero.

9 Q Okay. So you have no idea why it's zero?

10 A No.

11 Q Do you know that PCE is a suspected human
12 carcinogen?

13 A Yes.

14 Q Did you know that?

15 A Yes.

16 Q Did you know that contemporary toxicological
17 thought includes the conclusion that one exposure
18 to one carcinogen can cause disease? Did you
19 know that?

20 MR. SEESE: Object to form and
21 foundation.

22 THE WITNESS: No.

23 BY MR. BERGER:

24 Q Have you had any training at all in toxicology or
25 risk assessment?

1 A No.

2 Q If you had PCE vapors collecting under your home,
3 would you want a vapor mitigation system?

4 MR. SEESE: Object to form, calls for
5 speculation, incomplete hypothetical. You can
6 answer.

7 THE WITNESS: Not if it wasn't in my
8 indoor air above levels.

9 BY MR. BERGER:

10 Q Above what levels?

11 A Above the guidance levels, the vapor action
12 levels established by the states and the EPA.
13 Q So if PCE was coming into your home and it was
14 coming from an industry but it was above state
15 levels for action, that would not concern you and
16 you wouldn't care if you had mitigation to
17 prevent those vapors from coming in?

18 MR. SEESE: Same objections. Also
19 misstates her testimony. You can answer.

20 THE WITNESS: You said above. I said
21 below.

22 BY MR. BERGER:

23 Q I'm sorry. If you had -- If you knew you had PCE
24 vapors from an adjacent industrial facility
25 entering your home, but at levels that were below

1 applicable state standards, you would be okay
 2 with that and you would not want a mitigation
 3 system installed to protect you and your family?
 4 MR. SEESE: Same objections.
 5 BY MR. BERGER:
 6 Q Is that your testimony?
 7 A Yes.
 8 Q Okay. Do you know anything about the variability
 9 of VOC gas measurements?
 10 A Yes.
 11 Q Okay. Tell me what you understand on that topic.
 12 A There's seasonal variability. There's also
 13 variability depending on the -- what's ongoing in
 14 the home at the time via HVAC, doors open,
 15 windows open.
 16 Q Do you know anything else about it?
 17 A Not specifically.
 18 Q Okay. Did you know that barometric pressure,
 19 atmospheric pressure, affects vapor migration?
 20 A I know that's a theory.
 21 Q Well, you think it's unproven?
 22 A We haven't seen a correlation in the sites that
 23 we have evaluated that at.
 24 Q But you know that many people believe that to be
 25 true, that atmospheric pressure impacts vapor

1 migration?
 2 MR. SEESE: Object to form.
 3 THE WITNESS: I do believe that that's a
 4 theory.
 5 BY MR. BERGER:
 6 Q And you just disagree with that theory?
 7 A Yes.
 8 Q And what's the basis of your disagreement with
 9 that theory?
 10 A We have not had data correlate to changes in
 11 barometric pressure for increases versus
 12 decreases relationship to the pressure changes.
 13 Q When you say "we," what do you mean?
 14 A ARCADIS.
 15 Q Okay. You personally or ARCADIS?
 16 A Both.
 17 Q Have you recorded barometric pressures or to your
 18 knowledge were barometric pressures recorded when
 19 gas measurements were taken in the MKC case?
 20 A Yes, they were.
 21 Q By you or by Mr. Nauta?
 22 A ARCADIS.
 23 Q Okay. Do you know whether Mr. Nauta did?
 24 A I do not.
 25 Q Have you done any study on the data developed off

1 site at the Madison-Kipp case to compare the
 2 sub-slab readings in different pressure
 3 situations?
 4 A No.
 5 Q So with respect to Madison-Kipp you have no idea
 6 whether there's been an impact on sub-slab gas
 7 readings in the residential area based on
 8 barometric measure, is that right?
 9 A We have not evaluated that, no.
 10 Q Okay. Did you look at the historical vapor probe
 11 data generated by Mr. Nauta?
 12 A Yes.
 13 Q Do you know that very high levels of PCE were
 14 found in vapors on site and adjacent to these
 15 residences going back to February of 2005? Did
 16 you know that?
 17 A I don't recall dates.
 18 Q Does that sound right to you?
 19 A I don't know.
 20 Q Okay. Did you know that vapor samples were taken
 21 in three homes or in three of the residential
 22 properties going back to the fall of 2006?
 23 A I don't know dates. I know prior sampling had
 24 been completed.
 25 Q Did you know that at one location, for example,

1 there was a sample taken in 2007 indicating 21
 2 parts per billion of PCE and then two years later
 3 the same location had 1,100 parts per billion?
 4 Did you know that?
 5 A No.
 6 Q Would you be surprised that there was such a huge
 7 variability in concentration levels?
 8 MR. SEESE: Object to form.
 9 THE WITNESS: I don't know. I don't
 10 know how the samples were collected. I can't
 11 speculate on that.
 12 BY MR. BERGER:
 13 Q Well, based on your experience and your
 14 understanding of the variability of VOCs and gas,
 15 would it surprise you that you would have a
 16 several order of magnitude increase in sample
 17 results?
 18 MR. SEESE: Object to form. You can
 19 answer.
 20 THE WITNESS: Variables all being
 21 identical? Is that what you are asking?
 22 BY MR. BERGER:
 23 Q No. I'm asking whether such large variation in
 24 contaminant concentrations would surprise you.
 25 MR. SEESE: Object to the form of that.

1 I mean, if you have a document, just show her.
 2 THE WITNESS: If the sampling is
 3 completed in the same manner?
 4 BY MR. BERGER:
 5 Q Yes.
 6 A That's a larger variability than I would expect.
 7 Q Did you know that it's not uncommon to have that
 8 variability?
 9 MR. WHITE: Object to form.
 10 MR. SEESE: Object.
 11 BY MR. BERGER:
 12 Q Do you know that?
 13 A Not based on the data that we have seen.
 14 Q Given all of the unknowns, okay, wouldn't you say
 15 it's a fair statement that you can't know what
 16 the concentrations at these homes are going to be
 17 in the future and how long they are going to be
 18 there?
 19 MR. SEESE: I'm sorry. Could you read
 20 that back? I didn't hear it.
 21 COURT REPORTER: "Given all of the
 22 unknowns, okay, wouldn't you say it's a fair
 23 statement that you can't know what the
 24 concentrations at these homes are going to be in
 25 the future and how long they are going to be

1 there?"
 2 MR. COHEN: Objection to the form.
 3 THE WITNESS: I mean, that prediction
 4 would be based on addressing the source, and
 5 those predictions would be based on source
 6 remediation, so for me to speculate now what
 7 would happen before we implement any sort of
 8 remediation, I don't know.
 9 BY MR. BERGER:
 10 Q So it's an unknown what these homes are going to
 11 be exposed to unless and until all of the sources
 12 are identified and remediated. Is that fair?
 13 MR. WHITE: Object to form.
 14 THE WITNESS: The definition of
 15 remediation is what I'm unclear of from you.
 16 BY MR. BERGER:
 17 Q I thought you just said remediation.
 18 A Whether or not it's evaluated for remediation,
 19 whether or not the sources are addressed. Active
 20 remediation is yet to be determined at this site.
 21 Q I understand that. And until all the sources are
 22 identified of the sub-slab vapors that are
 23 migrating or could be migrating to the homes,
 24 until all the sources are identified and all the
 25 remedial action is undertaken, we don't know what

1 concentrations these homes are going to be
 2 exposed to and for how long they are going to be
 3 exposed?
 4 A It can be predicted based on the SVE information
 5 we have.
 6 Q Your SVE system is on about an eighth of the
 7 perimeter of the property, isn't it?
 8 A Well, I'm not -- it's more like a quarter of the
 9 property, but I don't think we will argue that.
 10 Q It's not doing anything on the Waubesa side, is
 11 it?
 12 A No.
 13 Q It's not doing anything with respect to source
 14 material that has already left the site, that is,
 15 on the other side of the SVE system. Is that
 16 right?
 17 MR. SEESE: Object to the form of that.
 18 THE WITNESS: The SVE system would have
 19 an effect on vapor that's already migrated off
 20 the site.
 21 BY MR. BERGER:
 22 Q Just the stuff that's close enough for it to get,
 23 but the SVE system is not doing anything with
 24 respect to the homes that are a distance from the
 25 SVE system?

1 MR. SEESE: Object to form.
 2 THE WITNESS: Yes.
 3 BY MR. BERGER:
 4 Q Do you know how much PCE vapor the homes in
 5 the -- on Waubesa and Marquette Streets on either
 6 side of the plant are going to be exposed to and
 7 for how long?
 8 MR. COHEN: Objection to form.
 9 THE WITNESS: We have the on-site vapor
 10 data that can be used.
 11 MR. BERGER: I'm not asking what can be
 12 done. Can you read my question back, please.
 13 COURT REPORTER: "Do you know how much
 14 PCE vapor the homes in the -- on Waubesa and
 15 Marquette Streets on either side of the plant are
 16 going to be exposed to and for how long?"
 17 THE WITNESS: No.
 18 MR. BERGER: Let's take five minutes.
 19 (A recess was taken.)
 20 BY MR. BERGER:
 21 Q To your knowledge, are you going to be the
 22 principal person at ARCADIS, the project manager,
 23 with respect to the remedy aspect of this
 24 project?
 25 A Yes.

1 Q Okay. Did you ever meet Reid Coleman?
 2 A No.
 3 Q Did you ever meet a lawyer by the name of Ray
 4 Taffora?
 5 A No.
 6 Q You knew that when you first got involved we had
 7 already filed this lawsuit, is that right?
 8 A Yes.
 9 Q And you knew that we filed a RCRA claim, didn't
 10 you?
 11 A No.
 12 Q Do you know what a RCRA claim is?
 13 A No.
 14 Q Would you say that a lot of this work that you
 15 have been doing has been in response to the fact
 16 that my clients filed a lawsuit?
 17 MR. SEESE: Object to form and
 18 foundation.
 19 THE WITNESS: I don't know.
 20 BY MR. BERGER:
 21 Q It may be?
 22 A I don't know.
 23 Q I think you testified earlier that you did not
 24 know whether groundwater was contributing to the
 25 PCE vapors detected under the homes adjacent to

1 the Madison-Kipp facility, is that right?
 2 A Yes.
 3 Q Do you know whether soil contamination is
 4 contributing to the vapors underneath the homes?
 5 A Based on the off-site soil data?
 6 Q Based on everything you know about the site. Do
 7 you know whether PCE soil contamination is
 8 contributing to the PCE vapors detected under the
 9 homes in the area?
 10 A Based on the off-site soil data we have, I don't
 11 think so.
 12 Q You don't think soil has contributed to it?
 13 A No.
 14 Q Okay. So do you know whether sewers, facilitated
 15 flow through sewers or utility trenches are
 16 contributing to the vapors detected under the
 17 homes in the area?
 18 A To my knowledge, no.
 19 Q Okay. So if it's not the soils and it's not the
 20 sewers and utility trenches, what do you think is
 21 contributing to the presence of PCE vapors
 22 underneath the homes?
 23 A There may be a part of it from the groundwater,
 24 but we don't have that identified.
 25 Q So other than the possibility that it's coming

1 from groundwater, you have no idea how PCE vapors
 2 are getting under the homes in the residences
 3 adjacent to the site?
 4 MR. SEESE: Object to the form of that.
 5 You can answer.
 6 THE WITNESS: Based on the soil data we
 7 have, it would indicate groundwater.
 8 BY MR. BERGER:
 9 Q Okay. So your belief is that groundwater
 10 contamination is what's contributing -- or strike
 11 that -- is what's creating the soil gas -- excuse
 12 me -- the sub-slab vapor problem in the area?
 13 A I believe that that is an option, that is a
 14 possibility.
 15 Q Okay. And you don't believe any PCE in soil is
 16 creating that problem?
 17 A Not based off of the off-site soil work that was
 18 done.
 19 Q No, I want to know soil on site. Do you believe
 20 that on-site soil contamination is contributing
 21 at all to the sub-slab vapor contamination in the
 22 residences?
 23 A I would have to review the data again with the
 24 geology.
 25 Q So you are just not sure?

1 A Yes.
 2 Q Just so we are clear, as we sit here now, you
 3 don't know with certainty what the source is for
 4 the transport mechanisms for the PCE vapors under
 5 the homes in the area of the Madison-Kipp
 6 facility. Is that fair?
 7 MR. SEESE: Object to form.
 8 THE WITNESS: We have not confirmed the
 9 source.
 10 BY MR. BERGER:
 11 Q Or sources?
 12 A Yes.
 13 MR. BERGER: Okay. Why don't we break
 14 here and we will reconvene at a later date once
 15 we have an opportunity to review the rest of the
 16 documents.
 17 MR. COLLINS: This doesn't need to be on
 18 the record.
 19 (A discussion was had off the record.)
 20 MR. BERGER: I would ask you to attach
 21 the original exhibits.
 22 COURT REPORTER: Will you all be placing
 23 the same transcript orders as before?
 24 MR. BERGER: Yes.
 25 MR. SEESE: Yes.

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1 MR. WHITE: Yes.
 2 MR. COHEN: Please, yes.
 3 (At 4:05 p.m. the deposition was
 4 adjourned.)
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1 STATE OF WISCONSIN)
 2 MILWAUKEE COUNTY)
 3 I, KATHY A. HALMA, Registered
 4 Professional Reporter and Notary Public in and for the
 5 State of Wisconsin, do hereby certify that the
 6 deposition of JENNINE TRASK, was taken before me at the
 7 Offices of ARCADIS, 126 North Jefferson Street,
 8 Milwaukee, Wisconsin, on the 30th day of October, 2012,
 9 commencing at 9:51 in the forenoon.
 10 That it was taken at the instance of the
 11 Plaintiffs upon verbal interrogatories.
 12 That said statement was taken to be used
 13 in an action now pending in the UNITED STATES DISTRICT
 14 COURT FOR THE WESTERN DISTRICT OF WISCONSIN, in which
 15 KATHLEEN MC HUGH, et al., are the Plaintiffs and
 16 MADISON-KIPP, et al., are the Defendants and
 17 MADISON-KIPP CORPORATION is the Cross-Claimant and
 18 CONTINENTAL CASUALTY COMPANY, et al., are the
 19 Cross-Complainants and LUMBERMENS MUTUAL CASUALTY
 20 COMPANY are the Third-Party Defendants.
 21 A P P E A R A N C E S
 22 THE COLLINS LAW FIRM, P.C, 1770 North
 23 Park Street, Suite 200, Naperville, Illinois, 60563, by
 24 MR. SHAWN M. COLLINS, appeared on behalf of the
 25 Plaintiffs.
 VARGA, BERGER, LEDSKY, HAYES & CASEY,
 125 South Wacker Drive, Suite 1250, Chicago, Illinois,

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1 60606-4473, by MR. NORMAN B. BERGER, appeared on behalf
 2 of the Plaintiffs.
 3 MICHAEL, BEST & FRIEDRICH, LLP, Two
 4 Riverwood Place, Suite 200, N19 W24133 Riverwood Drive,
 5 Waukesha, Wisconsin, 53188-1174, by MR. LEE M. SEESE,
 6 appeared on behalf of Madison-Kipp Corporation.
 7 MICHAEL, BEST & FRIEDRICH, LLP, One
 8 South Pinckney Street, Suite 700, P.O. Box 1806,
 9 Madison, Wisconsin, 53701-1806, by MS. LEAH H. ZIEMBA,
 10 appeared on behalf of Madison-Kipp Corporation.
 11 TROUTMAN SANDERS, LLP, 55 West Monroe
 12 Street, Suite 3000, Chicago, Illinois, 60603-5758, by
 13 MR. CHRISTOPHER H. WHITE, appeared on behalf of
 14 Continental Casualty Company.
 15 MEISSNER, TIERNEY, FISHER & NICHOLS,
 16 S.C., 111 East Kilbourn Avenue, 19th Floor, Milwaukee,
 17 Wisconsin, 53202-6622, by MR. MICHAEL J. COHEN,
 18 appeared on behalf of United States Fire Insurance
 19 Company.
 20 That said deponent, before examination,
 21 was sworn to testify the truth, the whole truth, and
 22 nothing but the truth relative to said cause.
 23 That the foregoing is a full, true and
 24 correct record of all the proceedings had in the matter
 25 of the taking of said deposition, as reflected by my
 original machine shorthand notes taken at said time and
 place.

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 4 _____
 5 Notary Public in and
 6 for the State of Wisconsin
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 9 Dated this 6th day of November, 2012,
 10 Milwaukee, Wisconsin.
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Table with multiple columns of text containing various words and numbers, likely a list of terms or a transcript. Includes words like 'ABC', 'ability', 'able', 'absolutely', 'accommodate', etc.

Table with multiple columns of text containing various words and numbers, likely a list of terms or a transcript. Includes words like 'assumed', 'assuming', 'atmospheric', 'attach', etc.

Table with multiple columns of text containing various words and numbers, likely a list of terms or a transcript. Includes words like '56:13,18,21', 'chance', 'change', 'called', etc.

Table with multiple columns of text containing various words and numbers, likely a list of terms or a transcript. Includes words like '26:4', 'Connor's', 'consider', 'context', etc.

Table with 4 columns of text containing various words and numbers, such as 'deponent 57:3', 'determines 87:3', 'distance 171:24', 'effective 104:15', 'entire 111:15', 'examined 4:5', 'fairly 73:11', '136:12 138:15'.

Table with 4 columns of text containing various words and numbers, such as 'enters 22:4', 'entire 111:15', 'entitled 16:20', 'examined 4:5', 'example 89:2.3', 'expert 19:22.23', 'fairly 73:11', '136:12 138:15'.

Table with 4 columns of text containing various words and numbers, such as '142:2.5 143:15', 'gas 118:1', '87:22 91:9', '120:10,13,14', '63:13 107:2.3', 'idea 24:23 31:24'.

Table with 4 columns of text containing various words and numbers, such as 'human 76:9', 'HVAC 165:14', 'hydraulic 101:18', 'hydraulics 130:17', 'hydrocarbon 19:1 85:23', 'hydrogeologist 135:10', 'hypothetical 142:15 164:5'.

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