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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DANNY AGUAYO, an individual,)
et al.,)
)
Plaintiffs,)
)
vs.)
)
BETZ LABORATORIES, INC., a)
California corporation, et al.,)
)
Defendants.)
_____)
AND RELATED CASES.)
_____)

No. BC 123749
BC 158588
BC 161669

DEPOSITION OF TONY YE
San Francisco, California
Thursday, December 12, 2002
Volume 1

LAURIE HELD-BIEHL
CSR NO. 6781
JOB NO. 202924

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AND RELATED CASES.)
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Deposition of TONY YE, Volume 1,
taken on behalf of the Plaintiffs, at
505 Montgomery Street, San Francisco,
California, commencing at 9:06 a.m.
and ending at 5:27 p.m. on Thursday,
December 12, 2002, before LAURIE
HELD-BIEHL, Certified Shorthand
Reporter No. 6781.

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PLAINTIFFS'

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1 San Francisco, California, Thursday, December 12, 2002

2 9:06 a.m. - 5:27 p.m.

3

4 THE VIDEOGRAPHER: Good morning. Here begins
5 videotape number one of Volume 1 in the deposition of
6 Tony Ye in the matter of Aguayo versus Betz
7 Laboratories, et al., in the Superior Court of the
8 State of California, County of Los Angeles, the lead
9 case number of which is BC 123749.

10 Today's date is December 12, 2002. The time on
11 the video monitor is 9:06.

12 This deposition is being taken at
13 505 Montgomery Street, San Francisco, California, and
14 was at the request of Gary Praglin, attorney at law, of
15 Engstrom, Lipscomb & Lack.

16 The videographer is Bob Behmke, a CLVS, and
17 notary public, subcontracted by Biehl & Bell, et al., of
18 Orange County, California.

19 Would counsel please identify yourselves and
20 state whom you represent.

21 MR. PRAGLIN: Gary Praglin of Engstrom, Lipscomb &
22 Lack on behalf of the plaintiffs.

23 MR. WILKINSON: Kirk Wilkinson on behalf of
24 Defendant PG&E.

25 MR. CASAS: Dan Casas on behalf of the witness

1 Tony Ye.

2

3

TONY YE,

4

having been first duly sworn,

5

was examined and testified as follows:

6

7

EXAMINATION

8

BY MR. PRAGLIN:

9

Q Good morning, Mr. Ye.

10

A Good morning.

11

Q My name is Gary Praglin, and I'm here to take

12

your deposition here today.

13

A Yes.

14

Q I'll go through a few of the ground rules that

15

will apply to the deposition so that you understand the

16

proceeding today.

17

A Certainly.

18

Q First of all, it's important for you to

19

remember that you are under oath, which means that even

20

though the surroundings here are informal, the testimony

21

that you're about to give has the same force and effect

22

as if you were sitting in court today testifying before

23

a judge and a jury.

24

Do you understand?

25

A Yeah, I do.

1 Q Do you understand that the penalty of perjury
2 applies here today?

3 A I don't know the -- I don't know the rule of
4 the penalty of --

5 Q Okay. The penalty of perjury means that it is
6 a crime in the State of California to lie under oath.
7 That's what I mean.

8 A Okay. I understand.

9 Q You understand that you have to tell the truth
10 today?

11 A Yes, I do.

12 Q And it's a crime not to, you understand that?

13 A I understand.

14 Q If at any time today you don't hear me or if
15 you don't understand me, just tell me and I'll repeat my
16 question for you. But if you answer my question, I will
17 assume that you heard me and that you understood me. Is
18 that fair?

19 A Fair.

20 Q You speak and understand English?

21 A I do.

22 Q Okay. You seem to.

23 A Okay.

24 Q And you also speak and understand Chinese; is
25 that right?

1 A I do.

2 Q After today's deposition, the court reporter
3 will prepare a transcript of your testimony.

4 A Uh-huh.

5 Q The transcript will be sent to you and you'll
6 be asked to read it and to review it and to sign it.

7 A Okay.

8 Q You'll also have a chance to make changes in
9 your testimony when you receive the transcript.

10 A Okay.

11 Q But I want to warn you now that if you do make
12 changes, either myself or any other attorney can comment
13 on the fact that you made changes.

14 A Okay.

15 Q That comment could prove to be embarrassing to
16 you or harmful to the position of PG&E in this case.

17 A Okay.

18 Q Do you understand?

19 A I do.

20 Q Do you have any questions before we begin?

21 A I don't think so. I do not.

22 Q We're here because we are investigating an
23 issue about a scientific article authored by a
24 Dr. Zhang. Do you know which article I am talking
25 about?

1 A I assume you are talking about 1997 article
2 published --

3 Q Yes.

4 A -- in Journal of Environmental Medicine.

5 Q Yes. Journal of Occupational and Environmental
6 Medicine, JOEM.

7 A Okay. Yes.

8 Q You know which article I'm talking about,
9 right?

10 A Yes.

11 Q And so if I refer to the "Zhang article"
12 throughout this deposition, I'll be talking about the
13 '97 Zhang article. Is that fair?

14 A Fair enough.

15 Q There was an '87 article, correct?

16 A Yes.

17 Q Okay.

18 A To my knowledge.

19 Q If I have questions about the '87 article, I
20 will specify.

21 A Okay.

22 Q Fair enough?

23 A Fair enough.

24 (Attorney/client conference.)

25 (Discussion off the record.)

1 BY MR. PRAGLIN:

2 Q Mr. Ye, we sent a deposition notice and a
3 subpoena with a request for documents.

4 A Yes.

5 Q And in response we received a very large stack
6 of documents which I'm holding here.

7 A Yes.

8 Q Somebody was kind enough to put Bates stamp
9 numbers on them, numbering 1 through 925 --

10 A Yes.

11 Q -- and they have a prefix on them of "TY,"
12 which I assume stands for "Tony Ye"; is that right?

13 A Yes.

14 Q So you produced for us 925 pages in response to
15 our subpoena; is that right?

16 A Yes.

17 Q Let's attach as Exhibit 1 the 925 pages that
18 you produced.

19 I'll ask the court reporter to mark it, and
20 I'll give you this copy to refer to throughout the
21 deposition if you need to.

22 A Okay.

23 (Plaintiffs' Exhibit 1 was
24 marked for identification, a copy of
25 which is attached hereto.)

1 THE WITNESS: Okay.

2 BY MR. PRAGLIN:

3 Q Let me ask you, we seem to be missing a clean
4 copy of the '97 Zhang article. Do you happen to have
5 one that's unmarked?

6 A Other than the material in here, I do not.

7 Q Okay. I don't see a clean copy in that
8 material --

9 A When you say "clean," I --

10 Q -- although there are drafts of it.

11 A -- I don't know what you mean by "clean," but I
12 believe that there is a copy from the published journal
13 that I sent to Dr. Zhang in 1997, per his request; so if
14 you refer to that copy as a clean copy, then it should
15 be in this pile of 926 pages.

16 Q What I saw was the face page of the '97 article
17 but not the complete article in your production. Now I
18 could have missed it.

19 Let me just ask. Kirk, do you happen to have a
20 clean copy or should we have one faxed up?

21 MR. WILKINSON: I don't.

22 MR. PRAGLIN: We'll fax one up. I have one back at
23 the office. Somehow or other another, I only have my
24 marked-up copy.

25 MR. CASAS: Wasn't one attached to the deposition

1 notice?

2 MR. PRAGLIN: Oh, very smart, your lawyer. I knew I
3 did that for a reason.

4 Let's attach the deposition notice as
5 Exhibit 2.

6 (Plaintiffs' Exhibit 2 was
7 marked for identification, a copy of
8 which is attached hereto.)

9 BY MR. PRAGLIN:

10 Q Do you have Exhibit 2 in front of you, Mr. Ye?

11 A Yes, I do.

12 Q Would you look at the article that we attached
13 and confirm for me that it's a complete copy of the '97
14 Zhang article? I think it numbers five pages.

15 A It seems like it.

16 Q Okay. So we'll refer to that as the "Zhang
17 article."

18 A Okay.

19 Q And your lawyer brought with him today a copy
20 of your CV. Let's mark that as Exhibit 3.

21 (Plaintiffs' Exhibit 3 was
22 marked for identification, a copy of
23 which is attached hereto.)

24 BY MR. PRAGLIN:

25 Q Is Exhibit 3 a true and correct copy of your

1 CV?

2 A Yes.

3 Q It indicates on the first page that in 1995 you
4 worked for ChemRisk Division of McLaren/Hart
5 Environmental Engineering in Alameda, California as an
6 assistant health scientist; is that true?

7 A That's true.

8 Q What month in '95 did you start working for
9 them?

10 A I think it's May of '95.

11 Q Who hired you?

12 A A -- the person in charge of hiring me is
13 Bill Butler. Last name is B-u-t-l-e-r.

14 Q Were you fresh out of college?

15 A Yes.

16 Q Were you hired specifically to work on this
17 Zhang issue?

18 A To my knowledge, no.

19 Q So it was just a coincidence that you spoke
20 Chinese?

21 A To my knowledge, yes.

22 Q Would it be fair to say that the Zhang article
23 was the major project that you worked on in 1995 at
24 ChemRisk?

25 A No.

1 Q You worked on other matters?

2 A Yes.

3 Q Did you keep track of your time at ChemRisk?

4 A At -- when I was at ChemRisk, I was required to
5 keep a measure of reporting my time. But after I left
6 ChemRisk, I do not keep what I had at ChemRisk.

7 Q And so on your time sheets that you filled out
8 for ChemRisk, were you truthful?

9 A Yes, I believe so.

10 Q And so the hours that you spent on the Zhang
11 project that you recorded on your ChemRisk time sheets
12 would be accurate?

13 A Accurate in the sense of there could be
14 unintentional misrecording for, for example, in perhaps
15 one day may be misrecording for 15 minutes or half an
16 hour, more or less; but other than that, it's accurate.

17 Q You understood that ChemRisk was working as a
18 paid expert for PG&E in the Anderson versus PG&E
19 litigation, didn't you?

20 A I -- I was not very sensitive to -- I know
21 ChemRisk is a paid consultant for PG&E. The case name
22 "Anderson" was not a -- is not what I recall in my
23 memory.

24 Q Did you know in 1995 that ChemRisk was working
25 as a paid expert for PG&E in chromium litigation?

1 A I do not because I -- my understanding is
2 ChemRisk is a paid consultant, if that's different from
3 a paid expert.

4 Q So did you understand that in 1995 ChemRisk was
5 working as a paid consultant for PG&E in chromium
6 litigation?

7 A Yes.

8 Q How did you learn that?

9 A I was told when I was in ChemRisk, when I
10 participated in this project.

11 Q By whom?

12 A By, I believe -- I believe it was Bill Butler,
13 who was my supervisor.

14 Q He was your boss?

15 A You can phrase that way.

16 Q What did he tell you about PG&E and ChemRisk?

17 A Wow. That's seven years ago. I don't recall
18 exact wording he used, but my impression were I remember
19 is PG&E is a paid consultant for --

20 No. Sorry. ChemRisk is a paid consultant for
21 PG&E. That's what I remember.

22 Q And somehow he informed you that it involved
23 chromium litigation?

24 A Correct.

25 Q Did he tell you who at ChemRisk were the expert

1 witnesses for PG&E?

2 A No.

3 Q Did the name Dennis Paustenbach ever come up
4 with Mr. Butler?

5 A Not in the -- I -- I don't recall.

6 Q So you didn't know that Dennis Paustenbach was
7 PG&E's paid expert witness in the Anderson chromium
8 litigation?

9 A I do not.

10 Q Did you ever meet Dr. Paustenbach?

11 A Yes, I did.

12 Q Did you ever speak to him?

13 A Briefly, yes.

14 Q Did you ever speak to him about the Zhang
15 article or the research that you were doing in
16 connection with the Zhang article?

17 A Not that I can recall, no.

18 Q Not even once?

19 A Not even once.

20 He was the president of ChemRisk. He's -- I
21 believe he has a -- he has a office in ChemRisk Alameda
22 office; so I -- I was an assistant scientist because I
23 do not speak directly or report directly to him. But I
24 may have met him a couple of times in the office.
25 That's what I did.

1 Q Did you know that PG&E was taking the position
2 in the chromium litigation that chromium (VI) did not
3 cause cancer by ingestion?

4 A No.

5 Q That never came up in your discussions with
6 anyone?

7 A Not that I can recall.

8 Q The 925 pages that you produced for us, where
9 did you get them?

10 A That's in my current holding, either on my
11 bookshelf or in my file cabinet.

12 Q So you took them with you when you left
13 ChemRisk?

14 A Yes, I did.

15 Q Why?

16 A The -- it's a project I involved or
17 participated. And from a professional development
18 standard, I keep -- or I like to keep material or -- or
19 work products that I at least participated in so that I
20 can -- so that I have the knowledge of that project,
21 then after a few years I can try to remember what I did.

22 Q Did you ever throw away or destroy any
23 documents that you had in connection with the Zhang
24 article?

25 MR. WILKINSON: Objection. Vague and compound.

1 THE WITNESS: Not during the -- not intentionally,
2 but I must have over the seven-year period of time. I
3 must have lost some of the pages and some of the
4 materials related to this product.

5 BY MR. PRAGLIN:

6 Q Why do you say that?

7 A The reason is -- well, I -- when I tried to
8 accumulate this material to response to the subpoena, I
9 noticed that the translation I made in doing that work
10 for Dr. Zhang's manuscripts in Chinese, I only have two
11 or three revisions or -- or you can say versions.

12 As I can recall, during my time at ChemRisk
13 when I translate each of Dr. Zhang's manuscript, I --
14 it's more than three revisions. It's -- it's normally
15 more than five revisions because the first time, the
16 second time I normally do not get it correct; so it's
17 take several times to revise my translation.

18 The very fact that the current document that I
19 found in here of this 900 or so pages only have two or
20 three tells me that there are materials I did not keep.

21 Q Did you leave some of your work, some of your
22 documents in connection with your work on the Zhang
23 article with ChemRisk?

24 A Not that I recall, no.

25 Q In responding to my subpoena, when you produced

1 925 pages, did you set aside any pages in addition to
2 those 925 pages that were not produced to me?

3 MR. CASAS: It's not really an objection but just
4 for the record, as we stated in the response to the
5 document request, the documents that were produced were
6 responsive to the requests as stated in the response.
7 There are documents that, at PG&E's request, and as I
8 understand it, are outside of the scope of this
9 discovery that were withheld.

10 MR. PRAGLIN: Well, Mr. Casas, you may not have been
11 a party to this, but I had a conversation with PG&E's
12 lawyer Drew Page last week and we signed a stipulation
13 that in producing these documents, none would be
14 redacted or withheld by PG&E. And we have it in
15 writing, I can get it faxed up, Mr. Wilkinson knows
16 about it.

17 And I'd asked for all of those documents,
18 because that was an express representation by PG&E's
19 counsel, as a condition for us signing the stipulation,
20 that nothing would be withheld, and what you're telling
21 me is contrary to Mr. Page's promise.

22 MR. CASAS: Okay. I'm not aware of Mr. Page's
23 promise but I'm happy to take a look at whatever
24 stipulation was signed and talk with Mr. Wilkinson about
25 it.

1 MR. PRAGLIN: Mr. Wilkinson, can you give Mr. Casas
2 a copy of the stip?

3 MR. WILKINSON: I don't have a copy of the stip.

4 MR. PRAGLIN: Will you go get it?

5 MR. WILKINSON: And I think you're overstating it.

6 As I understand it, there are no documents that
7 have been redacted. As I understand it, and I'm not
8 even sure if it applies to this witness or Mr. Butler or
9 both, there were certain documents that had nothing to
10 do with communications with third-party authors;
11 therefore, were outside the scope of the discovery
12 approved by Judge Kuhl.

13 And my understanding is that those are the only
14 documents that were not produced; that what has been
15 produced, as stated in the response that you have on the
16 record here, is everything concerning the Zhang and Li
17 work and everything concerning communications with any
18 other authors of chromium studies.

19 MR. PRAGLIN: Yes. But that's not the sole limit of
20 the subpoena, and I specifically had this agreement with
21 PG&E last week and it sounds like I got crossed up.

22 Q Mr. Ye, let me ask you this: Where are the
23 documents that were withheld from production that you
24 had? Do you have them? Does your lawyer have them?
25 Where are they?

1 A Originally, in my office, I had them. And I
2 gave them to my -- I provided them to my attorney.

3 MR. PRAGLIN: Mr. Casas, where are they now? Can I
4 get them today?

5 MR. CASAS: Assuming you have a right to get them
6 today, I believe we have them in our office. But as far
7 as I know right now, you've represented to me that you
8 have a right to them, I don't know that as a fact, and
9 I'm going to have to consider that before we --

10 MR. PRAGLIN: Sure.

11 MR. CASAS: -- agree to turn them over.

12 MR. PRAGLIN: How many pages are there?

13 MR. CASAS: I don't know.

14 MR. PRAGLIN: 100, 900?

15 MR. CASAS: Less than 100.

16 BY MR. PRAGLIN:

17 Q Mr. Ye, what is the subject matter of the
18 documents, the 100 or so pages, that were withheld?

19 MR. WILKINSON: Object. It's outside the scope of
20 the discovery permitted by the Court.

21 THE WITNESS: I'll -- I'll defer that to my attorney
22 to further follow up on that 100 pages or less than 100
23 pages with you because I -- this is material my attorney
24 instruct me to produce and you have what you have.

25 BY MR. PRAGLIN:

1 Q I'm asking for a general description of what
2 they are. Are they translations, are they things that
3 you authored, are they reference materials?

4 MR. CASAS: Same objection.

5 And I think it's unfair for Mr. Ye to answer
6 that question without having the documents in front of
7 him.

8 So only if you know should you answer that
9 question.

10 THE WITNESS: I don't recall.

11 MR. PRAGLIN: Okay. We'll take this up at a break,
12 but I'm going to reserve my right to question Mr. Ye
13 about those documents.

14 I would never have signed that stipulation last
15 week, and, in fact, I had refused to sign it until
16 Mr. Page interlineated the language that I told you
17 about about no redactions and no documents being
18 withheld. And so we would have handled this by way of
19 motion had he not represented that everything would be
20 produced.

21 MR. CASAS: Well, again, from our perspective, just
22 so you know, I was not privy to any stipulation, number
23 one.

24 Number two, the response that we served clearly
25 states that there are documents that are not being

1 produced under item number 1; so we certainly could have
2 taken it up before, there was not reason not to, before
3 this deposition.

4 MR. PRAGLIN: But you understood that last week I
5 was calling your partner Jerome Galli and, in fact, we
6 wrote a couple of letters to him asking for the
7 documents and they were delayed in production because of
8 this very issue, right?

9 MR. CASAS: I don't know that.

10 MR. WILKINSON: No.

11 MR. PRAGLIN: You don't know that?

12 MR. CASAS: I don't know that they were delayed in
13 production.

14 MR. PRAGLIN: Yes. They were a day late. We were
15 supposed to get them last Friday, we got them this
16 Monday while we worked out the stipulation.

17 MR. CASAS: Well, the stipulation, we weren't privy
18 to the stip stipulation; so --

19 MR. PRAGLIN: Okay. Mr. Page was supposed to send
20 it to you; so I guess, you know, I should have taken
21 care of that.

22 MR. CASAS: I understand.

23 MR. WILKINSON: The record is what it is. The
24 document responses state the basis for the objection,
25 and I don't think the stipulation is intended to

1 override the scope of discovery permitted by
2 Judge Kuhl. You served requests that are broader than
3 the scope of discovery you obtained permission to serve
4 in the past.

5 BY MR. PRAGLIN:

6 Q Did you ever have any electronic material in
7 connection with your work on the Zhang article?

8 A Yes, I did --

9 Q What did you have?

10 A -- I believe.

11 Since I don't have them anymore, I don't
12 recall.

13 Q When you left ChemRisk, did you take some
14 floppies or CDs of information?

15 A I may have.

16 Q Did some of it relate to the Zhang article?

17 A It may.

18 Q What happened to those electronic materials?

19 A After seven years, I do not have those
20 materials on my computer anymore.

21 Q What was it that you took that was electronic?

22 A I don't recall seven years ago. I don't
23 believe there is anything much more than what's been
24 produced in paper.

25 Q You said "anything much more." Is there

1 anything more than what was produced --

2 A No.

3 Q -- other than the approximately 100 pages that
4 we're talking about?

5 A No.

6 MR. CASAS: Object to form.

7 He told you what he remembered; so he can't
8 make that comparison.

9 THE WITNESS: I --

10 MR. CASAS: Only if you know.

11 THE WITNESS: I don't recall, but I don't have the
12 electronic files now so I -- I cannot compare to what I
13 had in the computer.

14 BY MR. PRAGLIN:

15 Q Mr. Ye, you were kind enough to bring some
16 photographs today that you got from Dr. Zhang and it
17 appears that there are 10 slides and 20 printed
18 photographs. Are these from your personal files as
19 well?

20 A Yes, they are.

21 Q Did you get them from Dr. Zhang?

22 A No.

23 Q Who did you get them from?

24 A A person named Gwen Corbett send it to me from
25 McLaren/Hart Irvine office.

1 Q Irvine?

2 A Irvine.

3 Q Did you understand Gwen Corbett to be one of
4 the scientists who was working at McLaren/Hart-ChemRisk?

5 A Yes, I do.

6 Q Can I just call it ChemRisk?

7 A Yes, you can.

8 Q And these are photographs of some of the areas
9 in China that Dr. Zhang studied; is that right?

10 A That's what I was told.

11 Q How is it that you took these photographs with
12 you when you left ChemRisk?

13 A It's a -- it's a -- well, I don't recall the
14 decision why I took them but I think those are
15 properties that belong to -- originally belong to
16 Dr. Zhang. And so I -- I consider myself to be the
17 right person to keep them.

18 Q Why is that?

19 A The -- since the project of chromium research
20 with Dr. Zhang, I remember the project was ending by the
21 time of December or late November of 1995, which is
22 around the time I was leaving. I was assigned the
23 responsibility to be the contact person for Dr. Zhang,
24 and that's naturally because I speak Mandarin, which is
25 a sort of -- type of Chinese dialects; so I, at that

1 time, considered myself the direct contact person for
2 Dr. Zhang.

3 So in any case, if Dr. Zhang ask for any
4 material to be faxed to him, to be Fed-Ex'd to him, to
5 be mailed to him, I would be the one that respond to
6 such requests from Dr. Zhang; so in case that, I don't
7 know whether Dr. Zhang -- Dr. Zhang will want -- will
8 need these photos or slides back to him. But if he ever
9 ask, I will send -- I would have sent to him. But if
10 this material not been with me but with ChemRisk, I
11 didn't know after I left ChemRisk how would I fulfill
12 his request.

13 Q Were there ever more than these 10 slides and
14 20 prints?

15 A Not -- no, I don't remember there were any
16 more.

17 Q Other than the photos, the 925 pages, the
18 electronic materials that have been destroyed and the
19 approximate 100 pages that you have, is there anything
20 else that you assembled over the years with regard to
21 Dr. Zhang?

22 MR. WILKINSON: Objection. Misstates his testimony
23 in terms of "destroyed."

24 THE WITNESS: No.

25 BY MR. PRAGLIN:

1 Q The photos, we had a discussion before about
2 how I would get prints and I'll work that out with your
3 lawyer, but why don't we mark the photos, maybe we can
4 mark them collectively as Exhibit 4, and then when we
5 get them we'll attach color xeroxes. Okay with
6 everyone?

7 We'll attach color xeroxes to the deposition,
8 and then we'll all retain reprints.

9 Is that fair, Mr. Ye?

10 A Sure.

11 Q Okay. So Exhibit 4 will be the photos, all
12 30 of them.

13 (Plaintiffs' Exhibit 4 was
14 marked for identification, a copy of
15 which is attached hereto.)

16 BY MR. PRAGLIN:

17 Q Do you know what area of China these are photos
18 of?

19 A I believe they are in an area named JinZhou,
20 which is J-i-n-Z-h-o-u. It is a city in the northern
21 part of China.

22 Q Is that the city where the chromium smelting
23 plant was located?

24 A The -- a alloy plant located in the suburb of
25 this city, it's not in the city.

1 Q Is the alloy plant the chromium alloy plant?

2 A The -- among their productions, I believe
3 chromium is one of their productions.

4 Q So the plant that's shown in the photographs is
5 the chromium plant in JinZhou City or suburb of JinZhou
6 City?

7 MR. CASAS: If you know.

8 MR. WILKINSON: I'm going to object. It's just
9 speculation.

10 If you want to show him the photo. I just want
11 to make sure it's not some strange building.

12 Calls for speculation when the photo is not in
13 front of him.

14 BY MR. PRAGLIN:

15 Q Do you need to see the photo to know?

16 A Either see the photo or not, I -- I am not sure
17 this is a photo for the -- for the -- for the alloy
18 plant.

19 Q So you never gained an understanding as to what
20 building it is that's shown in these photographs?

21 A I don't recall. I may at one point when I was
22 in ChemRisk knew what these photos is about, but since
23 it's not a -- since it's not a significant fact that
24 related to my research, I did not remember what these
25 photos were about anymore.

1 Q If the photos weren't significant to your
2 research, why did you get them?

3 A It was sent to me.

4 Q I'm going to put one of the photographs in
5 front of you from Exhibit 4. It shows some running
6 water in a channel. Do you see that?

7 A Yes, I do.

8 Q Where is that?

9 A I don't know.

10 Q Do you know what's in the water?

11 A No, I do not.

12 Q Is there chromium in the water?

13 A No, I do not know.

14 Q Nobody ever told you that?

15 A If they told me, I forgot. It's seven years
16 ago.

17 Q There's a plant shown in the background of this
18 photograph with the gentleman with the bicycles. Do you
19 see that?

20 A Yes, I do.

21 Q Is that the alloy plant from the suburb of
22 JinZhou City?

23 A I do not know. I don't know.

24 Q There's a plant shown in this photograph from
25 Exhibit 4 with a large pile of dark material. Do you

1 see that?

2 A Yes, I do.

3 Q Do you know what's shown in that photograph?

4 A I do not.

5 Q You don't know if that's chromium residue?

6 A I do not.

7 Q Did you see references in Dr. Zhang's work to a
8 pile of 300,000 tons of chromium waste?

9 A Yes, I remember I saw that.

10 Q You don't know if that's shown in that
11 photograph?

12 A I do not.

13 Q During the time that you worked for ChemRisk,
14 who else besides Bill Butler and Gwen Corbett did you
15 work with on the Zhang project?

16 A A -- a gentleman name Tom Flahive,
17 F-l-a-h-i-v-e, I remember that's his name. He work in
18 ChemRisk Irvine. And other than him, Brent Kerger,
19 sir, Dr. Brent Kerger was working on this project.

20 And in addition to the two person that I just
21 mentioned and Bill Butler and Gwen Corbett, there are
22 supporting staffs, graphics, secretary, that from time
23 to time participated in producing materials related to
24 this project.

25 Q Did you work with Deborah Proctor on the Zhang

1 project?

2 A I remember this name. Yes. Yes.

3 Q What did you do with her on the Zhang project?

4 A I may -- I -- I -- I -- I don't recall. I
5 can -- I can estimate or try to speculate, but I don't
6 recall the scenario I worked with her.

7 Q One of the things I may have forgotten to tell
8 you at the beginning of the deposition is that if you
9 don't know the answer to a question, you can tell us
10 that you don't know, as you've been doing.

11 A Okay.

12 Q We don't want you to speculate.

13 A Thank you.

14 Q But if you have some basis to answer my
15 questions, we're entitled to your best recollection or
16 estimate.

17 A Certainly.

18 Q Fair enough?

19 A Fair enough.

20 Q After you first heard this year that I was
21 interested in taking your deposition, who did you call?

22 A Who did I call?

23 MR. WILKINSON: Objection. Assumes facts not in
24 evidence.

25 THE WITNESS: I talked with my attorney.

1 BY MR. PRAGLIN:

2 Q Did you talk with anyone from ChemRisk?

3 A No, I did not.

4 Q So you didn't talk to Brent Kerger?

5 A I did not.

6 Q You didn't talk to any of the support staff?

7 A No, I did not.

8 Q You didn't talk to Tom Flahive?

9 A No, I did not.

10 Q Did you talk to Bill Butler?

11 A I did.

12 Q You still work with Bill Butler?

13 A I do.

14 Q Is he still your boss?

15 A He is.

16 Q Did you go to ERA with him when you guys left
17 in '95?

18 A Yes.

19 Q And you've been working for him ever since; is
20 that right?

21 A That's right.

22 Q What month did you leave ChemRisk?

23 A December 1st, as I recall.

24 Q 1995?

25 A 1995.

1 Q So even though you went to ERA, you continued
2 to work for ChemRisk's project; is that right?

3 MR. CASAS: Object to form.

4 THE WITNESS: I -- I would not phrase that way, no.
5 I did not work for ChemRisk project after I left.

6 BY MR. PRAGLIN:

7 Q Didn't you continue to bill ChemRisk for your
8 time on the Zhang project after you went to ERA?

9 A I do not know whether ERA's bill sent to
10 ChemRisk. I was never in charge of billing at ERA. I
11 recorded my time if I have or receive phone calls from
12 ChemRisk for answering some stream of questions to them,
13 because in ERA, it is ERA's policy, I have to document
14 my daily time spending. But I don't know whether the
15 time I reported to ERA, whether it was billed or
16 recorded or invoiced to ChemRisk.

17 Q Have you ever met with PG&E's lawyers in
18 connection with this deposition or the documents that
19 you've produced?

20 A No, I did not.

21 Q Have you talked with them?

22 A No, I did not.

23 Q Did your work for ChemRisk involve the writing
24 of the Zhang article?

25 MR. CASAS: Object to form.

1 THE WITNESS: I participated in the development of
2 the materials that may help the -- the writing of this
3 article. I will -- I will phrase that way. Because I
4 don't think it is true to state that ChemRisk write this
5 article.

6 BY MR. PRAGLIN:

7 Q Really?

8 A I don't think so.

9 Q Did you know that ChemRisk was billing time to
10 PG&E for writing the article?

11 A I do not. Like what am I --

12 Sorry.

13 Q You've never seen documents to that effect?

14 A No. No, I have not.

15 Q You're not aware that ChemRisk billed thousands
16 of dollars to PG&E to write the Zhang article?

17 MR. CASAS: Objection. Calls for speculation.

18 Only if you know.

19 THE WITNESS: I do not.

20 BY MR. PRAGLIN:

21 Q The name of this project on the Zhang article
22 was PG&E, wasn't it?

23 A I recall it was part of the name, I think.

24 Q Would you look at Exhibit 1 --

25 A Certainly.

1 Q -- page 478, please.

2 A Sure.

3 Q This is a graphics production form, isn't it?

4 A Yes.

5 Q Is that your handwriting?

6 A It looks like it.

7 Q And it says "Client/Project Name," right?

8 A Yes.

9 Q What did you write?

10 A "PG&E."

11 Q And isn't it true that PG&E paid ChemRisk to
12 write the Zhang article?

13 A I do not know.

14 MR. WILKINSON: Objection.

15 MR. CASAS: Asked and answered.

16 BY MR. PRAGLIN:

17 Q You never heard that from anyone?

18 MR. WILKINSON: Objection. Argumentative, misstates
19 his prior testimony.

20 THE WITNESS: I don't recall.

21 BY MR. PRAGLIN:

22 Q Were you an assistant health scientist with
23 ChemRisk?

24 A That's my job title, yes.

25 Q Would you look at page 460 of Exhibit 1,

1 please.

2 Counsel, I have an extra copy. Would you like
3 to look on? I don't know if you want to carry this much
4 paper.

5 MR. CASAS: No, that's all right. I'll just share
6 his.

7 MR. PRAGLIN: It's here if you want it.

8 MR. CASAS: Okay. Thanks.

9 THE WITNESS: Yes, I'm looking at it.

10 BY MR. PRAGLIN:

11 Q This is an authorization letter task order,
12 isn't it?

13 A Let me read it.

14 MR. CASAS: I'm going to object. The document
15 speaks for itself.

16 If you know the answer to that question, you
17 can answer it.

18 THE WITNESS: And the question is? Sorry.

19 BY MR. PRAGLIN:

20 Q The question is isn't this document an
21 authorization letter task order?

22 A Other than what was on this page, I -- I do not
23 have anything more to say.

24 Q Do you see the reference to PG&E as the client?

25 A There's a field "Client." Next to that is

1 Pacific Gas & Electronic -- Electric.

2 Q Do you see that the task order says "Mr. Zhang
3 Jian Dong"?

4 A I saw that, yes.

5 Q Did you continue to stay in touch with
6 Dr. Zhang after the article was published?

7 A Yes.

8 Q Did you continue to work on the chromium
9 contamination project that was the subject of the
10 article with Dr. Zhang?

11 A No.

12 Q Did you ever do further work with Dr. Zhang
13 after the publication of the Zhang article?

14 A Nothing more than responding to his requests;
15 for example, he'd request a copy of the journal page, I
16 sent him a copy. Other than that, I did not do anything
17 more.

18 Q So why did you stay in touch with him after the
19 article was published?

20 A I did not. I simply responded to his
21 requests. If you call that a stay in touch, then that's
22 a stay in touch. But I did not initiate any
23 conversations or --

24 Q Is he dead or alive?

25 A Only in -- only few days ago when I prepare for

1 this deposition that I -- I heard someone said he is
2 dead.

3 Q How did you hear that?

4 A A few days ago when I tried to prepare for this
5 deposition, I was reading a material from Brent Kerger.
6 In that material I think that Brent Kerger mentioned
7 that the news is Dr. Zhang is dead.

8 Q Do you know how he died?

9 A No, I do not.

10 Q Do you know where he was when he died?

11 A No, I do not.

12 Q Did you ever meet Dr. Zhang?

13 A No. Never.

14 Q Was there somebody in China who worked for
15 McLaren/Hart or ChemRisk or McLaren/Hart International
16 that was also involved in the project?

17 A Yes, I would say so.

18 Q How many people?

19 A I remember three persons that I ever talked to.

20 Q Who were they?

21 A It's a one person work in the Shanghai office
22 of McLaren/Hart, another person work in Beijing office
23 of McLaren/Hart, and a secretary work in Beijing office
24 of McLaren/Hart.

25 Q So there was one person in Shanghai and two

1 people in Beijing?

2 A Yes.

3 Q Who was the person in the Shanghai office?

4 A I don't recall the name.

5 Q Was this a person who actually met with
6 Dr. Zhang?

7 A I don't know.

8 Q Did you ever have a conversation with Dr. Zhang
9 where he was sitting in a ChemRisk office?

10 A I -- I believe so.

11 Q Who was with him?

12 A I don't know because he was -- I remember
13 that when I talk with him he was the only voice on the
14 phone.

15 Q Did you know that he traveled to the Shanghai
16 office for a conference call with you and Brent Kerger?

17 A No, I do not recall that.

18 Q Did you ever translate for Brent Kerger in
19 conversations with Dr. Zhang?

20 A I may have.

21 Q Would that be the only way that Dr. Kerger
22 would be able to speak and be understood by Dr. Zhang?

23 MR. CASAS: Object. Calls for speculation.

24 THE WITNESS: I -- I will say other than me, I think
25 that Dr. Kerger may have talked to Dr. Zhang through

1 other translator, which I did not participate in; so I
2 do not know whether Dr. Kerger being on the phone with
3 me and with Dr. Zhang is the only way that Dr. Kerger
4 had talked with Dr. Zhang.

5 BY MR. PRAGLIN:

6 Q Did Dr. Zhang ever visit the United States?

7 A To my knowledge, no.

8 Q You never heard that he was working with
9 McLaren/Hart-ChemRisk in the United States?

10 A Repeat your question, please.

11 Q Did you ever hear that Dr. Zhang was working
12 with McLaren/Hart-ChemRisk in the United States?

13 MR. WILKINSON: Objection. Vague.

14 BY MR. PRAGLIN:

15 Q In other words, that he was physically working
16 with them in the United States?

17 A No.

18 Q Did Dr. Zhang have a family?

19 A Yes, I believe so.

20 Q Who was in his family?

21 A I believe at least his wife and one daughter.
22 I don't know whether -- other than the daughter, whether
23 he has other family members in the family.

24 Q Did you ever speak with his wife or daughter?

25 A Only with his wife once.

1 Q Was he married at the time of his death, do you
2 know, or was he separated or divorced?

3 A I do not.

4 Q Who is Jian Yun Ye? J-i-a-n, new word Y-u-n,
5 new word Y-e.

6 A That's me.

7 Q Is that your Chinese name?

8 A That's it.

9 Q Is that the name that you would use with
10 Dr. Zhang?

11 A Yes.

12 Q Did you know that Dr. Zhang wrote letters on
13 McLaren/Hart-ChemRisk stationery?

14 A Yes.

15 Q How did he get it?

16 A He would have got it from McLaren/Hart office
17 in Shanghai or in Beijing.

18 Q Did you know that Dr. Zhang was hired as a paid
19 consultant by McLaren/Hart International?

20 A Yes, I did.

21 Q How did you learn that?

22 A When I talked with Dr. Zhang in 1995, he
23 mentioned the payment to him and I remember I saw
24 agreement between McLaren/Hart and Dr. Zhang of a paid
25 relationship, you can say; so that's how I learned he

1 was paid.

2 Q Who negotiated the terms of his payment?

3 A I don't know. That's before I participated in
4 the project.

5 Q So when you came on board Dr. Zhang was already
6 being paid by McLaren/Hart-ChemRisk?

7 A I believe so.

8 Q Was Dr. Zhang a medical doctor?

9 A To my knowledge, yes.

10 Q Did you ever see any proof of that?

11 A No, I did not.

12 Q So why do you say you thought he was a medical
13 doctor?

14 A That what he told me.

15 Q Was he a practicing medical doctor?

16 A I don't think so.

17 Q Do you know anything about what his background
18 and training was as a doctor?

19 A Nothing I can remember. He may have told me,
20 but I don't remember that.

21 Q Did Dr. Zhang read English?

22 A Little.

23 Q Did he speak English?

24 A Little.

25 Q Did you ever hear him speaking English to

1 anyone regarding the Zhang article?

2 A Nothing I can recall.

3 Q Did you ever see him write English?

4 A Yes.

5 Q Where?

6 A In the material I produced for you, there are
7 pages I remember that he wrote in -- with Chinese and
8 English, and part of the English is, for example,
9 locations, the city where he is at that time.

10 Q Would it be fair to say that he was more
11 comfortable reading and understanding Chinese?

12 A Yes.

13 Q And so you communicated with him in Chinese; is
14 that right?

15 A That's right.

16 Q Not in English?

17 A Not in English.

18 Q What was Dr. Zhang's position with the JinZhou
19 Health and Antiepidemic Station?

20 A I remember he told me he was the person in
21 charge, or manager of that station.

22 Q Did you ever gain an understanding as to what
23 the purpose of that station was?

24 A My understanding is that's a government office
25 that monitoring local epidemic --

1 Q Epidemic?

2 A Epidemic.

3 -- and the general health of population.

4 Q So isn't it true that the purpose of that
5 station was to improve public health?

6 A I think so.

7 Q And wasn't there a problem with public health
8 in the JinZhou area of China?

9 MR. WILKINSON: Objection. Vague, calls for
10 speculation.

11 MR. CASAS: Same objection.

12 THE WITNESS: I -- I don't know.

13 BY MR. PRAGLIN:

14 Q Dr. Zhang never expressed anything to you about
15 his concerns about the cancer rates in the JinZhou area
16 of China?

17 A I -- not -- not -- not the entire area of -- of
18 JinZhou. He may have some scientific research interest
19 in certain areas of JinZhou, including suburb area of
20 JinZhou, to see whether cancer rate was higher or
21 whether it was lower. But he did not state it to me
22 that JinZhou is in particularly -- compared to other
23 part of China, is particularly worse or particularly
24 better. He never expressed that.

25 Q Did he ever express to you anything about a

1 concern for the cancer rates in the JinZhou area of
2 China?

3 MR. WILKINSON: Objection. Asked and answered.

4 THE WITNESS: That's -- nothing I can recall, no.
5 Not in that whole area of JinZhou.

6 BY MR. PRAGLIN:

7 Q I'm not talking about the whole area. Did he
8 ever express that concern about any area of JinZhou?

9 A He had some research interest. I'm not
10 saying -- I don't know whether the word "concern" is a
11 way I will phrase it, because to my knowledge the
12 English word "concern" means you worry about something,
13 but I -- that's not my impression.

14 Q On Exhibit 2 we have attached the Zhang
15 article.

16 A Yes.

17 Q If you look at Table 1 of the article --

18 A Yes.

19 Q -- there are five villages that are mentioned
20 and their distances from the JinZhou alloy plant, the
21 chromium plant, is listed, correct?

22 A That's right.

23 Q Are all five of those villages in the general
24 area of JinZhou?

25 A Yes, they are.

1 Q And so the closest would be the JinChangBao
2 Village; is that right?

3 A That's right.

4 Q Next closest to be the Nuer River Village,
5 right?

6 A That's right.

7 Q Next closest would be the YangXing Village?

8 A Yes, that's right.

9 Q Next closest would be the ShiLiTai Village?

10 A Yes, that's right.

11 Q The next closest would be the WenJiaTun
12 Village; is that right?

13 A That's right.

14 Q Did you ever go to any of those villages?

15 A No, I did not.

16 Q Are you aware of anyone on behalf of
17 McLaren/Hart International or ChemRisk that ever went to
18 those villages?

19 A No.

20 Q And all of those villages make up generally
21 part of the JinZhou area, correct?

22 A Part of, yes.

23 Q Did Dr. Zhang ever express a concern to you
24 about the cancer rates at any area in the JinZhou
25 province?

1 MR. CASAS: Objection.

2 MR. WILKINSON: Objection. Asked and answered.

3 Go ahead.

4 MR. CASAS: Form.

5 MR. WILKINSON: Asked and answered.

6 THE WITNESS: Again, he had a research interest in
7 those particular areas -- some of the particular areas
8 of JinZhou, but I will not phrase it as concern.

9 BY MR. PRAGLIN:

10 Q Before I asked you about your billings, I'd
11 like to attach as exhibit, is it 5, a few documents that
12 are billing records.

13 Now, these are from a production that was made
14 by your boss Bill Butler --

15 A Okay.

16 Q -- and not by you but they reference you.

17 A Okay. That's fine.

18 (Plaintiffs' Exhibit 5 was
19 marked for identification, a copy of
20 which is attached hereto.)

21 THE WITNESS: Thank you.

22 BY MR. PRAGLIN:

23 Q Looking at Exhibit 5, the first page that's
24 Bates stamped WB 1, do you see that this is a bill
25 referencing professional time by you for a total of

1 \$812?

2 A Yes.

3 Q And that's for your work in connection with
4 Dr. Zhang, right?

5 A Hold on. Let me review the document.

6 My answer is this is my first time saw this
7 bills; so based on the face of these bills, it looks
8 like it's a charge of my time. But whether it is the
9 charge, you have to ask the person who are in charge of
10 this billing, which is Bill Butler, not me.

11 Q And this bill was sent to Brent Kerger at
12 ChemRisk in Irvine, right?

13 A That's what said on this paper.

14 Q And who's the project name on this bill?

15 A The project name printed on this paper is
16 "PG&E Hinkley."

17 Q What do you know about Hinkley?

18 A I know it's a site that PG&E has a either
19 production or transportation of PG&E's material. That's
20 all I know of Hinkley.

21 I know Hinkley is -- I know PG&E has a presence
22 in Hinkley.

23 Q How did you learn that?

24 A In my 1995 working for ChemRisk, I think
25 someone told me, either by Bill Butler or by someone

1 else.

2 Q Were you told that PG&E had a chromium
3 contamination problem in Hinkley?

4 A Yes.

5 Q What were you told?

6 A I don't recall. I just remember that -- my
7 memory just saying that PG&E presence in Hinkley and in
8 Hinkley there is a chromium contamination.

9 Q And that was told to you by Bill Butler; is
10 that right?

11 A I believe so.

12 Q What was the work that you did that's
13 referenced in the first page of Exhibit 5 for \$812?

14 MR. CASAS: If you can recall.

15 THE WITNESS: I don't, because this is material
16 produced by Mr. Butler and not by me; so I don't -- I
17 don't recall how this linked to my time later at ERA,
18 Environmental Risk Analysis.

19 BY MR. PRAGLIN:

20 Q If you look at the third page of Exhibit 6,
21 it's Bates stamped WB 3, this appears to be another bill
22 from ERA --

23 A 6 or 5?

24 MR. CASAS: Exhibit 5.

25 MR. PRAGLIN: I'm sorry.

1 THE WITNESS: Exhibit 5. Okay. Got it.

2 MR. PRAGLIN: 5.

3 THE WITNESS: Page?

4 BY MR. PRAGLIN:

5 Q Page 3.

6 A Page 3. Okay.

7 Q And this appears to be another bill from ERA to
8 Brent Kerger at ChemRisk for your time. Do you see
9 that?

10 A Yes, I do.

11 Q And this indicates that there were services
12 rendered by you for a total of two hours during
13 June 1996, correct?

14 A It said on the paper, yes.

15 Q What were you doing in connection with
16 Dr. Zhang in 1996?

17 A In 1996 I was the -- I was the contact person
18 for Dr. Zhang to -- for -- to submit his articles for
19 publication. My time spent are basically administrative
20 tasks; for example, receiving a letter, follow up a
21 phone call. So that's probably what this two hours
22 refer to.

23 Q There's a bill here for International
24 Telephone, \$118.65. Do you see that?

25 A Yes, I do.

1 Q Was that your International Telephone bill?

2 A I -- I don't know.

3 Q Were you making calls to China during 1996?

4 A I may have.

5 Q Were you calling China for any reason other
6 than working with Dr. Zhang in 1996?

7 A If they are, it should not be -- appear on my
8 company billing.

9 Yes, I do. I call my family.

10 Q But the only reason you'd bill ChemRisk is for
11 contact with Dr. Zhang, right?

12 A I did not bill ChemRisk. This is bill sent
13 by -- or composed by Bill Butler. I -- this is my first
14 time seeing -- seeing this bill.

15 Q Isn't it true the only reason ChemRisk would
16 send your phone bill to China to Brent Kerger would be
17 for work with Dr. Zhang?

18 MR. CASAS: Objection. Calls for speculation.

19 If you know, you can answer it.

20 THE WITNESS: You have to ask Mr. Butler. I -- I am
21 not the one handling this bill.

22 BY MR. PRAGLIN:

23 Q Look at the next page of Exhibit 5, this is the
24 one that's Bates stamped WB 4.

25 A Yes.

1 Q This shows payment to ERA for the previous page
2 invoice for \$347.03, doesn't it?

3 A It's payment to ERA for the amount you just
4 stated, yes.

5 Q Whose check is that payment written on?

6 A It look like PG&E.

7 Q You see the PG&E logo there, don't you?

8 A That's -- yes.

9 Q And is it your testimony that in all the time
10 that you were working with Dr. Zhang, you never knew
11 that PG&E had a chromium contamination problem in
12 Hinkley?

13 MR. WILKINSON: Objection. Misstates his testimony,
14 asked and answered.

15 THE WITNESS: No.

16 BY MR. PRAGLIN:

17 Q You knew about that, right?

18 A I knew about it.

19 Q And what you knew you learned from Bill Butler,
20 right?

21 A I -- I do not recall in what scenario I become
22 informed of this -- of what you just stated, that PG&E
23 has a chromium contamination in Hinkley. But according
24 to my employment relationship with Bill Butler, it is
25 reasonable to assume that he was the one told me.

1 Q Tell me everything that you learned about
2 PG&E's chromium problems in Hinkley.

3 MR. WILKINSON: Objection. Asked and answered.

4 THE WITNESS: I recall that PG&E has a presence in
5 Hinkley and Hinkley has a chromium contamination.
6 That's all I recall at this point.

7 BY MR. PRAGLIN:

8 Q Did you know that PG&E was in litigation in
9 connection with that chromium problem in Hinkley?

10 MR. CASAS: Object to form.

11 What time frame?

12 BY MR. PRAGLIN:

13 Q Well, let's start with did you ever know that?

14 A Well, recently, sure. Recently by preparing
15 for this deposition, I -- I knew.

16 I -- around that time, around 1995, I would
17 say, I don't recall. I don't recall I have the
18 knowledge of the litigation part.

19 Q Did you ever speak with Dr. Zhang about him
20 becoming a consultant to McLaren/Hart International?

21 A Dr. Zhang was -- already had a -- established a
22 consulting relationship, I believe, with ChemRisk before
23 I participated.

24 Q What was the relationship between the
25 McLaren/Hart International office and the

1 McLaren/Hart-ChemRisk that you worked for?

2 A McLaren/Hart-ChemRisk I worked for, which is
3 located in Alameda, is one out of, I don't know how many
4 offices McLaren/Hart around globally; so it's one of --
5 it's a -- it's one of many of McLaren/Hart.

6 Q Did you know that Dr. Zhang had a Web site?

7 A Only a few days ago.

8 Q And did you know that he listed himself on his
9 Web site as a consultant of the McLaren/Hart
10 International Environmental Protection Engineering
11 Company of the United States?

12 A Only a few days ago I have knowledge.

13 Q That's --

14 A I knew.

15 Q You only learned that from reading?

16 A From reading.

17 Q What did you read?

18 A I read Mr. -- Dr. Brent Kerger's deposition
19 taken by you.

20 Q What documents did you review to prepare for
21 this deposition?

22 A That's the only document I briefly read.

23 Q Did you read the exhibits to the Kerger
24 deposition?

25 A No, I never been given the exhibit.

1 Q And why did you read the Kerger deposition?

2 A My attorney provided that to me because of my
3 attorney, I think --

4 MR. CASAS: Objection.

5 You don't have to talk about discussions that
6 we've had. That's privileged.

7 THE WITNESS: Okay.

8 BY MR. PRAGLIN:

9 Q You read it because your attorney gave it to
10 you?

11 A Yes.

12 MR. PRAGLIN: Let's attach part of the Web site as
13 Exhibit 6.

14 (Plaintiffs' Exhibit 6 was
15 marked for identification, a copy of
16 which is attached hereto.)

17 THE WITNESS: Mr. Praglin, after this exhibit can
18 we take a break?

19 BY MR. PRAGLIN:

20 Q Sure.

21 A Thank you.

22 Q Looking at Exhibit 6, in the first full
23 paragraph where Dr. Zhang's name is, it says he is an
24 environmental expert from China. Do you see that?

25 A I'm reading.

1 He is a medical professional --

2 Q Middle of the page.

3 A Middle of the page.

4 Q It says, "Zhang JianDong is a medical professor
5 and environmental expert from China. He graduated from
6 the Medical University of Harbin, China where he has
7 dedicated much of his life's work to the area of
8 environment and human body health."

9 Do you see that?

10 A Yes, I do.

11 Q Is that your understanding of his background?

12 A Yes.

13 Q And did you read some of his publications from
14 before the 1995 time frame where he wrote about the
15 relationship between chromium (VI) and its adverse
16 impact on human health?

17 A Yes.

18 Q Did you have discussions with him about those
19 papers?

20 A Yes.

21 Q And would it be fair to say that he was
22 concerned about the effect of chromium (VI) on human
23 beings' health?

24 MR. CASAS: Object to form.

25 THE WITNESS: He has a research interest in studying

1 the relationship between the chromium exposure and to
2 human health.

3 BY MR. PRAGLIN:

4 Q And did he express to you his concern about the
5 effect of chromium (VI) on human beings' health?

6 MR. CASAS: Same question, same objection.

7 It's been asked and answered.

8 THE WITNESS: He has a -- I will phrase that he has
9 a research interest that -- to study the relationship
10 between chromium exposure and human health.

11 BY MR. PRAGLIN:

12 Q Did he ever tell you that he believed that
13 chromium (VI) adversely affected human beings' health?

14 A I'm -- I'm trying to recall what he said.

15 I -- I recall he mentioned that exposure to
16 chromium might be a cause for different symptoms or
17 health in general on human body, but I don't know the
18 "might" -- the "might be" part is what his research was
19 focused on.

20 Q Didn't you know that he wrote in his earlier
21 publications before 1995 that the symptoms in the
22 contaminated areas of JinZhou, diarrhea, abdominal pain,
23 oral ulcer, are associated with the chromium
24 contamination?

25 A I remember I saw some similar sentence like

1 that, yes.

2 Q That's what I mean about a concern for chromium
3 having an adverse effect on human health. Does that
4 refresh your memory that he had that concern?

5 MR. WILKINSON: Objection.

6 MR. CASAS: Same objection.

7 MR. WILKINSON: Asked and answered.

8 THE WITNESS: My memory is he -- are -- he is trying
9 to understand the relationship between chromium exposure
10 to human health, but the -- to simplify that into one
11 sentence to say he concerned, to me means he already
12 concluded that there must be or there is such a
13 correlation, but I -- my understanding is around that
14 time he was in a research project that he was trying to
15 answer that question.

16 MR. PRAGLIN: Let's take a break.

17 THE WITNESS: If that's your meaning of "concern."

18 THE VIDEOGRAPHER: This marks the end of tape number
19 one in the deposition of Tony Ye. We're going off the
20 record. The time is 10:19.

21 (Off the record.)

22 THE VIDEOGRAPHER: We're back on the record. Here
23 marks the beginning of tape number two in the deposition
24 of Tony Ye. The time is 10:33. Please begin.

25 BY MR. PRAGLIN:

1 Q Mr. Ye, will you look at Exhibit 1, which is
2 your production --

3 A Yes.

4 Q -- and turn to page 530, please.

5 A 530 it is. Thank you. Yes, I'm -- I'm looking
6 at it.

7 Q The title of this page is "Description of
8 Tony Ye's Work for PG&E During December, 1995," correct?

9 A That's right.

10 Q Who prepared that page?

11 A I believe I did.

12 Q Would you have prepared it from your time
13 sheets?

14 A I would.

15 Q So the information on it would be accurate,
16 correct?

17 A In my knowledge, yes.

18 Q And so you worked eight hours on the Zhang
19 project during December 1995, didn't you?

20 A That's what this page says.

21 Q It references, on December 13th, "Sent Cover
22 letter, Copyright Assignment and copies of the short
23 communication to the Journal of Occupational and
24 Environmental Health," correct?

25 A That's right.

1 Q You would have drafted that letter?

2 A I did not.

3 Q Who drafted the letter?

4 A Actually, by reading this page, you can see
5 there is an item on December 11th, there is a
6 description of -- it's on this page, the 11th
7 description is, "Received Fax of draft cover letter to
8 submit short communication...edit draft cover letter,"
9 and I did not put all of it.

10 So according to this document, my -- I
11 received the draft letter for the submission.

12 Q Where is the draft letter that you received? I
13 don't see it in your 925 pages.

14 A If it's not in here it is probably lost, I
15 don't have it.

16 Q After you received the draft, you then prepared
17 a final of that cover letter to JOEM, right?

18 A Yes.

19 Q Where is the final copy of that cover letter to
20 JOEM? I didn't see that in the 925 pages.

21 A I remember when I prepare for this 900 pages I
22 remember I saw a page with my signature on, looks like
23 to me it's a submission letter. I don't know whether
24 it's final or not. I don't know whether that's the
25 letter I indeed sent out.

1 Q You produced for me a signed copy of the cover
2 letter to Archives of Environmental Health.

3 A Okay.

4 Q That's a different journal, right?

5 A It is.

6 Q You submitted this paper to more than one
7 journal, didn't you?

8 A I was instructed to do so.

9 Q By who?

10 A By I will say other people work in ChemRisk at
11 Irvine or by Bill Butler. I don't recall who instructed
12 me to do so, but I was instructed.

13 Q As a scientist, you're not supposed to submit a
14 paper to more than one journal at a time, are you?

15 A Depends. Depends.

16 Q Well, don't both Archives of Environmental
17 Health and JOEM have a rule that you are not to submit
18 the paper to more than one journal at a time?

19 A I --

20 MR. CASAS: Object to form. Calls for speculation.

21 If you know.

22 THE WITNESS: I do not.

23 BY MR. PRAGLIN:

24 Q You never heard about that?

25 A I do not know the journals' specific rules.

1 Q Could you say that again, please?

2 A I did not know the rule for those two journals.

3 Q Who is it that instructed you to submit the
4 Zhang article to the journals that you submitted to?

5 A It's either Bill Butler or someone in ChemRisk
6 office who participated, the gentlemen or ladies I just
7 mentioned earlier in this depo, Brent Kerger or
8 Gwen Corbett or Tom Flahive. Some of -- one of them
9 instructed me to do so.

10 Q When you received the draft of the cover letter
11 to JOEM --

12 A Uh-huh.

13 Q -- you received it on letterhead from
14 McLaren/Hart-ChemRisk, didn't you?

15 A I do not recall.

16 Q If it was sent by Tom Flahive it would have
17 been on McLaren/Hart-ChemRisk letterhead, wouldn't it?

18 MR. WILKINSON: Objection.

19 MR. CASAS: Objection. Form.

20 MR. WILKINSON: Assumes facts not in evidence.

21 THE WITNESS: I do not know. I do not remember
22 that.

23 BY MR. PRAGLIN:

24 Q When you submitted the letters to the
25 journals --

1 A Uh-huh.

2 Q -- did you submit them on letterhead?

3 A I remember I did not.

4 Q You submitted them on plain white paper, didn't
5 you?

6 A I remember that what I did.

7 Q And you submitted them from your home, didn't
8 you?

9 A The address appear on the letter was my home
10 address, yes.

11 Q Where did you type the letters?

12 A It would be in ERA, Environmental Risk
13 Analysis.

14 Q So even though you typed it at work, you sent
15 it on plain white paper and you used your home address
16 with the journals; is that right?

17 A I type it -- the letter was typed in
18 Environmental Risk Analysis with my home address on it.

19 Q And wasn't the cover letter to the journals
20 sent eliminating any reference to ChemRisk or PG&E?

21 MR. WILKINSON: Objection. Vague and compound.

22 THE WITNESS: When you say "eliminating," I did not
23 eliminate or intentionally eliminate anything. I was
24 sent -- this letter was drafted by someone else in
25 ChemRisk and sented to me. I agreed on all of the

1 contents of this letter and signed my name on it; so I
2 would not be able to answer your question that --
3 whether I delete or eliminate anything from that. I
4 don't know.

5 BY MR. PRAGLIN:

6 Q Didn't the cover letters to the journal omit a
7 reference to ChemRisk or PG&E?

8 MR. WILKINSON: Objection. Vague and compound,
9 argumentative.

10 THE WITNESS: It's not mentioned PG&E or ChemRisk,
11 that's true.

12 BY MR. PRAGLIN:

13 Q Was that intentional?

14 A I don't know. I didn't draft this letter. I
15 agree with the contents of the letter.

16 Q Did you ever ask why there was no reference to
17 ChemRisk on the letter that you were sending to the
18 journal with your home address on it?

19 A I did not question it.

20 Q You didn't have any curiosity about that
21 whatsoever?

22 A I do not recall I have any curiosity on that.

23 Q And is it your testimony that that instruction
24 came either from Bill Butler or Tom Flahive, that you
25 should send the letter on plain white paper with your

1 home address?

2 A It's --

3 MR. WILKINSON: Objection. Misstates his
4 testimony.

5 THE WITNESS: Could be more than that. Could be
6 some person other than Bill Butler and Tom Flahive.
7 I -- I just mentioned those two names as examples of
8 people work on this project in ChemRisk other than me.
9 But I was instructed to do so.

10 BY MR. PRAGLIN:

11 Q You knew that you had sent this letter to more
12 than one journal at the same time, didn't you?

13 A I knew I send it at two different times, one is
14 December 5th, one is December 13th. I mean --

15 Q Well, those were --

16 A I knew I sent it on those two dates.

17 Q Did you send it to two different journals on
18 those two dates or to the same journal on those two
19 dates?

20 A On two different journals.

21 Q And the two would be JOEM and Archives of
22 Environmental Health; is that right?

23 A I believe Archives was first.

24 Q Was there any discussion between you and anyone
25 at ChemRisk about the fact that the article had been

1 submitted to two different journals simultaneously?

2 MR. CASAS: Objection. Asked and answered.

3 Go ahead, if you recall.

4 THE WITNESS: I don't recall discussion. I recall I
5 was instructed on December 5th and December 13th to
6 submit to the two journals you just mentioned. And I
7 did what I was assigned.

8 BY MR. PRAGLIN:

9 Q So is it your testimony that you submitted the
10 article to JOEM on December 13, 1995?

11 A That's what I remember.

12 Q And you think that the cover letter for that
13 submission is in the 925 pages that you produced?

14 A Yes. If you give me time, I -- I may be able
15 to find it but --

16 MR. CASAS: That's okay.

17 BY MR. PRAGLIN:

18 Q Well, we'll look for it.

19 A Okay. Thank you.

20 Q If you look at page 495, please.

21 A 495?

22 Q Of Exhibit 1.

23 A Yes, I'm looking at it.

24 Q Is that a copy of the cover letter that you
25 submitted the Zhang article to Archives of Environmental

1 Health with?

2 A I don't know whether this is a final version of
3 the letter I sent out, but this looks like at least a --
4 a version of the letter I sent out.

5 Q That's your signature on it, isn't it?

6 A It is.

7 Q And you give your home address, right?

8 A Yes, I do.

9 Q And it says Dr. JianDong Zhang, care of
10 Tony Ye, right?

11 A Yes.

12 Q Now, why didn't you give ChemRisk's address and
13 phone number there?

14 A I don't recall it was my decision to use my
15 home address, but using my home address, not only I
16 agreed is -- around that time I -- I think it's very --
17 it makes sense, reasonable to use my home address, for
18 the reason that this is a project I participated in
19 ChemRisk. And by December 5th I was no longer a
20 employee of ChemRisk, I was a employee of Environmental
21 Risk Analysis. And I was assigned the responsibility to
22 be the contact person in the United States for Dr. Zhang
23 in ChemRisk, and because I speak Chinese, so it
24 naturally falls on me.

25 But since I left ChemRisk, then if -- I feel

1 it's more responsible -- I would be more responsive and
2 responsible for Dr. Zhang if a letter or corresponding
3 letter sending from any journals, if it's sent to
4 ChemRisk office, I would not receive it, or I will -- it
5 will delay my receiving of such letter.

6 So by -- at December 5th, since I was no longer
7 a ChemRisk employee, it makes sense to find a place
8 that -- to use an address that I can reach -- I will --
9 quite -- I'm sure that I will receive the letter without
10 delay from journal correspondence --

11 Q But --

12 A -- so I agree to use my home address.

13 Q But the actual letter wasn't even drafted by
14 you, it was drafted by ChemRisk, right?

15 A Yes.

16 Q And any response that you got from the journals
17 you immediately then sent to ChemRisk, right?

18 A Yes.

19 Q And in fact, you had fax transmittals between
20 you and Tom Flahive regarding your submissions to the
21 journals, didn't you?

22 A Yes, I do.

23 Q And he was --

24 A I believe I do.

25 Q And he was a ChemRisk employee, right?

1 A Yes.

2 Q Did it ever occur to you that the journals
3 might get the idea that you were submitting this
4 individually and not on behalf of ChemRisk?

5 MR. CASAS: Objection. Calls for speculation.

6 MR. WILKINSON: Vague and argumentative.

7 THE WITNESS: I -- I don't know what journal would
8 think of. That's never occurred to me to think for --
9 what journal might have thought of.

10 BY MR. PRAGLIN:

11 Q Weren't you proud of your work on this Zhang
12 article?

13 A I think I -- I made some very decent
14 contribution to this scientific research. I think of it
15 that way. I'm proud of my research.

16 Q And didn't you have the impression that the
17 ChemRisk scientists with whom you worked on this
18 article, Dr. Kerger, Dr. Butler, were proud of their
19 work on the Zhang article?

20 A That's my impression.

21 Q Who made the decision on which journals the
22 paper should be submitted to?

23 A I believe it was either Dr. Kerger or
24 Dr. Butler.

25 Q It wasn't you, was it?

1 A It wasn't me.

2 Q Have you ever submitted another paper to a
3 journal for publication that you did not write?

4 A Not that I can recall, no.

5 Q When you mailed these letters to the journals
6 with the draft Zhang article, did you mail them from
7 home with a stamp or through ChemRisk?

8 A I don't recall.

9 Q Did you mail them through ERA?

10 A I don't recall.

11 Q Who took care of the mailing?

12 A It must be -- if sending from ERA, which I
13 don't recall sending from ERA, it would be a secretary
14 of ERA. If sending from my home, it would be me. But I
15 don't recall either way how the letter finally be
16 mailed.

17 Q And what was your reason for putting your home
18 phone number on the letter?

19 A For the same -- I don't recall exactly around
20 that time how the decision was made. But for the same
21 reason I just mentioned, that I need a place that if
22 corresponding calls from journal, any of those two
23 journals, was placed to a phone number or to an address,
24 I'm -- I like to make sure that I receive that material
25 or I receive that phone call, at least on my answer

1 machine, so that I can respond timely.

2 Q It would be a pretty important call to get if
3 the journal was calling about publishing the article,
4 right?

5 A Yes, it would be an important call.

6 Q Were your normal working hours in 1995 roughly
7 9:00 to 5:00 or something like that?

8 A Roughly 9:00 to 5:00, you can say.

9 Q So when you're at work, the easiest place to
10 get you would be at work by phone, right?

11 A If you prefer to say that.

12 Q But you didn't give your work phone number to
13 the journals, did you?

14 MR. CASAS: Object to form. It's argumentative.

15 He's answered the question.

16 MR. WILKINSON: Vague and compound, also.

17 THE WITNESS: Again -- again, I do not remember how
18 the decision was made, whether it involved the decision
19 from my boss, Bill Butler, at Environmental Risk
20 Analysis, which I -- I -- I can give you an estimation
21 or guess what's might be the reason. I really don't
22 recall how the reason was made.

23 BY MR. PRAGLIN:

24 Q Isn't it true, though, that you never gave any
25 of the journals your work phone numbers to call you?

1 A I don't know. I don't recall that. In the
2 cover letter, which you -- you -- you -- on this page,
3 on this exhibit, is my home number, but I don't recall
4 that in my following phone calls to the journal I ever
5 provided my work phone number. I may have.

6 Q Have you seen that in any of the 925 pages that
7 you produced for me?

8 A To be honest, I didn't look at all the pages in
9 this 900 pages; so I -- I -- I have not gone through
10 this 900 pages. It may be in here.

11 Q Did you ever meet Tom Flahive?

12 A No. Never.

13 Q Did you have any understanding as to why he was
14 drafting the cover letters to the journals for you to
15 sign?

16 A My understanding is since I no longer -- since
17 I was no longer a employee of Environmental -- of
18 ChemRisk in December of '95, the only reason I still
19 provide this administrative service to ChemRisk is based
20 on a professional standard that in -- that I understand
21 a professional will follow up on a project he
22 participated in.

23 But since my understanding around that time
24 was this was a courtesy to ChemRisk, so the time I spent
25 on this thing, on -- related to Zhang after December 1st

1 of 1995, I rely upon ChemRisk office to make all of the
2 administrative letter drafting, everything, and I was
3 trying to minimize my time that I spent on this which
4 was time from Environmental Risk Analysis, because I
5 need to document my time spent on Environmental Risk
6 Analysis. And I don't think Bill Butler stated clearly
7 that I could use Environmental Risk Analysis time to --
8 extensively to work for -- to work on related projects
9 or tasks from ChemRisk.

10 Q Tom Flahive worked in the ChemRisk Irvine
11 office with Dr. Kerger, right?

12 A I believe so.

13 Q Did you have any discussions with Brent Kerger
14 about the submission of the article to the journals?

15 A I may have, but I don't recall such
16 conversations.

17 Q Would you look at page 503 of Exhibit 1,
18 please.

19 A 503. Sure.

20 Yes, I'm looking at it.

21 Q The English handwriting there is addressed to
22 Tony. Do you see that?

23 A I see that.

24 Q Is that you?

25 A That's me.

1 Q Do you know who wrote this?

2 A I do not. I think this might be from
3 Tom Flahive.

4 Q How did you receive this document?

5 A Look like a fax to me.

6 Q At what address?

7 A I don't know.

8 Q Did you have a fax machine at home?

9 A In 1995?

10 Q Yes.

11 A I don't think so.

12 Q And there's Chinese writing at the bottom of
13 503, correct?

14 A Yes.

15 Q Is that yours?

16 A It looks like me.

17 Q What does it say?

18 A It looks like mine.

19 Q Translate it line by line, please.

20 A It looks like to me -- sitting here it looks
21 like to me a -- a address, not address. It's a -- it's
22 a school name, the first line is a school name.

23 Q What school?

24 A My translation may be off a little bit but I
25 will try my best.

1 MR. WILKINSON: I guess --

2 MR. CASAS: Is this your writing?

3 MR. PRAGLIN: He said it was.

4 THE WITNESS: I think so.

5 MR. CASAS: Okay. Go ahead.

6 MR. WILKINSON: And, I mean, let me just object for
7 the record here.

8 I think that the purpose of the deposition is
9 to take testimony, not to do live translations under
10 oath; so I think it lacks relevance, to the extent that
11 you're asking for a translation line by line.

12 BY MR. PRAGLIN:

13 Q Mr. Ye, you're good at translating Chinese into
14 English, aren't you?

15 A "Good" is a standard. I don't know whether I
16 will live up to that standard. I do not know.

17 Q Have you --

18 A I --

19 Go ahead.

20 Q Have you ever qualified as a certified Chinese
21 interpreter?

22 A No, I have not.

23 Q Do you hold yourself out as a certified Chinese
24 interpreter?

25 A I'm not a certified interpreter, I never tried

1 to be one.

2 Q Did you ever have trouble translating
3 Dr. Zhang's words into English?

4 A Yeah, all the time.

5 Q Did you have trouble translating your words
6 into Chinese?

7 A I have to revise debate on the wording I use
8 when I translate English to Chinese or Chinese to
9 English, vice versa.

10 Q Have you ever worked professionally as a
11 Chinese translator?

12 A No.

13 Q What's your native language?

14 A Chinese.

15 Q So let's go line by line on page 503 of
16 Exhibit 1. The first line you said was an address?

17 A No --

18 MR. WILKINSON: Same objection. It's not testimony
19 if you're just asking him to translate notes.

20 THE WITNESS: Yes.

21 Again, I will provide -- I will try my best to
22 provide this translation on the spot. But like what I
23 said, my translation -- normally I find my translation
24 needs to be revised at a later time. That's when I work
25 on Dr. Zhang's article, that's many, many revisions I

1 have made.

2 So for me to provide you with a translation is
3 subject to those inaccuracies that -- at the beginning
4 of this depo you mentioned that if I change any of my
5 answers to your questions at a later time, I may look
6 like -- this may be embarrassing, this may be harmful,
7 which I don't want to be embarrassed or harmed; so my
8 translation to you, again I will -- I will put -- enter
9 that statement will be very preliminary.

10 If you willing to accept that preliminary
11 answer, I will try my best.

12 BY MR. PRAGLIN:

13 Q Sure. Go ahead. Do your best.

14 A Okay. The first line said -- is a school name,
15 said China Medical University graduates.

16 In the parentheses it says bachelor.

17 And on the second line it said Benxi City, it's
18 spelled like B-e-n-x-i City, hygiene and antiepidemic
19 station.

20 And on the third line it said associate medical
21 doctor in charge.

22 And on fourth line are a number. It's
23 0414-3857146.

24 Q I know you got that last one right.

25 A Thank you.

1 Q About whom did that address and information
2 relate?

3 A I don't know.

4 Q On Exhibit 2, the Zhang article, there's a
5 second author after Dr. Zhang, right?

6 A Let me see. Exhibit 2? Yes. Yes.

7 Q That's the name ShuKun Li, correct?

8 A That's right.

9 Q Is that a man or a woman?

10 A I remember it's a woman.

11 Q Did you ever speak with Dr. Li?

12 A I don't recall ever speak to him -- to her.
13 Sorry.

14 Q Is she dead or alive?

15 A I don't know.

16 Q Did you ever hear that she was dead?

17 A No.

18 Q Is she the same person who authored with
19 Dr. Zhang on his 1987 paper?

20 A I think they are two different persons.

21 Q How did you learn that?

22 A First they have different first names,
23 although both of them have the same last name, L-i, but
24 first name are not the same. And I recall Dr. Zhang
25 told me that's not the same person.

1 Q Dr. ShuKun Li, the second author listed on
2 Exhibit 2, the Zhang article --

3 A Uh-huh.

4 Q -- did she help write that article?

5 A Dr. Zhang -- I remember Dr. Zhang told me that
6 she helped Dr. Zhang in collecting materials and in
7 conducting analysis and in drafting manuscripts; so
8 Dr. Zhang asked that -- her name to be as the second
9 author. I remember Dr. Zhang told me that.

10 Q But she didn't help write the Zhang article,
11 did she?

12 MR. WILKINSON: Objection. Asked and answered,
13 misstates the testimony.

14 MR. CASAS: Only if you know.

15 THE WITNESS: Other than what I just said of
16 Dr. Zhang told me, I don't know. I have no contact with
17 her, so I don't know what's her contributions.

18 BY MR. PRAGLIN:

19 Q And you exchanged no written correspondence
20 with her; is that right?

21 A To my knowledge, no.

22 The materials Dr. Zhang sent to me are under --
23 it is always Dr. Zhang sent to me materials. But
24 whether those materials were drafted or Dr. ShuKun Li
25 participate in preparing -- in preparing those

1 materials, I do not know, I do not have a basis to
2 guess.

3 Q On the Zhang article, it indicates Dr. Zhang's
4 address at the bottom?

5 A Yes.

6 Q And it says JinZhou City, correct?

7 A Yes.

8 Q And for Dr. Li it says Benxi City, correct?

9 A Hold on. It says -- hold on. I take a moment.
10 Yes. Yes. Benxi City.

11 Q How far are those two cities apart?

12 A My understanding is they are close.

13 Q Really? How do you know that?

14 A Yes.

15 Just -- I was not good in remembering the
16 geographic places but I remember both cities are in the
17 northern part of China, probably in the same province;
18 so just in general, they are close.

19 Q By "close" you mean 100 miles away or less?

20 A I cannot quantify that. I don't know. I have
21 no basis to guess one way or another.

22 Q Did Dr. Zhang and Dr. Li work in the same
23 office?

24 A I don't know before 1995 whether they ever
25 worked in the same office.

1 Q Would you be able to locate the two cities for
2 Dr. Zhang and Dr. Li on a map of China?

3 A If the map contains Chinese letter for those
4 cities, I would be.

5 Q I'll show you a map. Let's see if we can do
6 that.

7 A Okay. Fine. That can help.

8 THE REPORTER: 7.

9 MR. PRAGLIN: Mark this as Exhibit 7.

10 (Plaintiffs' Exhibit 7 was
11 marked for identification, a copy of
12 which is attached hereto.)

13 THE WITNESS: There are a lot of letters on this
14 map. I -- I will try to look for it.

15 MR. CASAS: Don't guess. Only if you see it.

16 THE WITNESS: Yeah. I will -- I will do that.

17 BY MR. PRAGLIN:

18 Q I can tell you that as you look at the map
19 horizontally in the upper right is where Dr. Zhang's
20 JinZhou City would be.

21 A Beg pardon? Where is it? I have not find it
22 yet.

23 Q On the northeastern part.

24 A Northeast --

25 MR. CASAS: Northeastern.

1 THE WITNESS: I do not see it.

2 I found one of the place.

3 BY MR. PRAGLIN:

4 Q Which one?

5 A Ben- -- Benxi.

6 Q And I saw you drew a little circle around it?

7 A Right. Which I will --

8 Q May I give you my yellow highlighter and have
9 you highlight that circle for me?

10 A Sure.

11 Q Thanks.

12 Now, if you look north and east of there --

13 A Uh-huh.

14 Q -- do you see JinZhou City?

15 A I have not, actually. There are so many
16 letters on this map it's very hard to read, and very
17 black and white; so it's not a typical map for use.

18 Q What's the scale on the map?

19 A Well, it's stated on the corner of here, I
20 believe, is 1 to 35 followed by five zeros. I'm not
21 good in reading maps so I -- I will just tell you the
22 number.

23 Q Well, if we assume that the scale is an inch,
24 it says zero on the left and 75 and then there are
25 Chinese characters to the right. Do you see?

1 A Oh, yes.

2 Q What do those Chinese characters say?

3 A I believe these are kilometers.

4 Q So an inch is 75 kilometers; is that right?

5 A An inch is -- there's no inch on this map,
6 sir. There's no inch on this scale, though.

7 Q I'm telling you I think that that scale is an
8 inch long.

9 A Is an inch. Okay. If that's an inch, then one
10 inch corresponding to 75 -- 75 kilometer.

11 Q How many kilometers in a mile?

12 A About 2, or about 1.8, I think.

13 Q So about 150 miles is 75 kilometers, a little
14 less?

15 A No. Actually, the other way.

16 Q Oh.

17 A So 75 kilometers is about, I would say,
18 40 miles.

19 Q Thanks.

20 A Okay. I still didn't find JinZhou. You want
21 me to continue?

22 Q No. We'll find it and maybe come back to it.

23 A Okay. Good.

24 Q Before the break I was asking you some
25 questions about Dr. Zhang's writings and his beliefs on

1 the effect of chromium on the human body. Do you recall
2 that?

3 A I remember you asked some questions.

4 Q Okay. I'm going to attach as Exhibit 8 a
5 collection of writings from Dr. Zhang which I believe
6 you translated.

7 A Yes, I translated some.

8 Q And this is a collection from a production that
9 PG&E made. I'm going to direct your attention to
10 specific pages.

11 A That's okay.

12 MR. PRAGLIN: So let's mark this collection of pages
13 as Exhibit 8.

14 (Plaintiffs' Exhibit 8 was
15 marked for identification, a copy of
16 which is attached hereto.)

17 BY MR. PRAGLIN:

18 Q Looking at the first page of Exhibit 8, in the
19 lower right does it have a Bates stamp of BRP 203?

20 A Yes, there is.

21 Q "BRP" just stands for Blue Ribbon Panel.

22 A Okay.

23 Q It doesn't really concern this deposition.

24 A Sure.

25 Q Is this page BRP 203 of Exhibit 8 a page that

1 you translated?

2 A Well, let me -- let me read it.

3 As I remember, this -- the page you -- you
4 showed me in this exhibit looks like some of the
5 translation I did.

6 Q Is that your printing on the first page of
7 Exhibit 8?

8 A I don't know one way or the other. I do not
9 know.

10 Q In the upper left it says, "Electronic File
11 is: a:trans.811."

12 Do you see that?

13 A I saw that.

14 Q Who gave that electronic file its designation?

15 A I do not know.

16 Q Did you have electronic copies of your
17 translations of Dr. Zhang's work?

18 A At 1995 I did.

19 Q And do you recall that you translated an
20 original paper that was in Chinese of Dr. Zhang's work
21 in approximately August of '95?

22 A Around that time I translated multiple papers.

23 Q By Dr. Zhang, right?

24 A Yes.

25 Q And they dealt with the issue of chromium's

1 effect on humans, right?

2 A Related to that, yes.

3 Q If you turn to the second page, which is

4 BRP 212 --

5 A Yes.

6 Q -- is this a page that you translated from

7 Dr. Zhang's work?

8 A This could be because I translated many, many
9 pages; so I do not remember this particular page but
10 it's -- it could be a translation of mine.

11 Q And the first paragraph under Section II --

12 A Okay.

13 Q -- Dr. Zhang writes, "To study the effect of
14 underground water contamination on the residence (sic)
15 health, a series of studies were conducted in the
16 Nuer River, Yangxing and ShiLiTai. In a study conducted
17 in the Nuer river village in 1965, most common symptoms
18 included oral ulcer, diarrhea, abdominal pain and
19 abnormalities of the digestive system. At the time of
20 this study, the Chromium (VI) concentration in water
21 wells in Nuer river Village was 1 to 20.0 milligrams
22 per liter. No such symptoms were found among the
23 residents whose water wells were not contaminated."

24 Did you translate those words from Dr. Zhang's
25 Chinese work?

1 A I remember --

2 MR. WILKINSON: Calls for speculation without the
3 full article.

4 MR. CASAS: Asked and answered.

5 THE WITNESS: And I remember seeing similar words
6 but I am not sure this exact wording is my translation.
7 I may find out but I -- I don't recall.

8 BY MR. PRAGLIN:

9 Q Were you the only Chinese translator at
10 ChemRisk working on the Zhang project?

11 A I don't know. I believe there must -- there --
12 I remember there was another Chinese speaker in ChemRisk
13 who participated in Dr. Zhang's paper.

14 Q I think I have a way to show you that this was
15 your translation.

16 A That's good. That may remind me of what I did.

17 Q I'm going to loan you my copy --

18 A Oh, okay.

19 Q -- of PG&E's response to our request to
20 produce, which has all of the BRP documents produced as
21 1 through 285.

22 A Sure.

23 Q And if you want to look at this page 212 in its
24 context in the larger document --

25 A Yeah.

1 Q -- that has the title on it, and look at the
2 Chinese versions that both precede and follow, and I
3 don't know which was the right one, but you can satisfy
4 yourself that these were the translations that you did
5 in '95.

6 A Okay.

7 Q Pay no attention to my two million Post-its
8 there.

9 A Certainly.

10 Which page is it? 212. 212. 0212.

11 Yes. This looks like to me a Chinese version
12 of a Dr. Zhang's manuscript with a English translation,
13 and it's likely the English translator was me.

14 Q Okay. And would you also now look on
15 Exhibit 8, page 215, please.

16 A 215. All right. Yes, got it.

17 Q I'll leave you this BRP production in case you
18 want to check and see if these other translations were
19 yours. It's been represented to us by PG&E that they
20 are, but you're free to check.

21 A Okay. Thank you.

22 Q On BRP 215, the top line says, and I'm quoting
23 now, Dr. Zhang. "Former studies have shown that oral
24 ingestion of chromium can cause chronic toxication. A
25 study which involved feeding rabbits water containing

1 7.0 milligrams per liter chromium (VI) caused a higher
2 rate of juvenile cells, which is nucleus left shifting.
3 This may be because of the organ being irritated by
4 chrome (VI). Another study showed that chromate can
5 accumulate in some organs 8 out of 16 guinea-pigs in the
6 study, which were fed by 10 milligrams per liter
7 chromium (VI) containing water, developed lung cancer.
8 However, some studies do not support this conclusion.
9 Our conclusion is that the symptoms in the Nuer Village
10 and Yangxing may be due to regularly drinking
11 chromium (VI) contaminated water."

12 Did you translate those words from Dr. Zhang's
13 Chinese articles?

14 A Looking at your document, I may be the
15 translator, yes.

16 Q Do you think that's likely?

17 A Likely.

18 Q If you go now down to page BRP 219.

19 A Yes.

20 Q This is another translation of one of
21 Dr. Zhang's articles. Under the "Summary" section, the
22 third paragraph, it says, "The symptoms in the
23 contaminated areas (diarrhea, abdominal pain, oral
24 ulcer) are associated with the chromium contamination."

25 Did you write those words as translation of

1 Dr. Zhang's earlier works?

2 A I may.

3 Q You think it's likely?

4 A It's likely.

5 Q If you go down now to page BRP 231 of
6 Exhibit 8.

7 A Yes.

8 Q The title of this article is "Study of the
9 Effect of Environmental Pollution in JinZhou Area on
10 Residents Health, Mortality Analysis," and then it has
11 Dr. Zhang's name, correct?

12 A Correct.

13 And also with a name Li -- with the second
14 author is Li.

15 Q And that's Li XiLin?

16 A Correct.

17 Q And that's the earlier Li that you referenced,
18 correct?

19 A I believe so.

20 Q And so this is a translation that you made of
21 one of Dr. Zhang's earlier publications; is that right?

22 MR. CASAS: If you know.

23 THE WITNESS: It's likely. Again, I have not
24 confirmed that, but it's likely.

25 BY MR. PRAGLIN:

1 Q You translated a whole series of his earlier
2 pre-1995 publications on chromium, didn't you?

3 A I did.

4 Q And they looked to be in the format that you're
5 looking at in Exhibit 8, didn't they?

6 A Some of them looked -- they look all similar in
7 the format; so the format -- the format, yes.

8 Q And the first line of this page, BRP 231, says,
9 and I'm quoting Dr. Zhang again, "It is well known that
10 environmental pollution can directly affect human
11 health."

12 Did you write that translation?

13 A I -- I may have.

14 Q And then he writes, "The study of the relation
15 between environmental pollution and human health is
16 getting more and more attention," correct?

17 A I may have.

18 Q You think it's likely you translated that as
19 well?

20 A Yes.

21 Q If you flip the page to BRP 239.

22 A Okay.

23 Q Again, this is from the same document. The
24 second line says, "Nearly 80 percent of malignant
25 neoplasm is attributable to environmental pollution."

1 You translated that?

2 A I may have.

3 Q You think it's likely?

4 A It's likely. Yes, sir.

5 Q And then in the second full paragraph in the
6 fifth line down Dr. Zhang writes, "Chromium is a
7 carcinogen."

8 Do you see that?

9 A Yes, I saw that.

10 Q You translated those words of Dr. Zhang?

11 A It's likely.

12 Q That statement of Dr. Zhang's, the second
13 line --

14 A Second line of where, page 8?

15 Q Yes.

16 -- where he wrote, quote, "Nearly 80 percent of
17 malignant neoplasm is attributable to environmental
18 pollution," do you recall from Dr. Kerger's testimony
19 that you read to prepare for this deposition that
20 Dr. Kerger called that statement bullshit?

21 A I recall that, yes. I saw that.

22 Q Did Dr. Kerger ever tell you that he thought
23 some of Dr. Zhang's views were, quote, bullshit?

24 A No, he never mentioned that to me.

25 Q Did you ever hear that in any form?

1 A No.

2 Q Did you ever hear any derogatory comments about
3 Dr. Zhang by anyone at ChemRisk?

4 A No.

5 Q You consider calling his work bullshit a
6 derogatory comment, don't you?

7 MR. CASAS: Objection. Argumentative.

8 MR. WILKINSON: Misstates the testimony from the
9 other deposition as well.

10 MR. CASAS: Irrelevant.

11 THE WITNESS: It's a -- it's -- depends on the --
12 depends on the scenario or situation that -- what people
13 write on piece of paper to what people say or speak
14 right in front of you, say your study is BS.

15 I don't think they are quite the same thing,
16 so I don't know again in what scenario that
17 Brent Kerger, Dr. Brent Kerger, wrote such thing and
18 I -- I would not guess his reasoning for that; so I
19 don't know whether his meaning is -- whether he means to
20 be derogatory or not, or whether the sentence refers to
21 something else. I did not see the document or exhibit
22 from Kerger.

23 BY MR. PRAGLIN:

24 Q I'll show you now, it's CHEMRISK 111, it's got
25 Dr. Kerger's handwriting in the right margin next to

1 that statement.

2 Do you see that it?

3 A Yes, I saw it.

4 Q Do you see the letters "BS"?

5 A Yes, I saw it.

6 Q Does that put it in context for you?

7 MR. CASAS: Object to form.

8 What context?

9 BY MR. PRAGLIN:

10 Q Does it in the context of Dr. Kerger's
11 testimony that you read about him writing "bullshit" in
12 the margin?

13 A It puts --

14 MR. WILKINSON: Calls for speculation --

15 MR. CASAS: Same --

16 MR. WILKINSON: -- if you're asking questions about
17 Dr. Kerger's state of mind.

18 MR. CASAS: Same objection.

19 THE WITNESS: It's bringing -- it's connected to
20 Dr. Kerger's depo I read, but that's -- that's all the
21 connection I can establish.

22 BY MR. PRAGLIN:

23 Q Did you ever talk to Dr. Zhang about the issue
24 of whether a high percentage, whether it was 80 percent
25 or some other high percent, of malignant neoplasm was

1 attributable to environmental pollution?

2 A I don't recall I talk with him on this
3 particular sentence. I translate it and I may have
4 confirmed my translation on different -- in different
5 part of a manuscript to discuss different part, to
6 clarify certain sentence statement with Dr. Zhang, but I
7 don't recall this was one of the statement I clarified.

8 There were many, many clarified statements I
9 discussed with him around that time; so this may be,
10 maybe not, I just don't recall one way or the other.

11 Q How many hours did you spend in conversation
12 with Dr. Zhang in total?

13 A I don't know.

14 Q It would be in the tens of hours, wouldn't it,
15 meaning more than ten hours?

16 A Sounds reasonable, yes.

17 Q And in all of that time, did he ever say
18 anything to you about whether he believed that chromium
19 had an adverse effect on people's health?

20 MR. CASAS: Objection. Asked and answered.

21 THE WITNESS: He made multiple statement on possible
22 connection between chromium to human's health or acute
23 conditions, but I don't think it's -- he concluded that
24 way. I don't think he concluded that -- how much
25 chromium contamination or where the chrome contamination

1 associated with how much adverse effect on human
2 health. I don't recall he specify that conclusion.

3 BY MR. PRAGLIN:

4 Q Did he ever tell you that he was fighting
5 chromium pollution?

6 A He was fighting? He is a -- he is a station
7 manager of a antiepidemic station in China. My
8 understanding is that was his duty, to -- to identify
9 risk factors or identify health factors in the region he
10 is responsible for.

11 So he -- when you say he fight, I interpret --
12 I -- I think that what you mean by that is he made
13 effort in trying to identify risk factors and trying to
14 reduce risk factors and trying to improve human health
15 in his region.

16 Q Did he ever --

17 Sorry, were you finished?

18 A One more sentence.

19 But I don't recall that he specifically saying
20 that he -- he -- so in general he fight for or he -- he
21 attempt to improve human health in that region, But --
22 but first he has to identify all the sources or risk
23 factors for it; so I don't remember that he's
24 specifically saying that what he fighting for.

25 Q Did he ever write to you words to the effect

1 that he will work to the end on the pollution issue of
2 chromium (VI) that we fight together?

3 A I -- he may, he may not. I don't recall such
4 sentence.

5 Q On Exhibit 1, page 534, would you look at that,
6 please.

7 A Yes. Exhibit 1, page 164?

8 Q 534.

9 A 534. Okay. Okay.

10 Q You have it in front of you?

11 A It's in Chinese.

12 Yes, I do. 534.

13 Q Do you recognize that as Dr. Zhang's
14 handwriting?

15 MR. CASAS: Go ahead.

16 THE WITNESS: I think that's his handwriting, yes.

17 BY MR. PRAGLIN:

18 Q And he wrote that letter to you, right?

19 A Addressed to me, yes.

20 Q And he wrote it on McLaren/Hart International
21 letterhead, didn't he?

22 A From Beijing office.

23 Q Yes?

24 A Yes.

25 Q Just above his signature in the last paragraph,

1 his very last sentence, will you translate that for me,
2 please?

3 MR. CASAS: I'm going to object.

4 He's not going to be a translator for you
5 today.

6 If it were in his own hand, that's fine, he can
7 translate his own handwriting, but he's not going to
8 translate, he's not certified to translate. On that
9 basis, although the subject matter may be relevant, I'm
10 not going to have him translate on the spot today.

11 So I would instruct him not to answer that
12 question or any other question that asks him to
13 translate someone else's handwriting.

14 MR. PRAGLIN: Well, here's my offer of proof.

15 He received this letter, he responded to it.
16 In order to respond to it, he would have had to have
17 understood it. I'm only asking for the same level of
18 understanding by translation now as he would have had
19 when he received the letter.

20 I'm not asking him whether he can translate
21 verbatim, but I need his translation of that because I
22 am unable to have it because I don't read Chinese.

23 MR. CASAS: I'm not going to have him translate on
24 the spot.

25 You can ask him about discussions he had with

1 Dr. Zhang about this letter, but I'm not going to have
2 him translate here today.

3 BY MR. PRAGLIN:

4 Q Let me ask you this, Mr. Ye.

5 A Yes.

6 Q That last sentence on page 534 of Exhibit 1,
7 tell me if this sounds like an accurate translation and
8 read along with me, would you do that?

9 MR. CASAS: Same objection.

10 MR. WILKINSON: Again --

11 MR. CASAS: He's not going to translate.

12 MR. WILKINSON: If you have a translation, show it
13 to him.

14 THE WITNESS: I'll defer to my attorney.

15 BY MR. PRAGLIN:

16 Q Okay. Let me ask you does that last sentence
17 sound like it says, "I will work to the end on the
18 pollution issue of chromium (VI) that we fight
19 together"?

20 MR. CASAS: Same objections.

21 He's not going to translate.

22 Instruct you not to answer.

23 MR. PRAGLIN: Okay.

24 Q Let me give you a translation of it and see if
25 that helps you.

1 Attach this as Exhibit 9.

2 (Plaintiffs' Exhibit 9 was
3 marked for identification, a copy of
4 which is attached hereto.)

5 MR. PRAGLIN: And this is both the Chinese on 534
6 and on top of that is an English translation that we had
7 translated.

8 THE WITNESS: Thank you.

9 MR. CASAS: Again, if you're going to ask him to
10 verify translation, I'm going to instruct him not to
11 answer.

12 MR. PRAGLIN: Let me at least make my record --

13 MR. CASAS: Sure.

14 MR. PRAGLIN: -- so that we can get to it.

15 Q Are you looking at the English page of
16 Exhibit 9?

17 A I am. I'm looking at that.

18 Q And do you see in the text of the last
19 paragraph it says, "I will work to the end on the
20 pollution issue of chromium (VI) that we fight
21 together"?

22 A I saw that sentence, yes.

23 Q Looking at the Chinese writing of that same
24 sentence on the second page of Exhibit 9, which is
25 Bates stamped TONY YE 534, do you have any reason to say

1 that that is not an accurate English translation of the
2 Chinese?

3 MR. CASAS: Same objections.

4 You don't have to answer that.

5 THE WITNESS: Okay.

6 MR. PRAGLIN: We're going to be back here on this,
7 Counsel.

8 I'm only asking whether he can say that it is
9 or it isn't an accurate translation.

10 MR. CASAS: He's not a certified translator so --

11 MR. PRAGLIN: Well, he was good enough for PG&E.

12 MR. CASAS: He may have been. But you've got him in
13 a deposition where he's testifying under oath and I'm
14 not going to have him translate on the spot.

15 BY MR. PRAGLIN:

16 Q You knew that ChemRisk was going to rely upon
17 your Chinese translations of Dr. Zhang's work, didn't
18 you?

19 MR. CASAS: Object. Calls for speculation.

20 If you know.

21 THE WITNESS: I do not. I do not know how much
22 ChemRisk would rely upon only the translation of mine.

23 BY MR. PRAGLIN:

24 Q Did you ever tell ChemRisk that you were not a
25 certified translator?

1 A Certainly. I declared that at the very
2 beginning.

3 Q Did you ever tell them that sometimes you had
4 to translate multiple times to get it right?

5 A Oh, they knew that.

6 Q How did they know?

7 A Because -- because I would show them my first
8 translation, then I would revise it, show them the
9 second one, show them the third one, fourth one.

10 Q And these translations were of Dr. Zhang's
11 work, right?

12 A Yes.

13 Q Did you have some doubts as to your abilities
14 to translate Dr. Zhang's Chinese into English?

15 A I certainly have doubts. I certainly would
16 think that a certified translator would probably do a
17 better job.

18 Q Did you tell that to ChemRisk?

19 A I -- I discuss that with ChemRisk, certainly.

20 Q What did they say?

21 A Well, I don't recall the exact sentence from
22 them, but my understanding is they consider that
23 although my translation was not correct or may not be
24 precise at the very beginning, but they can rely upon
25 pages and pages of material and the conversation with

1 Dr. Zhang and put everything together, then they can get
2 a complete picture of Dr. Zhang's analysis, Dr. Zhang's
3 point of view; so they feel -- I think that -- this is
4 speculation.

5 I think they feel comfortable they said, but
6 I -- you have to ask ChemRisk for it. I -- they asked
7 me to be the translator, I told them I -- I -- I was not
8 a trained translator. I can -- I have to revise a
9 couple of times or more, four or five times, to get a
10 translation right. And they said okay, then just
11 provide translation for us.

12 Q Who specifically at ChemRisk did you say that
13 to?

14 A I don't recall but they -- sitting here I don't
15 recall who did I talk to, but what I can say is they
16 knew that I was not a trained translator.

17 Q Did you likely explain your translating
18 abilities to either Bill Butler or Brent Kerger or
19 Tom Flahive or Gwen Corbett?

20 A Likely, yes.

21 Q And likely some combination of those people?

22 A Yes.

23 Q Did you know that ChemRisk had hired a
24 certified translator from the Language Connection by the
25 name of Allen Choi?

1 A You have to ask ChemRisk. I don't know. I
2 don't know.

3 Q You never --

4 A I never mention --

5 Q You never heard about that?

6 A No.

7 Q Getting back to Exhibit 8 --

8 A Okay.

9 Q -- if you'll turn to page 259.

10 A Can you give me a moment? I apologize.

11 Q Sure. You can take as long as you like to stay
12 organized.

13 A Okay. 8, 259. Yes, I'm on that page.

14 Q The title of this is "Chromium Contamination In
15 the City of JinZhou" by JianDong Zhang, right?

16 A Yes.

17 Q Does this look like the translation that you
18 made of one of Dr. Zhang's earlier works?

19 A It looks like one.

20 Q In the paragraph marked "Preface," the last two
21 sentences, it says, and this is the last two sentences
22 of the first paragraph, it says, and I'm quoting
23 Dr. Zhang, "In the following 20 years, related
24 institutions have conducted much investigation into the
25 causation, severity, and effect of the contamination on

1 the environment and human health, as well as into
2 treatment of the contamination. Now the causation and
3 development of the contamination are clear."

4 Do you see that?

5 A I saw that sentence, yes.

6 Q Did you translate that from Dr. Zhang's work?

7 A It is likely, yes.

8 Q And then on page BRP 273, which should be your
9 last page of Exhibit 8 --

10 A Okay.

11 Q -- is it?

12 A That's in the last page of Exhibit 8, yes.

13 Q I'm directing your attention to the last
14 paragraph --

15 A Yes, I'm there.

16 Q -- the seventh line down, actually the sixth
17 line down --

18 A Okay.

19 Q -- in the middle it says "This number." Do you
20 see that?

21 A I saw that.

22 Q Okay. I'm going to read this to you, I'm
23 quoting Dr. Zhang. It says, "This number was higher
24 than district (TaiHe) average. This area was a high
25 cancer incidence area of TaiHe district. The death

1 rates as a result of malignant tumors show some
2 correlation with the distance of the village location to
3 the plant: namely, the closer the village to the plant,
4 the higher the death rate. This fact revealed that the
5 hexavalent chromium contamination of water, soil, and
6 crops might be correlated with higher tumor rates."

7 Do you see that?

8 A Yes, I saw that sentence, yes.

9 Q Did you translate those words from Dr. Zhang's
10 earlier work?

11 A It's likely I did.

12 Q From looking at the translations that are
13 attached as Exhibit 8, does that remind you that
14 Dr. Zhang was of the belief that chromium (VI) had an
15 adverse effect on human health?

16 MR. WILKINSON: Objection. Calls for speculation.

17 MR. CASAS: Same objection.

18 THE WITNESS: That a research direction he was on, I
19 agree with that.

20 BY MR. PRAGLIN:

21 Q And that was the charge of his antiepidemic
22 station at JinZhou City, wasn't it?

23 A Correct. As the official of that station his
24 interest in -- his -- I believe his interest is to
25 improve health in that region, and this may be one of

1 his research interests.

2 Q Did Dr. Zhang ever tell you words to the effect
3 that he thought that the contamination from the chromium
4 alloy plant in JinZhou City was having a bad or an
5 adverse effect on the health of the people living
6 downstream from the plant?

7 A My impression is he thought it might be; so
8 that's a direction his investigation was in.

9 Q And his investigations spanned almost 20 years,
10 didn't they?

11 A You can say that, yes.

12 Q He actually took some of the water samples
13 himself, didn't he?

14 A I remember he told me he did.

15 Q Do you remember him describing one of the water
16 samples at a reading of about 70 parts per million,
17 which is 14,000 times the safe drinking water level,
18 that it looked like tea, meaning t-e-a?

19 A I --

20 MR. WILKINSON: Objection. Vague and compound.

21 THE WITNESS: I don't recall. I may have seen this
22 number but I don't recall the specific number of 70
23 or -- or how many times is more than standard, but I
24 remember he described the -- some of the contamination
25 at some point of time. So the particular sentence you

1 just mentioned I -- I don't recall, but I may have seen
2 it.

3 BY MR. PRAGLIN:

4 Q Would you look at Exhibit 1, page 683.

5 A 683. Sure. Okay. 683. I am on this page.

6 Q If you look at the item number 7 --

7 A Yes.

8 Q -- it has a series of questions and answers,
9 correct?

10 A I only see some questions here. I do not see
11 where the answers are.

12 Q It says --

13 A Oh, yes, sir.

14 Q -- "In 1974, the chromium (VI) concentration in
15 Nuer River Village was 70.5 milligrams per liter. In
16 ShiLiTai and Wenjiatun," W-e-n-j-i-a-t-u-n, "chrome (VI)
17 concentration reached 0.05 to 0.01 milligrams per
18 liter." And then it has in parentheses, "(i) 70.5 seems
19 very high? Are this number right?

20 "Yes. They are correct. Dr. Zhang said that
21 at this concentration, water looks like tea."

22 Do you see that?

23 A Yes, I saw that.

24 Q Did you write that translation?

25 A It's likely. It's likely. I -- I don't

1 recall, but it's likely.

2 Q And then it says a few lines down, "Dr. Zhang
3 said he took 20 to 30 water wells sample for each
4 village." And then little Roman numeral iv, "Were they
5 all contaminate? Or just part of them?"

6 And then the translation is "Nearly all of
7 them," correct?

8 A I saw that.

9 Q Does that refresh your recollection that
10 Dr. Zhang told you that at 70 milligrams per liter,
11 chromium in water looks like tea?

12 A Reading this document, that's what this
13 document said but I -- I don't recall the conversation.
14 But I -- I think that at the point of time -- at one
15 point of time he -- or at multiple time, he describe the
16 contamination and his measurement of some of the water
17 wells. So this might be one sentence of his
18 description, which I -- I -- I think that's true.

19 Q You've read the 1997 Zhang article, haven't
20 you?

21 A Yeah.

22 Q Several times, right?

23 A Before it's published? Yes.

24 Q And you're familiar with Dr. Zhang's '87
25 article, aren't you?

1 A I read it before 1995 -- before December of
2 '95.

3 Q Did it seem odd to you that in his '97 article
4 he reverses his findings from his '87 article?

5 MR. CASAS: Object to form. Misstates the
6 articles.

7 MR. WILKINSON: Argumentative, calls for
8 speculation, vague.

9 THE WITNESS: Based on my brief reading of 1987
10 article and read of the 1997 article, I don't think the
11 phrase of "reversal" is -- is the phrase that I would
12 use.

13 BY MR. PRAGLIN:

14 Q You don't think that in the '87 article he
15 talked about how chromium caused an excess of disease
16 and in the '97 article he says he was wrong, it's
17 probably due to lifestyle or environmental factors not
18 related to chromium (VI) contamination?

19 MR. WILKINSON: Same objections.

20 THE WITNESS: It's -- I remember his -- in his
21 1987 article he describe the contamination event. And I
22 just don't think that they're totally reversal, I don't
23 think that way.

24 MR. PRAGLIN: Let's attach his '87 article as
25 Exhibit 10.

1 THE WITNESS: Okay.

2 (Plaintiffs' Exhibit 10 was
3 marked for identification, a copy of
4 which is attached hereto.)

5 (Discussion off the record.)

6 MR. CASAS: Do you have another copy of the
7 exhibit?

8 THE WITNESS: Whoa, whoa, whoa. Hold on for a
9 second.

10 Can you give me one minute?

11 MR. PRAGLIN: Sure.

12 THE WITNESS: I need to put this page back into your
13 copy because you may need this copy back.

14 MR. PRAGLIN: Sure. Go ahead.

15 (Discussion off the record.)

16 THE WITNESS: Okay. So I now have Exhibit 10 in
17 front of me.

18 BY MR. PRAGLIN:

19 Q Looking at Exhibit 10, on page 136 --

20 A Yes.

21 Q -- under item 2, Dr. Zhang writes, "It was
22 revealed that the contaminated water was associated with
23 oral ulcer, diarrhea, abdominal pain, dyspepsia and
24 vomiting," correct?

25 A Yes, that what he wrote.

1 Q And he goes on to say, "Leuchocytosis (sic) and
2 immature neutrophils were also observed among the study
3 population," right?

4 A That's what he wrote, yes.

5 Q And then if you go to the next page, on
6 page 137, in the first paragraph at the bottom of it, he
7 says, "For stomach cancer, the adjusted mortality rates
8 were 27.67 to 55.17 per 100,000, which were above the
9 average level for the whole district. In addition, the
10 findings revealed that the closer the dump site the
11 higher the mortality rate from malignant cancer,"
12 correct?

13 A That's what he wrote, yes.

14 Q And you understood as of the time of your
15 involvement that these were Dr. Zhang's beliefs in his
16 '87 paper, didn't you?

17 A Actually, no.

18 Q You never understood that?

19 A No. I understood that this was not his -- the
20 English translation that you just read was not -- was
21 not what he -- what he believed in.

22 In -- in multiple conversations, I remember
23 Mr. Bill Butler and -- Dr. Bill Butler and Dr. Brent
24 Kerger, maybe, asked Dr. Zhang that, whether it is
25 Dr. Zhang's belief that the closer the dump site the

1 higher the mortality rate, whether the English
2 translation of Dr. Zhang's 1987 article on that sentence
3 is precisely what Dr. Zhang believed. And I remember
4 Dr. Zhang said no. No.

5 Q Did Dr. Zhang ever say that the '87 article
6 translation was not accurate?

7 A No. He -- he did not. And I don't think he
8 would be. The reason for that, he do not read -- read
9 English regularly; so I don't think that he could make
10 the judgment of how a translation was accurate.

11 Q Well, did you ever tell him that there's this
12 '87 translation of your work in English and then you
13 translate it into Chinese for him to see?

14 A I told him about ChemRisk have this 1987
15 article and that ChemRisk was uncertain, would like to
16 clarify this details with him, and that's what I told
17 him.

18 Q But did you ever translate the '87 English
19 translation back into Chinese for Dr. Zhang?

20 A At a point of time verbally, I may -- I may
21 read some sentence to him in Chinese.

22 Q But you never translated it into writing?

23 A As I -- the 1987 article, my understanding, was
24 a translation from a Chinese article.

25 Q Did you ever identify from which Chinese

1 article the '87 English translation was made?

2 A I believe so.

3 Q Which one is it?

4 A I believe it's a -- a -- it's not me who
5 identified the original Chinese journal, but I remember
6 I saw a copy of the -- in Chinese of that journal
7 article.

8 Q Is that among the 925 pages?

9 A I believe so.

10 Q And so then you translated it back into
11 English, didn't you?

12 A I did not. The 1987 article was not translated
13 by me.

14 Q No, I understand that.

15 But when you located the Chinese version --

16 A Uh-huh.

17 Q -- of what became the 1987 English
18 translation --

19 A Yes.

20 Q -- are you saying that Chinese version is in
21 the documents marked as Exhibit 1?

22 A Yes, it is.

23 Q Are you able to locate that document for me?

24 A Yes, I -- I can do that for you.

25 I believe it is in my Exhibit TY 360. And the

1 361, 362.

2 Q Let me make sure I understand your testimony.

3 Are you saying that in Exhibit 1, document
4 TY 360, 361 and 362 is Dr. Zhang's Chinese version of
5 what got translated into English as his 1987 article?

6 A That's my belief.

7 Q And you never actually translated this Chinese
8 version, TY 360 to 362, into English?

9 A That's not accurate.

10 No, I don't remember I ever did.

11 Q Did you ever verify the English translation
12 against this Chinese version, 360 to 362, to see if the
13 English was accurate?

14 A I don't think I did that.

15 Q ChemRisk didn't ask you to do that?

16 A Not extensively, at least.

17 Q Does the title on page 360 --

18 A Yes.

19 Q -- match, approximately, the English title on
20 Exhibit 10?

21 MR. CASAS: Same objection as before.

22 I'm not going to have him translate on the
23 spot.

24 MR. PRAGLIN: I'm asking him if it approximates
25 it.

1 MR. CASAS: He'd still have to translate it.

2 THE WITNESS: I'll -- they look alike. They --
3 they -- yeah.

4 BY MR. PRAGLIN:

5 Q Okay.

6 A Only in the approximately sense they are.

7 Q Are both Dr. Zhang and Dr. XiLin Li listed on
8 this page TY 360, the Chinese version?

9 A I believe so.

10 Q On Exhibit 2, the article --

11 A Yes. Yes, I have it.

12 Q -- there's a portion in italics that's known as
13 an abstract, correct?

14 A Hold on. Let me turn to the page.

15 Yes.

16 Q And at the bottom of the abstract it says,
17 "These results do not indicate an association of cancer
18 mortality with exposure to chromium (VI)-contaminated
19 groundwater, but might reflect the influence of
20 lifestyle or environmental factors not related to
21 chromium (VI)," correct?

22 A I -- yes, that's what this document said.

23 Q Wouldn't you agree that that is inconsistent
24 with Dr. Zhang's 1987 writing, Exhibit 10?

25 MR. WILKINSON: Objection. Vague, asked and

1 answered.

2 THE WITNESS: This provide, I believe, more details
3 than 1987 article.

4 BY MR. PRAGLIN:

5 Q And you don't think it's inconsistent at all?

6 MR. CASAS: Same objection.

7 THE WITNESS: I will not use the word
8 "inconsistent." I think this is just a clarification
9 and a further study compared to the 1987 article.

10 BY MR. PRAGLIN:

11 Q Do you think it's inconsistent at all with
12 Dr. Zhang's writings that are attached as Exhibit 8 to
13 your declaration, your English translations of his
14 pre-'95 work?

15 MR. WILKINSON: Objection. Vague and compound.

16 THE WITNESS: Exhibit 8? Which sentence in
17 Exhibit 8 are you referring to or -- the entire thing?

18 BY MR. PRAGLIN:

19 Q None in particular, yes.

20 A No in particular?

21 Q The ones that we've talked about.

22 MR. CASAS: Same objection.

23 And this appears to be not the entire document.

24 MR. PRAGLIN: No, it is. That's the way it was
25 produced.

1 MR. CASAS: So page numbers don't match up.

2 MR. WILKINSON: He's looking at Exhibit 8. That's a
3 compilation they did from the production that he went
4 through; so it is pages that he selected.

5 MR. CASAS: I see.

6 MR. PRAGLIN: Yes, it is.

7 MR. CASAS: Exhibit 8 is --

8 MR. PRAGLIN: Yes, that's what we said before. I
9 thought you were looking at Exhibit 10.

10 THE WITNESS: If you ask me the entire Exhibit 8,
11 I -- no, it's not inconsistent.

12 BY MR. PRAGLIN:

13 Q Let me ask you this: Isn't Dr. Zhang's
14 abstract in the '97 article inconsistent with some of
15 his pre-1995 Chinese writings on chromium (VI)?

16 MR. CASAS: Objection. It's been asked and
17 answered.

18 Go ahead.

19 THE WITNESS: I don't think so. The reason for
20 that -- I will give you a reason.

21 In -- before 1987, there are a lot of materials
22 Dr. Zhang produced. I don't think it's fair to take one
23 sentence out of that extensive volume of research to
24 compare to anything to say are they consistent or are
25 they inconsistent.

1 It is the combined, all the evidence of those
2 articles and the manuscript I think that combined
3 conclusion is indeed consistent with 1997 Dr. Zhang's
4 article.

5 BY MR. PRAGLIN:

6 Q Looking at Exhibit 2, which is Dr. Zhang's
7 article --

8 A Yes.

9 Q -- the title that says "Cancer Mortality in a
10 Chinese Population Exposed to Hexavalent Chromium in
11 Water" --

12 A Yes, that's the title.

13 Q -- who wrote that title?

14 A Well, I believe that the specific English words
15 are either drafted by Bill Butler or Brent Kerger, but
16 the -- if you say the authorship, who indeed came up
17 with this description, I believe it's a joint effort or
18 among discussion between Bill Butler, Brent Kerger and
19 Dr. Zhang.

20 Q And the discussion with Dr. Zhang had to come
21 between you and the English-speaking scientists, right?

22 That wasn't a good question. Let me say it
23 again.

24 Any discussions with Dr. Zhang went through
25 you, right?

1 A No.

2 Q Who else?

3 A I -- as I earlier stated, I remember there must
4 be another Chinese speaker in ChemRisk that -- whoever
5 participated in communications with Dr. Zhang, which I
6 was not participating in those conversations.

7 Q But that other Chinese speaker at ChemRisk
8 didn't participate in the drafting of the article; isn't
9 that true?

10 A I don't know because I think this Chinese
11 speaker was in another office of ChemRisk, not in the
12 same office as me -- as mine. I never met this person;
13 so I don't know whether there are conversations that
14 happened without me participating.

15 Q The other ChemRisk office, is it the one in
16 China?

17 A Actually, this one I refer to as the one either
18 in Irvine or in the headquarters in California, which is
19 Alameda.

20 Q Where is the headquarters in California?

21 A I think the Rancho Cordova.

22 And actually, you are right, the -- the -- the
23 ChemRisk person who worked in -- in Shanghai office who
24 can also speak English, who can also translate English,
25 I don't know that without me present in each of the

1 conversations whether there are conversations went
2 through him; so I cannot --

3 Q If you look at Exhibit 1, page 115 --

4 A Exhibit 1. Okay. 116?

5 Q 115.

6 A 115. Sorry. Yes.

7 Q And this document continues, I believe, to
8 page 120.

9 A 116 to 120. Sorry. I was in the wrong --

10 Q 115 to 120.

11 A I was in the wrong page. Sorry, sir.

12 115 to 120. 115. Production. One moment.
13 Yes, I saw this document. Okay.

14 Q Do you see that the first page, page 115, says
15 "Draft version/July 27, 1995"?

16 A Yes, I saw that.

17 Q And that's written in English, right?

18 A It is.

19 Q Isn't that the first draft of the Zhang '97
20 article?

21 MR. WILKINSON: Objection. Assumes facts not in
22 evidence.

23 THE WITNESS: I don't know.

24 BY MR. PRAGLIN:

25 Q Are you aware of a draft version earlier than

1 July 27, 1995?

2 MR. WILKINSON: Same objection.

3 THE WITNESS: I do not have a basis to recall at
4 this point in time.

5 BY MR. PRAGLIN:

6 Q Who wrote those pages, TONY YE 115 through
7 120?

8 A I don't recall.

9 Q It wasn't Dr. Zhang, was it?

10 A The English title was not him. Yeah.

11 Q Could you have typed this?

12 A Unlikely. I may.

13 Q Unlikely or likely?

14 A Unlikely. I may, but unlikely.

15 Q Did you use your scientific background to do
16 any of the drafting of the Zhang article or were you
17 simply translating?

18 A In addition to translating, I conducted or I
19 wrote what you call statistical programs that executed
20 some of the testing in the models which are statistical
21 testing in the statistical models in the 1997 draft, and
22 I enter -- those modeling and testing were under the
23 instruction of Mr. Bill Butler.

24 Q Did Mr. Butler also participate in the
25 execution of those statistical programs?

1 A I don't think so.

2 Q Are some of those statistical programs
3 beginning on page 122 of Exhibit 1?

4 A 122. This looks like the output of the
5 programs.

6 But you are right, in general speaking, these
7 are the execution trail or execution results from the --
8 from executing the model.

9 Q And look on page 121, the previous page.

10 A Yes.

11 Q Is that also part of the statistical program
12 that you worked on on the Zhang article?

13 A It looks like, yeah.

14 Q Did you create this document, 121?

15 A Looks like mine, yes.

16 Q As you look at the document --

17 A The document.

18 Q -- which is dated August 9, 1995, there are
19 some columns and there's one about the top third of the
20 page down, it says "input distance exposure rate," and
21 then it says "adrate lung stomach pop" for population,
22 correct?

23 A I saw that, yes.

24 Q And under the column for population, there are
25 a series of numbers for the different villages that are

1 a distance from the chromium alloy plant in JinZhou,
2 correct?

3 A Correct.

4 Q And you have, for example, for the first one,
5 which is zero, you have a number, 19172, correct?

6 A I do.

7 Q What does that mean?

8 A I believe that's a population number, number of
9 people living there.

10 Q Where did you get it?

11 A I remember it's from Dr. Zhang.

12 Q Did you ever see it in writing or did he just
13 tell you a number?

14 A I think both.

15 And I think that I can find his writing number,
16 some of his writing number in this material I produced.

17 Q And then would the same be true for all of the
18 numbers that are listed in that column for population?

19 A Yes.

20 Q So these are actual numbers rather than
21 estimates, is that right, or did he give you estimates?

22 A Could be estimates. I -- I don't know. But
23 these are numbers from him.

24 Q This is used to calculate the death rate of a
25 population for a particular disease, correct?

1 A This is used to fit a model for the death rate,
2 then the model means -- a model means a statistical
3 investigation that you try to understand the
4 relationship between a death rate with some other
5 factors, lifestyle factors or distance factors,
6 something like that.

7 Q There's a difference in the output of the model
8 when one uses estimated versus actual data; isn't that
9 true?

10 MR. CASAS: Object. It's ambiguous.

11 THE WITNESS: I don't -- I don't know which column
12 of this number you refer to as estimated number.

13 BY MR. PRAGLIN:

14 Q Right now I'm referring to the population
15 column.

16 A Yes.

17 Q The model would have a different output
18 depending upon whether you used actual or estimated
19 numbers; isn't that true?

20 MR. CASAS: Same objection.

21 THE WITNESS: Could be. Potentially, yes.

22 BY MR. PRAGLIN:

23 Q Before executing this program, did you make
24 sure that you had documented in writing before you all
25 of the numbers that you input into the program, or did

1 you rely upon information told to you by Dr. Zhang and
2 not necessarily documented in writing?

3 A I rely upon what Dr. Zhang, either in writing
4 or verbal, communicated.

5 Q So it may have been verbal only; is that
6 right?

7 MR. WILKINSON: Objection. Misstates his
8 testimony.

9 THE WITNESS: Unlikely. Unlikely.

10 BY MR. PRAGLIN:

11 Q Why do you say that?

12 A I remember -- most of these numbers that appear
13 in this program, I remember those numbers were taken
14 from a manuscript Dr. Zhang produced. And for the few
15 number, for example, population number that you just
16 mentioned, which is the last column, I remember that was
17 not in his original manuscript, but we asked him whether
18 he could find population number, and I remember he sent
19 a fax to us, or multiple fax to ChemRisk, containing the
20 population number. And some of the fax may be in this
21 900 or so pages that I produced.

22 Q The running of the model, that was the idea of
23 someone at ChemRisk and not Dr. Zhang, right?

24 A I believe it's from a discussion -- from
25 multiple discussions from ChemRisk with Dr. Zhang.

1 Q But wasn't it ChemRisk's idea?

2 A I don't recall it's ChemRisk -- it's -- it's a
3 end conclusion or end approach -- it's a approach that
4 Dr. Zhang and ChemRisk, after discussion, agreed upon.

5 Q Dr. Zhang didn't run the program, did he?

6 A No, he did not. I believe he did not.

7 Q And on the next section down on page 121, it
8 says "ratio: 1982/1974" with an asterisk. Do you see
9 that?

10 A Yes, I saw that.

11 Q What does that mean?

12 A I believe this meaning is in the
13 LiaoNing province, which is the surrounding area of the
14 JinZhou City we earlier talked about; in the
15 LiaoNing province the population in 1982, the ratio of
16 the population in 1982 to the population number in 1974.

17 Q Why were you concerned about that ratio?

18 A The reason for that, I believe, I -- as I
19 recall, was the population numbers Dr. Zhang provided
20 are -- are population numbers in 1982. It's not -- but
21 Dr. Zhang's period of study of this death rate was in
22 1970s. The midpoint is 1974. So what is really good to
23 have is 1974 population, not 1982 population.

24 Q Wouldn't it have been better to have the
25 population for all of the years, 1970 to 1978?

1 A It would be better.

2 Q You didn't have that, did you?

3 A We did not.

4 Q So you picked '74 as a midpoint, right?

5 A Yes, we did.

6 Q And you didn't have actual data for '74, did
7 you?

8 A We did not.

9 Q So you used 1984 to extrapolate back to what
10 you thought the 1974 population would have been, right?

11 A We used 1982, not 1984, to back calculate.

12 And based on what Dr. Zhang told us, we believe
13 this approach is a valid statistical approach.

14 Q That statistical approach is not explained in
15 the '97 Zhang article, is it?

16 A I -- I --

17 MR. CASAS: If you know.

18 THE WITNESS: I do not. I could review this article
19 but I -- I don't remember this --

20 BY MR. PRAGLIN:

21 Q Well, the article is only five pages. Show me
22 where that statistical methodology is explained.

23 A Let me have a look at this article.

24 In the article, which is your I think
25 Exhibit 2, on page -- this is one place of the

1 information, on page 189 and there are three column --

2 Q I'm sorry, you said page 189?

3 A Yes. And/or --

4 MR. CASAS: Bates stamp 189.

5 THE WITNESS: Bates stamp.

6 MR. PRAGLIN: Thank you.

7 THE WITNESS: Bates stamp CHEMR 189.

8 BY MR. PRAGLIN:

9 Q What page of the article is that?

10 A It's the second page, actually.

11 Q Thank you.

12 A Okay. I will direct your attention to the
13 second column on this page, or the second column of
14 paragraphs on this page, one, two, three, four, five,
15 six, seven, eight, start from the ninth row -- or ninth
16 line, I read it.

17 "The death rate was calculated by dividing the
18 observed number of cancer deaths in 1970 to 1978 by the
19 total number of follow-up person-years. The total
20 number of follow-up person-years is estimated as the
21 product of the length of follow up (9 years) and the
22 estimated size of the population in 1975, the midpoint
23 of the follow-up period."

24 In this sentence, there are two places where we
25 use the -- the word "estimated." Estimated is not

1 exact.

2 Q So you didn't have the actual data; isn't that
3 true?

4 MR. CASAS: Object to form.

5 MR. WILKINSON: Vague, actual data.

6 MR. CASAS: Actual data for what?

7 THE WITNESS: Um, yes.

8 MR. PRAGLIN: For the death rates.

9 MR. WILKINSON: Same objections.

10 THE WITNESS: No. We have actual data for death
11 rates. Those death rates were reported by Dr. Zhang.

12 BY MR. PRAGLIN:

13 Q Wasn't the paper rejected by the Archives of
14 Environmental Health because of the absence of death
15 rate information?

16 A First, I don't know it was rejected. I
17 don't -- I don't know it's a fact it's rejected.

18 Second -- secondly, it's -- I don't think this
19 is a reason that -- when you say "rejected," I -- I
20 don't even know it's rejected.

21 Q Let me show you the rejection.

22 Let's mark it as Exhibit --

23 Is it 11?

24 THE REPORTER: Yes.

25 (Plaintiffs' Exhibit 11 was

1 marked for identification, a copy of
2 which is attached hereto.)

3 BY MR. PRAGLIN:

4 Q This is also from Mr. Butler's file, Mr. Ye.

5 A Okay. I'm looking at this Exhibit 11.

6 Q Look at the first page, which is

7 WILLIAM BUTLER 227. Do you see that?

8 A Yes.

9 Q You received that letter, didn't you?

10 A I believe I did.

11 Q It was sent to your home address, wasn't it?

12 A I believe it is. I don't --

13 Yes, could be.

14 Q And it's addressed to Dr. Zhang, right?

15 A Yes.

16 Q And the first paragraph says, "Dear Dr. Zhang:
17 Your study, listed above, has been returned by the
18 reviewers who have requested that your study be revised
19 prior to making a final decision. Their comments are
20 enclosed for your reference."

21 Correct?

22 A Yes.

23 Q When you received this letter, did you call
24 Archives of Environmental Health to find out why it was
25 being returned?

1 A I don't remember I call them.

2 Q You never called that journal, did you?

3 A I may have called regarding of the status of
4 the review. I don't recall.

5 Q Would it be fair to say that you were anxious
6 to get this paper published?

7 A I would not put it that way because it was a
8 task assigned to me and I was not particularly anxious.
9 I would just provide the service as a courtesy of a
10 professional.

11 Q Well, the paper was submitted about five months
12 before this letter was received, right?

13 A It looks like that way, yes.

14 Q Didn't you get calls from people at ChemRisk
15 asking you what's happening with getting the Zhang
16 article published?

17 A I received a couple of inquiries from ChemRisk
18 to ask me to say Tony, can you find out the current
19 status. And I -- I followed up on the person, I contact
20 the journals, two journals, to see what's the status,
21 then report back to ChemRisk.

22 Q The journals spoke English, right?

23 A Yes, they do.

24 Q So did you ever ask the people at ChemRisk why
25 don't you call yourself?

1 A I did not ask because I -- my understanding is
2 that since I was assigned as the contact person, it
3 naturally falls on me to do a follow-up.

4 Q But you weren't even working for ChemRisk at
5 the time, were you?

6 A I was not.

7 Q Weren't you the contact person so that there
8 would be no ties with the journal to ChemRisk?

9 A I don't know what -- I -- I don't know.

10 Q That was never mentioned to you?

11 A No, it was not mentioned to me.

12 Q Look at the next page of Exhibit 11, which is
13 WILLIAM BUTLER 228. This is one of the reviewer's
14 comments that was received back from Archives of
15 Environmental Health, isn't it?

16 A I believe so.

17 Q And the Archives write to Dr. Zhang, "The
18 overall conclusions are based on an unspecified, or
19 possibly a single measurement made in drinking water
20 wells in 1965. These measurements could be atypical of
21 the concentrations in the water of chromium from 1970 to
22 1978. The authors do not consider particulate in the
23 air from the point source, this could alter the
24 conclusions. Many details are lacking, including a
25 break down of cancer rates per year. The authors

1 correctly state that the follow up period of 9 years may
2 not be insufficient to reach any conclusion.

3 "The information gaps, makes this paper
4 difficult to interpret."

5 Didn't you take that to be a rejection of the
6 Zhang article?

7 MR. WILKINSON: Objection. Vague, argumentative,
8 misstates the document.

9 THE WITNESS: I personally don't know.

10 I will say this statement suggests a revision
11 or -- or additional details need to be provided, but
12 I -- I -- I never send a article other than this article
13 to any journal which I would not know whether -- which I
14 do not have the experience based on reading this that
15 what -- how much change would be needed or -- or whether
16 this is a encouragement to go on or whether this is a
17 disencouragement to say this article is not a
18 qualified.

19 I -- based on my experience, I don't -- I
20 don't -- I don't have a basis to say one way or the
21 other.

22 BY MR. PRAGLIN:

23 Q So this wasn't a normal activity for you to be
24 submitting articles to journals for publication; is that
25 true?

1 A That's true.

2 Q You don't list any articles that you published
3 on your CV, do you?

4 A I do not.

5 Q And then the next page of Exhibit 11, which is
6 WILLIAM BUTLER 229, this is another reviewer's comments
7 from Archives of Environmental Health, and this says,
8 and it's about the Zhang article, "This paper is a good
9 example of the problems found in dealing with 'small
10 area' epidemiology. It is worth publication. In the
11 discussion, the low statistical power ought to be
12 commented."

13 Do you see that?

14 A Yes, I saw that.

15 Q So when you received these comments back from
16 Archives of Environmental Health --

17 A Yeah.

18 Q -- didn't you just send them to ChemRisk?

19 A I -- at that point of time, I -- I did, I send
20 them to ChemRisk.

21 Q You didn't first call Dr. Zhang and tell him
22 that the paper had been rejected by the Archives of
23 Environmental Health, did you?

24 MR. WILKINSON: Objection. Misstates the document,
25 argumentative, misstates the testimony.

1 THE WITNESS: I don't recall one way or the other of
2 whether -- who did I contact first.

3 BY MR. PRAGLIN:

4 Q You never wrote Dr. Zhang a letter telling him
5 that Archives of Environmental Health had decided not to
6 publish the article, did you?

7 MR. WILKINSON: Same objections.

8 THE WITNESS: I don't remember such a letter but I
9 may have talked with him.

10 BY MR. PRAGLIN:

11 Q Do you have a recollection of telling Dr. Zhang
12 about these two reviewers' comments from Archives of
13 Environmental Health that are attached as Exhibit 11?

14 A I do not have recollection one way or the
15 other --

16 Q Okay.

17 A -- whether I called or not.

18 Q So when you sent these letters, Exhibit 11, to
19 ChemRisk --

20 A Uh-huh.

21 Q -- what was the response?

22 A I don't recall.

23 Q Did you send them to Tom Flahive?

24 A Likely to him, yeah.

25 Q Didn't you fax it to him within a couple of

1 days of receiving these reviewers' comments?

2 A If I received, yes.

3 Q Look at page WB 230 from Exhibit 11. Isn't
4 that the fax confirmation of sending these two pages?

5 A It look like a fax confirmation, yes, sure.

6 Q And then look at the next page, WILLIAM
7 BUTLER 231 of Exhibit 11.

8 A Uh-huh.

9 Q You wrote to Brent Kerger at ChemRisk and you
10 say, "Dear Brent: Enclosed please find the comments
11 received from Archive of Environmental Health. I will
12 call to discuss."

13 Correct?

14 A Yes, that's what I wrote.

15 Q And you did that on May 24, 1996, right?

16 A Yes. Dated May 24th.

17 Q Did you talk to Brent Kerger about those
18 comments of Archives of Environmental Health?

19 A I don't recall I talked to him.

20 Q You don't recall ever talking to Brent Kerger
21 about the rejection from the Archives of Environmental
22 Health?

23 A I do not.

24 MR. CASAS: Same objection.

25 MR. WILKINSON: Same objection. Misstates the

1 testimony, mistates the statement.

2 THE WITNESS: I do not.

3 BY MR. PRAGLIN:

4 Q You never talked to Brent Kerger about
5 Exhibit 11?

6 A I do not recall talking to him on this part.

7 Q Did you ever attempt to withdraw from the
8 Archives of Environmental Health the Zhang article?

9 A I don't remember I did.

10 Q You weren't instructed to do so, were you?

11 A I don't -- I don't remember there are such
12 instruction, nor I -- nor I have any recall that I
13 withdrew.

14 Q If you were told to withdraw the paper, you
15 would have done it, right?

16 A I would.

17 Q If you go back to this reviewer's comments on
18 page 228 of Exhibit 11, where the reviewer says, "Many
19 details are lacking, including a break down of cancer
20 rates per year," did you understand what the reviewer
21 meant?

22 A Sitting here, I -- I -- I will say that means
23 that reviewer -- reviewers want to see a cancer
24 mortality rate from 1970 to 1978, year after year.

25 Q And that was data you didn't have; isn't that

1 true?

2 A I don't know whether Dr. Zhang has it or not.

3 Q Isn't it true you didn't have it?

4 A I -- I don't think I have it.

5 Q And then if you look at Exhibit 2 on page 317,
6 the left column --

7 A Yes.

8 Q -- the first full paragraph, it says, "No
9 statistical comparisons with province mortality rates
10 could be made for site-specific cancer rates because of
11 the lack of appropriate rate information," correct?

12 A Yes, I saw that.

13 Q Who wrote those words?

14 A I believe the words -- or the English was typed
15 by one someone in ChemRisk, likely to be either
16 Bill Butler or Brent Kerger, or someone under their
17 instruction. But I believe the contents was a
18 discussion with us, including Dr. Zhang.

19 Q Were the contents of that sentence written on
20 paper by Dr. Zhang anywhere or were they written in
21 California as a result of conversations with Dr. Zhang?

22 A This could be in a result -- in -- on a piece
23 of paper as a result of a conversation with Dr. Zhang.
24 This could be.

25 Q I didn't understand your answer.

1 Are you saying that it was from a conversation
2 or that Dr. Zhang wrote those words?

3 A Could be either way.

4 Q Is there a Chinese draft of the very first
5 version of the Zhang article?

6 A I believe there is. There is a -- there is a
7 draft in Chinese.

8 Q Does that mean that this page that we looked at
9 starting at TONY YE 115, the July 27, 1995 draft, was a
10 translation of Dr. Zhang's work?

11 MR. WILKINSON: Objection. Assumes facts not in
12 evidence, that that document is the first draft of the
13 article.

14 MR. CASAS: If you know.

15 THE WITNESS: I don't.

16 MR. PRAGLIN: Why don't we take a lunch break, and
17 over some part of the lunch break I'm going to ask you
18 to go through the stack of 925 pages, and granted we're
19 only looking for Chinese, and find me the Chinese draft
20 of the 1997 Zhang paper, please.

21 THE WITNESS: Okay. I will try go do that.

22 MR. PRAGLIN: Okay. Take a lunch break and --

23 THE WITNESS: Thank you.

24 MR. PRAGLIN: -- do that as well.

25 THE WITNESS: Okay.

1 THE VIDEOGRAPHER: This marks the end of tape number
2 two in the deposition of Tony Ye. We're going off the
3 record. The time is 12:21.

4 (Lunch recess.)

5 THE VIDEOGRAPHER: We're back on the record. Here
6 marks the beginning of tape number three in the
7 deposition of Tony Ye. The time is 1:20. Please begin.

8 BY MR. PRAGLIN:

9 Q Mr. Ye, before the lunch break we had asked you
10 to try and identify the Chinese version of the July '95
11 draft of the Zhang article.

12 A Yes, I did.

13 Q Have you been able to do that?

14 A I will -- I looked into my material and I found
15 a Chinese version article but I -- I don't think this is
16 the draft version of the 1997 article.

17 Why don't I point out which article, which
18 pages in my material.

19 Q Go ahead.

20 A It is TY 43 to TY 44. Sorry. TY 45.

21 Q So those three pages?

22 A Three pages, correct.

23 It is not a draft version of the 1997 article,
24 but this is a manuscript in Chinese. I believe has the
25 same conclusion as the 1997 article.

1 Q Did you ever translate this Chinese manuscript
2 that's been Bates stamped TY 43 through 45?

3 A You mean translate that into English?

4 Q Yes.

5 A I believe there is a correspondent --
6 corresponding English version of this manuscript. I
7 don't recall. Either I translated Chinese into English
8 or English into Chinese, but I know there -- there is a
9 corresponding document to this in English.

10 Q Did you translate it?

11 A I may have.

12 Q And so if this three pages of Chinese
13 manuscript, TY 43 through 45, is not the draft of the
14 '97 Zhang article, is there a document in the 925 pages
15 that you produced for us that is Dr. Zhang's Chinese
16 written draft of the '97 article?

17 A In my brief -- brief review over lunch, I did
18 not find such a document.

19 Q The document that you identified as containing
20 the same conclusions, TY 43 through 45 --

21 A I would say similar conclusions.

22 Q Okay. Similar conclusions?

23 A Yeah.

24 Q -- what's the date of that document?

25 A This document, there's a page, TY 42, which is

1 a fax cover page. The date on that fax cover page is
2 September 1st.

3 Q What year?

4 A 1995.

5 Can you give me a moment, please.

6 Actually, on this page this does not state
7 any -- any year. I -- I assume it's 1995. On this page
8 it says September 1st.

9 But there's one more page, actually it's
10 TY 41, this is a confirmation report of the -- of page
11 in TY 42 through 45, and the confirmation reports -- fax
12 confirmation report said September 1, year 1995.

13 Q Is that a fax that was received by you at your
14 office at ChemRisk in Alameda?

15 A I believe this is a fax I sent out from
16 Alameda.

17 Q Okay. So who were you faxing this document to?

18 A I do not rec- -- there is a phone number on
19 this manuscript, but I do not remember whose phone
20 number this is.

21 Q On this document, TY 42 --

22 A Yes.

23 Q -- it says "Person transmitting copy" in the
24 lower left. Is that your Chinese name?

25 A Yes, it is.

1 Q And it says "Attention"?

2 A Correct.

3 Q Who are you sending it to?

4 A It's in Chinese, I will just try to give you
5 the translation.

6 It's sent to a McLaren/Hart employee at Beijing
7 office, I believe. And it said please transfer --
8 please give this to Dr. Zhang.

9 Q Let me back up.

10 A Sure.

11 Q The document that's identified as TY 43
12 through 45 --

13 A Uh-huh.

14 Q -- the Chinese characters, are those
15 typewritten or are those handwritten?

16 A The TY 43 to 45?

17 Q Yes.

18 A They are typed.

19 Q Who typed it?

20 A I believe I did.

21 Q So I'm not sure I understand, and maybe you
22 misunderstood my original question.

23 Before lunch I asked you to identify for me
24 Dr. Zhang's Chinese version of the '97 Zhang article and
25 you told me you haven't been able to identify that

1 document, correct?

2 A That's correct.

3 Q But you did identify for me TY 43 through 45
4 which you said was a Chinese version of similar findings
5 of Dr. Zhang, correct?

6 A Correct.

7 Q But you're saying that you wrote this document,
8 TY 43 through 45, right?

9 MR. CASAS: Objection. He said he typed it.

10 THE WITNESS: I typed it.

11 BY MR. PRAGLIN:

12 Q What did you type it from?

13 A I typed from a -- I believe a English version
14 of the -- I told you earlier, a moment ago, that there
15 is a corresponding English version of this TY 43 to
16 TY 45; so I typed from based on that English version.

17 Q And that English version from which you typed
18 in Chinese TY 43 through 45 --

19 A Yes.

20 Q -- who wrote that English version?

21 A I don't recall specifically, but likely to be
22 either Brent Kerger or Bill Butler.

23 Q Can you identify for me any Chinese document
24 written by Dr. Zhang, not by you and not by ChemRisk --

25 A Uh-huh.

1 Q -- that contains Dr. Zhang's similar views to
2 the '97 Zhang article?

3 A I would say I produced to you Dr. Zhang's
4 manuscripts, probably five or six manuscripts, that --
5 with Chinese and with English both. The Chinese was
6 either faxed to ChemRisk from Dr. Zhang or mailed to
7 ChemRisk from Dr. Zhang.

8 And I will say that in that five manuscript,
9 the general conclusion, and mentioned in different
10 places in that five manuscript, that Dr. Zhang has
11 expressed the similar conclusion as of 1997 JOEM
12 article.

13 Q On Exhibit 2, which is the '97 Zhang article --

14 A Correct.

15 Q -- where Dr. Zhang says, on page 319 --

16 A Uh-huh.

17 Q -- middle column, "Nonetheless, these results
18 suggest that lifestyle or environmental factors not
19 related to the chromium (VI) contamination are the
20 likely source of the variation in these cancer rates,"
21 you can't point me to a translation of Zhang's pre-1995
22 writings that has that sentence, can you?

23 MR. CASAS: Object to form. He also needs the
24 documents.

25 You want to look through the manuscripts?

1 THE WITNESS: I have to. If I need to identify, I
2 have to look through the pages of documents in my
3 material to identify that similar conclusion.

4 MR. PRAGLIN: Let me see if my associate left one
5 for me here.

6 Q You're saying you would need to see your
7 translations from the 1995 time frame of Dr. Zhang's
8 pre-1995 work; is that right?

9 A That's right.

10 Q Okay. Let me give you back, then, the BRP
11 production that I gave you before --

12 A Yes.

13 Q -- and you can look through it. I'll also give
14 you the ChemRisk production, which you can look through,
15 and I'll ask you to find me --

16 A Uh-huh.

17 Q -- one of Dr. Zhang's prior writings, pre-1995,
18 that has that same conclusion that I just read to you
19 from the last page of the '97 Zhang article.

20 A Sure.

21 MR. CASAS: How many articles are there that he's
22 supposed to read through?

23 THE WITNESS: Five or six.

24 BY MR. PRAGLIN:

25 Q You're reading the English version, aren't you?

1 A I am, because I'm going to answer your question
2 in English, so I --

3 Q I think I have a faster way of going about
4 this.

5 A Okay. If you can tell me.

6 Q I have package of your translations of
7 Dr. Zhang's previous work.

8 A Uh-huh. Okay.

9 Q And I'll show them to you.

10 A Okay.

11 Q And I'll ask you some questions about them.
12 How's that?

13 A That's okay.

14 Q And some of these may be duplicates, but I'm
15 sure that between all of these duplicates we have them
16 covered. That's a fair statement.

17 MR. WILKINSON: 15 versions of the 5 articles.

18 THE WITNESS: That could be.

19 BY MR. PRAGLIN:

20 Q Is that your recollection, that there were five
21 of Zhang's pre-'95 works that you translated?

22 A Yes.

23 Q And are you familiar with the ChemRisk star?

24 A No.

25 Q I'm holding one of these up for you. This

1 happens to be CHEMRISK 101. I could hold up this one
2 here for you, which is CHEMRISK 116. Do you see the
3 black star in the upper right?

4 A I saw it.

5 Q Dr. Kerger testified that it was a red star and
6 ChemRisk put a star on it to indicate that it was
7 generated from their office. You weren't familiar with
8 that?

9 A No, not at all.

10 Q Let me put it in front of you --

11 A Okay.

12 Q -- and I'll identify these for the record and
13 then you can look at them and just give them back when
14 you're done.

15 A Sure.

16 Q The translation of "Epidemic Study of Malignant
17 Neoplasm in JinZhou Suburb" --

18 A Yes.

19 Q -- CHEMRISK 34 through 51, it's English and
20 Chinese, did you translate that document?

21 A Yes, likely.

22 Q Seeing the English and the Chinese together,
23 you can say that's your translation from 1995?

24 A Looks like.

25 Q And showing you CHEMRISK 52 through 77, same

1 question, is that a Chinese article of Dr. Zhang's that
2 you translated of his pre-'95 work?

3 A Looks like a translation to me.

4 Q Same question for this next one, which is
5 CHEMRISK 78 through 100, is this a translation of
6 Zhang's pre-'95 work that you did?

7 A Looks like one of the translation I did, yes.

8 Q This next one is CHEMRISK 101 through 112, and
9 this one has a translator's note on the top. Is this a
10 translation that you made of Dr. Zhang's pre-1995 work?

11 A There's no Chinese version attached to this
12 page that you just gave to me, but this could be a
13 translation that I made from one of Dr. Zhang's
14 manuscripts.

15 Q You had a practice of including comments of the
16 translator and then putting your name at the end with
17 your phone number, didn't you?

18 A Let me have a look at which page you have in
19 your hand.

20 Q I'm showing you now CHEMRISK 116 through 137.

21 A Thank you.

22 I -- the answer to your question whether I
23 have a habit of providing comments of translator and
24 whether it's my habit of providing my phone number at
25 the end of document, the answer to both of those

1 questions is no, it's not of my habit.

2 I see in some of these documents you just gave
3 me there is a phone number provided, in some of these
4 documents there is no phone number provided; so this
5 depends on the situation, the scenarios. I do not
6 always provide my phone number and I do not always
7 provide a translator notes.

8 Q That last one that I showed you, CHEMRISK --

9 Is it 111 or 116?

10 A 116.

11 Q -- 116 through 137, you translated that work
12 from Dr. Zhang's pre-1995 work, didn't you?

13 A Hang on one moment.

14 I think I did. This looks like a translation I
15 made.

16 Q Showing you now translation CHEMRISK 138
17 through 161, is this also another translation that you
18 made of Dr. Zhang's pre-1995 work?

19 A I do not know whether this is different than
20 any of these document that you already showed me.

21 Q Right. There may be some overlap.

22 A Okay. Again, it looks like a translation I
23 made.

24 Q And this one, CHEMRISK 252 through 270, is this
25 a translation that you made of Dr. Zhang's pre-1995

1 work?

2 A Yes, this look like a version of translation I
3 made.

4 Q And this next one, CHEMRISK 271 through 297, is
5 this also a translation that you made of Dr. Zhang's
6 pre-1995 work?

7 A Yes, this looks like a version of translation I
8 make.

9 Q And this next one, which is CHEMRISK 301
10 through 325, is this also a translation that you made of
11 Dr. Zhang's pre-1995 work?

12 A Yes, this look like a translation I made.

13 Q So all of the translations that you made of
14 Dr. Zhang's pre-1995 work that you have in front of you
15 now --

16 A Yes.

17 Q -- is it your testimony that without looking at
18 those documents you are unable to recall any similar
19 statements that Dr. Zhang made to statements in his '97
20 article, or can you recall that there are some?

21 A My impression is combined, combining all the
22 previous work Dr. Zhang has done, his conclusion was
23 similar to the 1997 article.

24 I do not -- without going through them all, I
25 cannot say that on which page I can identify a exact or

1 similar statement as contained in the 1997 article.

2 Q And your translations of Dr. Zhang's pre-1995
3 work were done to the best of your ability, right?

4 A Best to my ability around that time, yes.

5 Q And your translation ability is the same now as
6 it was in '95? It's not like you've improved over the
7 last seven years, is it?

8 A I -- I don't know how to compare because I was
9 never a certified translator and I never really took any
10 test around 1995 or now to have a standard to compare my
11 translation skills back then or right now. I -- I
12 don't -- I don't have a basis to make such a comparison.

13 Q In order to type the Chinese document that is
14 TY 43 through 45, did you have to use a Chinese computer
15 program?

16 A TY 45?

17 Q 43 through 45.

18 A 43 through 45.

19 Yes, you do.

20 Q Did you have that program at the office at
21 McLaren/Hart-ChemRisk?

22 A It looks -- I -- I don't remember, but it looks
23 like to me I must have installed such program on
24 McLaren/Hart office.

25 Q And so that means that TY 43 through 45 was

1 typed at McLaren/Hart, right?

2 A Yes, I believe so.

3 Q And then faxed using their fax machine, right?

4 A Looks like to me that that's the case.

5 Q Now, setting aside all of your translation of
6 Dr. Zhang's pre-1995 work --

7 A Yes.

8 Q -- is it your testimony that you are unaware of
9 any Chinese written version by Dr. Zhang of what is
10 contained in the '97 Zhang article?

11 MR. WILKINSON: Objection. Vague and compound.

12 THE WITNESS: I don't know what you mean by just
13 wrote because by typing, I don't recall there's a typing
14 from Dr. Zhang that contained exact same sentence as
15 1997 article.

16 But if you say "wrote" also means "author" or
17 "come up with," then I will say there are a lot of
18 material in my communications that in -- documented in
19 this -- my exhibit here are evidence that Dr. Zhang -- I
20 don't know whether I would say "wrote," but Dr. Zhang
21 came up with the conclusion of 1997 article.

22 BY MR. PRAGLIN:

23 Q To get to the 1997 Zhang article, there were a
24 number of different versions, right?

25 A There are.

1 Q Did Dr. Zhang write in his own hand any of
2 those versions?

3 A He -- he may have. Since I do not have a -- I
4 can show you some of his handwriting.

5 Q Let's start with the entire article.

6 Isn't it true --

7 A Okay.

8 Q -- that there is no document in Dr. Zhang's own
9 handwriting that is a Chinese version of what was
10 published as the '97 Zhang article?

11 A My --

12 MR. CASAS: If you know.

13 THE WITNESS: My material here does not have such
14 a -- just by brief looking at -- into my material when I
15 prepare it and during the lunch break, I did not find
16 such a document as you describe, but I -- I -- I don't
17 recall whether this ever exist or not. It's just not in
18 my document.

19 BY MR. PRAGLIN:

20 Q And isn't it true that there is no document
21 that Dr. Zhang typed that is a typewritten version in
22 Chinese of the English '97 Zhang article?

23 MR. CASAS: If you know.

24 THE WITNESS: Same answer as what I gave before. I
25 don't know.

1 BY MR. PRAGLIN:

2 Q But you can't remember one; is that right?

3 A I can -- I cannot remember one.

4 Q Now, on Exhibit 2, the Zhang article --

5 A '97 article you mean, sir?

6 Q Yes, the '97 article.

7 -- there are two authors, Dr. Zhang and Dr. Li,
8 right?

9 A Yes, there are.

10 Q But Dr. Li didn't really write any part of the
11 '97 article, did she?

12 MR. CASAS: Objection. Calls for speculation, it's
13 been asked and answered.

14 THE WITNESS: I don't know. That depends on what --
15 how much cooperation were relying of Dr. Zhang on
16 Dr. Li. That's a cooperation between them. Both are
17 in -- both were in China.

18 BY MR. PRAGLIN:

19 Q Did you make any attempt to confirm that
20 Dr. Li, in fact, wrote part of the Zhang '97 article?

21 A No, I did not.

22 Q Could I get those translations back and I'll --

23 A Sure.

24 Q -- try and put them back in order? Thank you.

25 Do you have Exhibit 2 in front of you?

1 A Yes, I do.

2 Q Can you identify for me a single word in
3 Exhibit 2 that Dr. Li contributed?

4 MR. WILKINSON: Objection. Calls for speculation.

5 THE WITNESS: Well, Dr. Li did not speak English and
6 I -- I don't remember I ever talked to her. I think
7 that's a -- that's a lady. But the -- to the degree
8 Dr. Li contributed to Dr. Zhang's reasoning and into
9 Dr. Zhang's phrase --

10 BY MR. PRAGLIN:

11 Q Phrase, is that what you meant?

12 A Correct. Phrase.

13 To the degree that Li contributed to Zhang's
14 reasoning and to Zhang's phrase of his reasoning and
15 conclusion, then I will say Li con- -- contributed to
16 some part of this article, I -- I just don't know.

17 Q Aren't you speculating that Dr. Li contributed
18 anything to the '97 Zhang article?

19 MR. WILKINSON: Objection. Asked and answered,
20 argumentative.

21 THE WITNESS: I rely upon Dr. Zhang to tell us, to
22 tell ChemRisk that, whether Li contributed or not, and
23 we take Dr. Zhang's word for it. We did not verify.

24 BY MR. PRAGLIN:

25 Q In the first line of the abstract on Exhibit 2

1 it says, "This report is a clarification and further
2 analysis of our previously published mortality study."

3 I want to ask you about the word "our." Who
4 does that relate to? Who does that refer to?

5 A I will say anyone who participated in Zhang's
6 analysis in 1987.

7 Q Well, Dr. Li didn't participate in that '87
8 analysis, Dr. ShuKun Li, did she?

9 A I do not know.

10 Q You never verified that she did, did you?

11 A I -- I did not.

12 Q Now, the abstract was actually written by
13 someone at ChemRisk, wasn't it?

14 A It was typed by someone at ChemRisk, yes.

15 Q Weren't the words also written by someone at
16 ChemRisk?

17 A The words are typed by someone at ChemRisk,
18 yes.

19 Q Well, who wrote them before they were typed?

20 A I don't think there's a hand draft writing. I
21 don't recall there's a hand draft writing, but I think
22 that before it's typed it's -- the sentence and the
23 structure and conclusion or description are verbally
24 discussed among Brent Kerger, Bill Butler, Dr. Zhang,
25 who are the three persons who are the most senior

1 persons in this project, and may contributed -- may
2 contain contributions from me, Gwen Corbett, Tom Flahive
3 or anyone who worked on this project.

4 Q Did you ever meet Brent Kerger face to face?

5 A I think I did.

6 Q Did you meet him in connection with the Zhang
7 article?

8 A Don't recall.

9 Q Isn't it true that the July 27, 1995 draft of
10 the Zhang article was actually written by ChemRisk at
11 Alameda and Irvine, California?

12 A July 25th --

13 MR. WILKINSON: Objection. Assumes facts not in
14 evidence, mischaracterizes the document.

15 MR. PRAGLIN: I'll restate it for you.

16 Q Isn't it true that the July 27, 1995 draft of
17 the Zhang article was actually written, not typed, but
18 written by ChemRisk at both the Alameda and Irvine,
19 California offices?

20 MR. WILKINSON: Same objections.

21 MR. CASAS: Object to the form.

22 MR. WILKINSON: Assumes facts not in evidence,
23 mischaracterizes the document.

24 THE WITNESS: Before I answer that, can you remind
25 me again where is the July 27th -- which exhibit it's

1 on?

2 BY MR. PRAGLIN:

3 Q It's TY 115 --

4 A Okay. Thank you.

5 Q -- and following.

6 A Oh, okay. You direct me to this page before.

7 I -- same thing. I -- I try to differentiate
8 between the two words -- two words, which is "typed" and
9 "write." It's easy if the meaning of the writing
10 article is the same thing as the typing of an article,
11 but I just don't think so.

12 I think that in the modern scientific
13 surrounding that you basically type a article, but the
14 typing of the article compared to the design of the
15 structure, the wording of the sentence, the structure of
16 the conclusion, typing is only a very minor part.

17 So when you say "write article," I consider
18 write as a way starting from the design, the select of a
19 topic and to reach a conclusion and finally type them
20 and print them out. It's a whole procedure; so --

21 Q Let's see if we can get a better understanding
22 of one another.

23 A Sure. Okay.

24 Q You were in college, right?

25 A Yes.

1 Q Did you take some tests?

2 A I did.

3 Q Were some of them essays?

4 A Yes, they are.

5 Q Did you write the essay?

6 A Yes, I did.

7 Q Okay. I'm talking about when you write
8 something like writing an essay --

9 A Yes.

10 Q -- that's what I mean by "write," not type like
11 the court reporter is typing now.

12 A I understand.

13 Q Okay. That's my definition of "write,"
14 something that you write out in your own hand or that
15 you type out and compose as you go. Do you understand
16 that?

17 A Yes, I do.

18 Q Isn't it --

19 A And I --

20 Q Then isn't it true that the July 27, 1995 Zhang
21 draft article was actually written by the ChemRisk
22 Alameda and Irvine offices?

23 MR. CASAS: Same objection.

24 MR. WILKINSON: Object. Mischaracterizes the
25 document, assumes facts not in evidence that this is the

1 draft of the '97 article.

2 THE WITNESS: Actually, following your definition, I
3 like that definition, I would not come up with that
4 definition myself.

5 "Write" in your definition is you type while
6 you compose, you compose something, you -- so your
7 example when I take a test in college, I write an essay,
8 sure. But when I write the essay, the ideas was mine,
9 the design of the structure was mine, the type is
10 mine -- was mine, or the handwriting was mine.

11 The -- either both the draft in TY 115 and the
12 1997 article I consider was a conclusion that -- or the
13 structure of the paragraph and the structure of the
14 document is structured by Dr. Zhang, is designed by him;
15 so there's a --

16 How do you say this?

17 So the -- the wording and the making that into
18 a printed document certainly was not by him, it was by a
19 person I believe in ChemRisk, but I do not re- -- I do
20 not consider the person who printed this document are
21 indeed can categorize as work and can view as who wrote
22 this article. That's -- "wrote" means you type while
23 you compose, but the compose part -- compose part is not
24 done by a person in ChemRisk alone.

25 BY MR. PRAGLIN:

1 Q Are you using the word "compose" and "write"
2 interchangeably?

3 A To a certain degree, yes.

4 Q That's different than type, isn't it?

5 A You can separate those two procedures out, yes.

6 Q Just so that we can be clear, let's set aside
7 typing.

8 A Okay.

9 Q Isn't it true that the July 27, 1995 version of
10 the Zhang article was written, and if you want to use
11 the word "composed" I'll say was composed, by ChemRisk
12 and not by Dr. Zhang?

13 MR. CASAS: Same objections.

14 MR. WILKINSON: Yes. Objection. Assumes facts not
15 in evidence that this is a draft of the article,
16 mischaracterizes the documents, misstates the prior
17 testimony, asked and answered.

18 THE WITNESS: I believe that I will cat- -- I will
19 say that Dr. Zhang participated in composing the
20 document you just referred to.

21 BY MR. PRAGLIN:

22 Q Looking at the July 27, 1995 draft --

23 A Yeah.

24 Q -- of the Zhang article --

25 A Yes.

1 Q -- which words are Dr. Zhang's?

2 MR. WILKINSON: Again, same objections.

3 MR. CASAS: Same objections.

4 THE WITNESS: Although I -- I -- sitting here I
5 cannot identify which word. But around that time the
6 phone conversations, the communications we had with
7 Dr. Zhang were the basis for all the wording in this
8 document.

9 So Dr. Zhang, to my knowledge, and -- I think
10 participated in composing this document, although he
11 does not speak English, but that's only a minor point of
12 composing.

13 BY MR. PRAGLIN:

14 Q He doesn't write English either, does he?

15 A Most likely not. He -- he may write a couple
16 of English of city names or Brent Kerger's name in
17 English but not -- not extensively in writing a
18 paragraph.

19 Q Would you look at TY 113?

20 A Sure.

21 Q If Dr. Zhang wrote the July 27, '95 draft --

22 A Uh-huh.

23 Q -- then why does it say by ChemRisk, Alameda
24 California, Irvine, California, on that page?

25 MR. CASAS: Same objection.

1 MR. WILKINSON: Objection. Assumes facts not in
2 evidence as to this being a draft of the '97 article.

3 THE WITNESS: I don't know. This is not the -- this
4 is not a document I wrote; so I do not know what the
5 reasoning of putting this cover page on.

6 BY MR. PRAGLIN:

7 Q Mr. Ye, if you didn't write this document, how
8 did it get in your file?

9 A Oh. The -- around that time there are
10 documents who -- which are wrote by Mr. Butler, or some
11 of them maybe by Brent Kerger, that they would provide
12 me with a copy. And those copies are -- if they are
13 still remaining in my file, that's because of -- I kept
14 it until today.

15 Q So this version of the Zhang article that's
16 TY 113 through 119 --

17 A Yes.

18 Q -- since you didn't write it and Dr. Zhang
19 didn't write it, it was either written by Dr. Kerger or
20 Dr. Butler or Dr. Corbett; is that your testimony?

21 A The material was, I'm sure -- I think it's that
22 Bill Butler or Brent Kerger's hand on the computer that
23 typed these pages, but the typing was based on a design
24 and the composing of the whole paragraph, and I believe
25 those composing part was a -- based on the

1 communication -- sorry, based on the communication with
2 Dr. Zhang.

3 Q Did Dr. Zhang ever provide ChemRisk with a
4 written outline in Dr. Zhang's own hand for the '97
5 article?

6 A I don't know. He may have. He may not. I
7 don't -- I don't remember that there were such page in
8 my document.

9 Q ChemRisk composed a writing plan for the Zhang
10 article, didn't it?

11 MR. WILKINSON: Objection. Mischaracterizes the
12 document, assumes facts not in evidence.

13 THE WITNESS: There may -- there may be such pages
14 of the writing plan or you could even say a starting
15 plan, but I don't recall I saw such a page.

16 BY MR. PRAGLIN:

17 Q Look at TY 120.

18 A Okay. Yes.

19 Q That's a writing plan drafted by ChemRisk for
20 the Zhang article, isn't it?

21 MR. WILKINSON: Objection. Misstates the documents.

22 MR. CASAS: If you know.

23 MR. WILKINSON: Assumes facts not in evidence, calls
24 for speculation since he didn't write it.

25 THE WITNESS: I don't -- I don't know whether this

1 page -- this page has a very -- only one-third of this
2 page has some contents and -- and just based on this few
3 lines, I -- I don't know how -- why -- what this refers
4 to.

5 BY MR. PRAGLIN:

6 Q Well, you'd agree that if it got into your file
7 that you produced in response to the subpoena and it's
8 written in English, that it was written by ChemRisk,
9 wouldn't you?

10 MR. CASAS: Objection. Calls for speculation.

11 If you know.

12 THE WITNESS: I -- I'm not 100 percent sure but I --
13 I say more likely, yeah, sure.

14 BY MR. PRAGLIN:

15 Q And if you look at this draft version, July 27,
16 1995 that begins at TY 113 --

17 A Uh-huh.

18 Q -- and continues for several pages --

19 A Uh-huh.

20 Q -- on page TY 115 under "Introduction," it
21 begins "Zhang and Li (1987) conducted a series of
22 environmental and health studies for the area around and
23 the population living in the city of JinZhou," right?

24 A Yes, that's what the sentence says.

25 Q Doesn't it tell you that that draft is a draft

1 of the '97 Zhang article?

2 MR. WILKINSON: Objection. Mischaracterizes the
3 document.

4 MR. CASAS: Objection. Calls for speculation.

5 MR. WILKINSON: Assumes facts not in evidence.

6 No matter how many times you ask the question,
7 it doesn't make your question testimony, Gary.

8 THE WITNESS: I do not know this is a draft, no.
9 Just by -- by one sentence, certainly I do not conclude
10 that this is a draft of 1997 article.

11 BY MR. PRAGLIN:

12 Q So you don't think that this draft, beginning
13 on TY 113, was drafted by ChemRisk --

14 MR. WILKINSON: Misstates --

15 BY MR. PRAGLIN:

16 Q -- is that your testimony?

17 MR. WILKINSON: Argumentative, misstates his
18 testimony.

19 That's not the question you asked.

20 THE WITNESS: I believe this is a document printed
21 on ChemRisk printer. I believe this document was typed
22 by a person in ChemRisk. Do I believe that this was
23 representing only ChemRisk's provision rather than
24 Zhang's provision, I disagree. I think this document
25 may represent Dr. Zhang's provision.

1 Since I did not write this document, I have to
2 read through this entire document to give you the answer
3 that whether I believe this is indeed believed by
4 Dr. Zhang or not, but I don't think that, correctly
5 speaking, that this document -- when you categorize this
6 document as kind of a sole idea from ChemRisk, I
7 don't -- I don't think that's true.

8 BY MR. PRAGLIN:

9 Q Look at page TY 115 --

10 A Yes.

11 Q -- the third paragraph down.

12 A Yes.

13 Q It says, "We," we, "contacted Dr. Zhang and
14 requested background information on his studies,"
15 correct?

16 A Yes.

17 Q Doesn't that "we" refer to ChemRisk?

18 A Without read- -- reading the whole document, I
19 speculate "we" refer to ChemRisk, yes.

20 Q Don't you think it's more likely than not that
21 that "we" refers to ChemRisk?

22 A It's more likely than not.

23 MR. WILKINSON: Objection.

24 MR. CASAS: Objection. Calls for speculation.

25 BY MR. PRAGLIN:

1 Q You don't need to read the whole article to say
2 that, do you?

3 A I can speculate to the degree that it's more
4 likely than --

5 MR. CASAS: Don't speculate.

6 THE WITNESS: Okay.

7 BY MR. PRAGLIN:

8 Q Speculate, it's a term of art, it has a legal
9 connotation, we don't want you to speculate.

10 A Sure.

11 Q But would you agree that that's the most likely
12 interpretation, is that the word "we" refers to
13 ChemRisk?

14 MR. CASAS: Same objection.

15 If you know.

16 THE WITNESS: It's likely, I will say.

17 BY MR. PRAGLIN:

18 Q Were you involved in the process of changing
19 the words on the page of the various draft versions of
20 the Zhang article leading up to the '97 article?

21 A I involved in the role that I communicated
22 what -- in English to -- into Chinese and talked with
23 Dr. Zhang. And I communicate what Dr. Zhang's revision
24 or change back to ChemRisk senior scientists. And in
25 that role, yes, I -- I -- I participated.

1 Q But you didn't have any input into choosing
2 which words went into the article; is that right?

3 A I don't think so.

4 Q That's correct?

5 A That's correct.

6 Q If you look at page TY 454, please --

7 A Yes.

8 Q -- this is a draft of the '97 Zhang article,
9 isn't it?

10 A Give me one moment. I have to look at it.

11 This looks like a draft, but I'm not sure this
12 is the draft for 1997 article. I have no way to
13 identify it one way or the other if it is --

14 Q Well, didn't --

15 A -- or is not.

16 Q Didn't you receive this draft dated
17 September 6, 1995 from Gwen Corbett and Brent Kerger in
18 the Irvine office on September 6, 1995 as their initial
19 comments on the Zhang article?

20 A That was what the fax page on TY 453 said, yes.

21 Q And so whose handwriting is that on the first
22 page of the September 6, '95 draft of the Zhang article,
23 TY 454?

24 MR. CASAS: Objection. Calls for speculation.

25 THE WITNESS: I do not know.

1 BY MR. PRAGLIN:

2 Q It's not yours, is it?

3 A It doesn't look like mine.

4 Q And would it be either Brent Kerger or
5 Gwen Corbett?

6 MR. CASAS: If you know.

7 MR. WILKINSON: Same objection.

8 THE WITNESS: I do not. I don't know.

9 BY MR. PRAGLIN:

10 Q That's not Dr. Zhang's writing, is it?

11 A I do not know.

12 Q Well, it's in English, isn't it?

13 A It's in English, yes.

14 Q Doesn't that tell you that it's not Dr. Zhang's
15 writing?

16 A Not necessarily.

17 Q So you think that may be Dr. Zhang's writing;
18 is that your testimony?

19 MR. WILKINSON: Objection.

20 MR. CASAS: Objection. It's been asked and
21 answered.

22 He doesn't know.

23 MR. WILKINSON: Argumentative.

24 THE WITNESS: I don't know.

25 BY MR. PRAGLIN:

1 Q And then some lines of text are crossed out on
2 this September 6, 1995 draft, correct?

3 A Agreed. Yes.

4 Q Who made those cross-outs?

5 A I do not know.

6 Q On the third page of the September 6, 1995
7 draft appears an earlier version of Table 1. Do you see
8 that?

9 A In this page?

10 Q Yes.

11 A Okay.

12 MR. WILKINSON: Objection. Vague.

13 Earlier than final?

14 MR. PRAGLIN: Earlier than the '97 Table 1. That's
15 what I meant.

16 THE WITNESS: I'll say that just based on face
17 value, this -- this table look like contains some value
18 that also contained in the Table 1 of 1997 article, but
19 I'm not sure this is the early version or how related
20 this document to the 1997 article.

21 BY MR. PRAGLIN:

22 Q Isn't it true that ChemRisk created Table 1 as
23 it appears on page TY 456?

24 MR. WILKINSON: Objection.

25 MR. CASAS: Objection. Vague and ambiguous.

1 THE WITNESS: I will say this document certainly --
2 because this -- I can say this. It's certainly typed or
3 printed from ChemRisk facilities, but I don't know who's
4 the original person who compose this table.

5 BY MR. PRAGLIN:

6 Q Well, you don't have a written version in
7 Chinese prepared by Dr. Zhang of Table 1 as it appears
8 on page TY 456, do you?

9 A I don't think I have.

10 Q Were you involved at all in the creation of
11 Table 1 as it appears on page TY 456?

12 A I may have, yes.

13 Q So you put some of the numbers in that table?

14 A I will say I contributed to identify some of
15 these numbers on this table.

16 Q There's some gaps on that table, there's some
17 blanks in the spaces, right?

18 A On this page it appears to be three gaps, yes.

19 Q Did you participate in filling in those gaps?

20 A I don't recall specifically whether I
21 participated in any attempt to fill this gap. I don't
22 know.

23 Q Do you know if ChemRisk ever had the actual
24 data from which this Table 1 was created as it appears
25 on page TY 456?

1 MR. WILKINSON: Objection. Vague.

2 THE WITNESS: I do not.

3 BY MR. PRAGLIN:

4 Q You've never seen it, have you?

5 A I don't recall I seen it.

6 Q On page TY 458 --

7 A 458, sir, yes.

8 Q -- there's an earlier version of Figure 1 as it
9 appears in the April '97 Zhang article, correct?

10 A Again, I don't know whether this is the earlier
11 version but it look like to me a -- a map similar to the
12 ones in the 1997 article, but I don't know whether this
13 is an earlier version. I don't know.

14 Q Well, why don't you compare --

15 A Okay.

16 Q -- page TY 458 --

17 A Okay.

18 Q -- with the map that's in Exhibit 2, the Zhang
19 article --

20 A Okay.

21 Q -- and tell me if they're the same.

22 A They're not identical.

23 Q Changes were made, right?

24 A Changes were made. Not changes were made.

25 They are -- they are different in some aspects, put it

1 that way.

2 Q Weren't the changes that were made to Figure 1
3 in the Zhang article made by ChemRisk?

4 A First, I -- I -- I just testified that there's
5 a difference between these two pages in front of me; so
6 when you say changes of Zhang article, I assume I go
7 back to this -- Zhang's article. But change from what?
8 Compared to what? I don't know how you refer to the
9 change.

10 If you compare these two pages, they are
11 different, but I don't know whether this is the earlier
12 version of this chart or not. So by comparing them, if
13 there's a difference, I would not say that a change. It
14 is a -- it's just different.

15 Q Let me try and help you out.

16 A Sure.

17 Q You'd agree that the Zhang article map on
18 page 316 of Exhibit 2 was the final version of Figure 1,
19 wouldn't you?

20 A It's a version presented in 1997 article.
21 Whether it's a final depends on how you define "final."

22 Q Well, was there ever another version created by
23 ChemRisk after the '97 Zhang article, Figure 1 was
24 published?

25 A Not to my knowledge.

1 Q Okay. So if we call Figure 1 in the Zhang
2 article the one that existed as of 1997, right?

3 A Okay.

4 Q Is that a fair description?

5 A Repeat your description again, just try
6 speaking up.

7 Q In the Zhang '97 article --

8 A Yes.

9 Q -- the figure that's labeled "Figure 1" --

10 A Uh-huh. Yes.

11 Q -- had earlier versions of that figure, didn't
12 it?

13 A I will say so, yes.

14 Q And isn't the page Bates stamped TY 458 one of
15 those earlier versions?

16 MR. CASAS: If you know.

17 THE WITNESS: I do not. Could be.

18 BY MR. PRAGLIN:

19 Q Look in the bottom right corner --

20 A Okay.

21 Q -- of the footer.

22 A Oh.

23 Q It has a date of September 5, 1995. Do you see
24 that?

25 A I saw that, yes.

1 Q Doesn't that make it an earlier version?

2 A This make it a date earlier than the chart in
3 the '97 article, but it's not make -- to be a earlier
4 version, my understanding is there must be changes
5 based -- made based on this Figure 1 to, after many
6 versions in between, come up with the page presented in
7 '97 article, but I don't know that's the case.

8 I don't know the modification of words and
9 revision were actually made on Figure 1 of TY 458. I
10 just don't know.

11 Q You don't know that ChemRisk had a graphics
12 department that worked on this Figure 1 of the Zhang
13 article?

14 MR. WILKINSON: Objection. Argumentative, misstates
15 his testimony.

16 THE WITNESS: I know there is a graphic
17 department -- graphics department in ChemRisk and I know
18 they contributed to the figure presented in this
19 article, but I do not know the link between this page
20 and this page.

21 BY MR. PRAGLIN:

22 Q And when you say "this page and this page,"
23 you're talking about page TY 458 and the Figure 1 that's
24 in the Zhang '97 article?

25 A Correct.

1 Q On page TY 458 dated September 5, 1995 --

2 A Yes.

3 Q -- at the bottom under the words "Figure 1" --

4 A Yes.

5 Q -- there's a description and it says, "JinZhou
6 Area: Including The Chromium Contaminated Area,"

7 correct?

8 A Yes.

9 Q Someone deleted that description by the time
10 the figure was published in the '97 article, didn't
11 they?

12 A Well, for someone, to put in your phrase,
13 "delete" that sentence, we are assuming -- I think you
14 are assuming that the revision were made based on this
15 TY 458 exhibit to come up with the chart presented in
16 1997 article. And that that's a fact I -- I do not
17 totally disagree with you, that's a fact I don't know.
18 I cannot confirm that one way or the other.

19 Q So you have no idea how the description of
20 Figure 1 on page TY 458 got deleted?

21 A I do not have any idea that the description in
22 Figure 1, why that different from the description in the
23 Zhang 1997 article.

24 Q Dr. Zhang didn't create any of the graphics in
25 the '97 article, did he?

1 MR. CASAS: If you know.

2 THE WITNESS: I would say -- actually, I think that
3 in Dr. Zhang's material in the five transcript I
4 translated, I remember I saw similar chart as Figure 1
5 of the 1997 article. I saw similar charts.

6 So when you say whether Dr. Zhang created that
7 or not, I believe at point of time he created similar
8 charts to the Figure 1.

9 BY MR. PRAGLIN:

10 Q Mr. Ye, try and listen to the question. The
11 question was Dr. Zhang didn't create any of the graphics
12 in the '97 article, did he?

13 MR. CASAS: That's --

14 MR. WILKINSON: Objection. Vague.

15 MR. CASAS: Objection. Asked and answered.

16 Are you saying did he do this drawing in the
17 '97 article or did he prepare versions of that?

18 MR. PRAGLIN: I didn't say anything about versions.

19 Q I'm talking about the graphics that appear in
20 Exhibit 2, the '97 article, isn't it true Dr. Zhang
21 didn't create any of those?

22 MR. WILKINSON: Objection. Vague, asked and
23 answered.

24 MR. CASAS: Same objection.

25 THE WITNESS: I -- again, if you mean Dr. Zhang

1 didn't print, didn't print this page, didn't -- I agree
2 with you, he didn't print this page. But I saw similar
3 page like -- similar chart like this in his manuscript;
4 so if you consider that what in his manuscript is a part
5 of the process of creating, I will say he participated
6 in the creating -- creation of this chart.

7 BY MR. PRAGLIN:

8 Q So is it your testimony that you sent Dr. Zhang
9 earlier versions of the Figure 1 that ended up in the
10 '97 article?

11 MR. WILKINSON: That's not his testimony.

12 MR. CASAS: Objection. That misstates his
13 testimony.

14 THE WITNESS: That's not what I said.

15 I -- I said -- I think that Dr. Zhang
16 partic- -- to my knowledge, Dr. Zhang has very similar
17 chart as Figure 1 in his manuscript.

18 I can find that manuscript if you give me
19 time.

20 BY MR. PRAGLIN:

21 Q I understand that you're saying that he had
22 similar figures in his earlier reports pre-1995.

23 A Good. That's what I'm -- that's what I mean.

24 Q I'm asking something completely different.

25 A Okay.

1 Q Isn't it true that after 1995 Dr. Zhang didn't
2 participate in the creation of any of the figures that
3 ended up in the '97 article?

4 A That's not what my understanding. Dr. Zhang
5 participated. "Participated" means -- not necessarily
6 means he has to print or has to draw a line, but
7 "participated" means he review the material, he provides
8 suggestions verbally or in writing. Those are
9 participation.

10 Q You don't have in your file any faxes or
11 letters to Dr. Zhang of the drafts leading up to the '97
12 article, do you?

13 MR. WILKINSON: Objection. Assumes facts not in
14 evidence, misstates the documents.

15 THE WITNESS: I do not have a -- in my document I do
16 not find a copy of a draft version of the 1997 article,
17 but I did find version in Chinese which I faxed to
18 Dr. Zhang contains very similar conclusion as the 1997
19 article. That's around the time the communication of
20 this conclusion was back and forth.

21 BY MR. PRAGLIN:

22 Q On Exhibit 2 there are some histograms --

23 A Oh, yes.

24 Q -- on the last two pages, right?

25 A There are.

1 Q Those are called histograms, right?

2 A They are. They are. Correct, that's the
3 institutional term.

4 Q Dr. Zhang didn't create those histograms, did
5 he?

6 A Dr. Zhang provided the numbers for those
7 histograms.

8 Q But the histograms were created as they appear
9 on the page in Exhibit 2 by ChemRisk, weren't they?

10 A The --

11 MR. CASAS: Object. It's vague and ambiguous.

12 THE WITNESS: Well, if you mean "creation" is just
13 plotted, yes, it was done by ChemRisk. If you mean by
14 "creation" means -- but this plot is -- has to be based
15 on some number and this number are from Dr. Zhang. I
16 put it that way.

17 Numbers are from Dr. Zhang. The plot of the
18 number is done by ChemRisk.

19 BY MR. PRAGLIN:

20 Q Didn't ChemRisk omit all of Dr. Zhang's water
21 quality tests over 5 parts per million chromium from the
22 histograms?

23 A Nothing I -- no, I -- I don't know. I don't
24 remember if there is a omission.

25 Q Isn't it true that the histograms only go up to

1 5 parts per million?

2 A There's a -- no. Actually, there's a category
3 on this chart says 5.0 and more; so if there are 5.0 and
4 more, for example, 10 or 20, this chart contains that
5 category.

6 Q Dr. Zhang took water quality tests that showed
7 more than 5 parts per million chromium in China, didn't
8 he?

9 A At a point of time I believe he did.

10 Q And none of those are represented on the
11 histogram, are they?

12 A The number on this histogram are provided by
13 Dr. Zhang. And this number, to my knowledge, are not
14 inconsistent with the -- with the statement you just
15 made, which is at a point of time he showed a -- a --
16 a -- a -- a 5.0 and above. Is that what you said?

17 Q Let's try and answer the question, please,
18 Mr. Ye.

19 A Sure.

20 Q Isn't it true that none of Dr. Zhang's water
21 quality tests that showed 5 parts per million chromium
22 or more were included in the histograms?

23 A Hold on for a moment. Let me -- let me -- let
24 me read the '97 article a little bit more, which I did
25 not get time to read it.

1 I don't --

2 Here is my answer to your question. I don't
3 know.

4 There is a category on this chart set at
5 5.0 and more; so if they are measurements that are
6 5.0 and more, it would be printed on this chart, but
7 it's may -- it would be printed on this chart. And I
8 know the number from -- for this chart are all coming
9 from Dr. Zhang. And I can show you if you want me to
10 find -- I remember which table.

11 Q So you were involved in the process of taking
12 Dr. Zhang's water quality tests and putting them in the
13 histogram?

14 A I was asked by Brent Kerger to -- or
15 Bill Butler to -- to provide or to identify the page
16 from Dr. Zhang contains the number to be plotted in --
17 in this chart, in Figure 2.

18 Q You'd agree that the histograms don't show any
19 water quality tests at 5 parts per million chromium or
20 above, wouldn't you?

21 A Just from the graphics, it's hard to tell, and
22 I'll tell you why, which is if they are -- because if
23 they are --

24 For example, I will use the first example here,
25 first chart on this page.

1 If -- there's a category of 5.0 and more, so if
2 they are water wells, measurement that is 5.0 or more,
3 it would appear in this part of the chart. But due to
4 the graphics, I think that is not a table of at least
5 how many water wells have 5.0 and more; so if it's one
6 water well or two water well, I have to defer this to --
7 to the graphics department.

8 But I -- I don't know how -- how that being
9 shown on this -- on this chart, whether it's just too
10 small to tell, whether it's too -- because this chart
11 goes all the way up to 80 wells in about a -- I don't
12 know whether that's a -- a inch or half an inch, range.
13 So 2 out of 80, must be very tiny.

14 So if the two are actually plotted here, we may
15 not just tell this by -- by eye. It's very little. I
16 don't know. Just by reading this chart without a
17 number, I would -- I would not.

18 Q Looking at the histograms in the '97 Zhang
19 article --

20 A Uh-huh.

21 Q -- you don't see any water quality tests
22 represented at 5 parts per million chromium or above, do
23 you?

24 A You do not see but doesn't mean it's not for
25 that chart. I don't know. I don't know whether the

1 number presented on this part of the chart is -- is a
2 number 2 or indeed a number zero. I have to go back and
3 check.

4 Q Looking at Exhibit 2, the Zhang article, you'd
5 agree that the only two authors listed are Zhang and Li,
6 wouldn't you?

7 A I agree with that.

8 Q It doesn't list ChemRisk, does it?

9 A Does not.

10 Q It doesn't list Kerger, does it?

11 A Does not.

12 Q It doesn't list Butler, does it?

13 A Does not.

14 Q It doesn't list Corbett, does it?

15 A No, it does not.

16 Q It doesn't list you, does it?

17 A No, it does not.

18 Q But Kerger, Butler, Corbett and yourself all
19 helped write the Zhang article, didn't you?

20 A We -- I will speak for myself.

21 I participated and contribute to organizing
22 some of the material to be published in the 1997
23 article.

24 I'm not sure I would be -- consider myself as
25 who wrote it or who author it, but I -- I will say that

1 I contributed to it.

2 Q Let me ask you first: At some point in
3 the evolution of the '97 Zhang article, wasn't
4 Brent Kerger's name put on the paper as an author?

5 A I don't recall I saw Brent Kerger's name as
6 author. I don't recall that it means that there is not,
7 but I just don't recall.

8 Q Look at page TY 469 from Exhibit 1.

9 A Sure.

10 Repeat the page number again, please.

11 Q 469.

12 A Okay. Yes. Oh, okay.

13 Q It lists Brent Kerger and JinDong Zhang as the
14 authors, doesn't it?

15 A No.

16 MR. WILKINSON: "Please Address Correspondence to."

17 THE WITNESS: No.

18 MR. WILKINSON: Misstates the document.

19 THE WITNESS: Stated prepared by Dr. Zhang and
20 Dr. Li, and there is a "Please Address Correspondence
21 to: Dr. Zhang c/o Brent Kerger."

22 BY MR. PRAGLIN:

23 Q That means care of Brent Kerger?

24 A Yes.

25 Q Why was correspondence as of November 14, 1995

1 to be sent to Dr. Zhang care of Brent Kerger?

2 MR. CASAS: Objection. Calls for speculation.

3 If you know.

4 THE WITNESS: I do not. Actually, I can tell you
5 one thing. This is not a fax sent by me.

6 BY MR. PRAGLIN:

7 Q You never received this document?

8 A This is not -- this is a document we sent out,
9 I think, sent out from ChemRisk-McLaren/Hart. I -- I
10 don't know. Hold on.

11 Q Are you looking at page TY 468?

12 A Yes. I'm looking at the cover fax page trying
13 to identify whether this is a fax page from Irvine
14 office, which is the Irvine ChemRisk office, or a fax
15 page from Alameda office.

16 Q Well, you can see right on there it's from the
17 Irvine office to you --

18 A Yes.

19 Q -- from Brent Kerger, can't you?

20 A Yes, I saw that.

21 Q So that means that the November 14, 1995 draft
22 beginning at TY 469 --

23 A Yes.

24 Q -- and running through TY 476 --

25 A Uh-huh.

1 Q -- was sent to you by the Irvine office,
2 doesn't it?

3 A It looks like that way, yes.

4 Q And that's how it got in your file, isn't it?

5 A I believe so.

6 Q And so why was correspondence to be addressed
7 to Dr. Zhang care of Brent Kerger at the Irvine office
8 of ChemRisk as of November 14, 1995?

9 MR. CASAS: Same objection.

10 THE WITNESS: I -- since it's a document sent to me
11 by Brent Kerger, you would probably better ask him. I
12 don't know. That's his -- when he print this document,
13 that's the way he had it.

14 BY MR. PRAGLIN:

15 Q Dr. Kerger's note on his fax cover page to you
16 says "Please review and give copy to Billy B. Thanks.
17 Send edits to me or call me," right?

18 A Yes.

19 Q Were any edits made to this November 14, '95
20 draft of the Zhang article?

21 A There might be. I don't recall. I don't
22 recall I made edits or not.

23 Q Do you see on the face page of that
24 November 14, '95 draft that the article was to be
25 submitted to Science of the Total Environment or

1 Environmental Research?

2 A Hold on. Which page are you on?

3 Q TY 469.

4 A Okay. "Submitted to Science of the Total
5 Environment (or Environmental Research)."

6 Yes, I saw that.

7 Q Those are two separate scientific journals,
8 aren't they?

9 A I don't know. They may be. They might be.

10 Q Was the Zhang article submitted to either the
11 journal Science of the Total Environment or the journal
12 Environmental Research?

13 A The Zhang article was sent to I believe the
14 JOEM abbreviation and the Archive -- a journal start
15 with Archive, not those two names match these two names,
16 but I don't know whether this is another way to refer to
17 those two journals. To be honest, I -- I was not a
18 regular reader of these two journals, so I -- I wouldn't
19 know.

20 Q Who chose the journals that the Zhang article
21 was submitted to?

22 MR. WILKINSON: Objection. Asked and answered.

23 THE WITNESS: Either by someone in Irvine's office
24 or under the direction of Brent Kerger or be both.

25 BY MR. PRAGLIN:

1 Q And when you say "Irvine office," you're
2 talking about ChemRisk's Irvine office, right?

3 A Correct.

4 Can we take a break after you --

5 Q Sure.

6 A Once you feel comfortable. I'm okay to go on
7 for a few more minutes.

8 Q Okay.

9 A Okay.

10 Q Still on the November 14, '95 draft --

11 A Okay.

12 Q -- on page TY 471 --

13 A 471. Okay.

14 Q -- there are some cross-outs of language
15 there. Do you see that?

16 A Yes, I saw that.

17 Q Whose cross-outs are they?

18 A The --

19 MR. WILKINSON: Objection. Calls for speculation.

20 THE WITNESS: I don't know who cross it but the
21 letters appear on the bottom of that could be
22 Bill Butler's.

23 BY MR. PRAGLIN:

24 Q It's not your handwriting; is that true?

25 A Doesn't look like my handwriting.

1 Q And you recognize it as possibly Bill Butler's
2 handwriting?

3 A Possible. Only possible.

4 Q And then the next page, page TY 472, there's
5 handwriting. Do you know whose handwriting that is?
6 Same person?

7 MR. WILKINSON: Objection. Calls for speculation.

8 MR. CASAS: If you know.

9 THE WITNESS: I don't know. I do not know one way
10 or the other.

11 BY MR. PRAGLIN:

12 Q On page TY 473 --

13 A Okay.

14 Q -- the third line from the bottom, someone has
15 crossed out the word "adequately" in the phrase "These
16 results do not adequately support such a relationship."
17 Do you see that?

18 A Yes, I saw that.

19 Q Whose edit is that?

20 A I don't know because when -- when someone
21 handwriting something at least I can pick a reasonable
22 guess, but if it's only a cross-off line, I -- I -- that
23 could be anyone.

24 Q Given that the edits that are in handwriting --

25 A Uh-huh.

1 Q -- on the November 14, '95 draft of the Zhang
2 article are in English, wouldn't you agree that they
3 were not made by Dr. Zhang?

4 MR. CASAS: Objection. Calls for speculation.

5 THE WITNESS: The handwriting on here is certainly
6 not Dr. Zhang's.

7 BY MR. PRAGLIN:

8 Q On page TY 475 there are some handwritten notes
9 on the histograms, correct?

10 A Yes, there are.

11 Q Is any of that writing yours?

12 A I don't know. It doesn't look like mine but --

13 Q Do you have in your files a document evidencing
14 transmittal of this November 14, 1995 draft to Dr. Zhang
15 in China or some other place?

16 MR. CASAS: If you know without looking at the
17 documents.

18 THE WITNESS: I do not. I do not. I have to look
19 into my document. I don't -- when I prepare my
20 document, I don't recall seeing such a document but I
21 have to search for them.

22 BY MR. PRAGLIN:

23 Q I've looked and I haven't seen one.

24 You don't have any reason to believe there's
25 one in there, do you?

1 A I have no reason to believe there isn't one in
2 there.

3 Q The next page is TY 477 and this is a fax from
4 you to Brent Kerger. Do you see that?

5 A Yes. Look like my handwriting, yes.

6 Q And it's dated November 16, 1995, which is two
7 days after the November 14, '95 draft of the Zhang
8 article, right?

9 A Right.

10 Q And you say, "Hi Brent: Please review the
11 graphics. Any edits, just fax it back. I will make the
12 change."

13 A Yes.

14 Q Right?

15 So you were making changes on graphics in the
16 Zhang article; is that right?

17 A I was making edits to prepare for the final
18 print.

19 Q And then if you look at page TY 479 --

20 A Yes.

21 Q -- is that one of the graphics that was
22 transmitted to Dr. Kerger on November 16, 1995?

23 MR. CASAS: Objection. Calls for speculation.

24 THE WITNESS: Could be. I have no reason to say one
25 way or the other. Based -- based on the sequence of

1 these two pages, this could be a page included in the
2 fax, so --

3 BY MR. PRAGLIN:

4 Q Did Dr. Kerger or someone in the Irvine
5 ChemRisk office delete the description under Figure 1 on
6 page TY 479 before it made its way into the '97 Zhang
7 article?

8 MR. CASAS: Objection to form.

9 Only if you know.

10 THE WITNESS: I -- I do not. I do not recall
11 changes -- further changes on -- on this exhibit, or how
12 this exhibit related to the final -- related to the
13 graphics in the 1997 article.

14 MR. PRAGLIN: You had asked for a break. Why don't
15 we take one.

16 THE WITNESS: Yes. Thank you.

17 THE VIDEOGRAPHER: Going off the record. The time
18 is 2:38.

19 (Off the record.)

20 THE VIDEOGRAPHER: We're back on the record. The
21 time is 2:51. Please begin.

22 BY MR. PRAGLIN:

23 Q Mr. Ye, I had asked you before our last break
24 about the November 14, 1995 draft.

25 A Yes.

1 Q Now, I wanted to make sure that I didn't
2 misspeak. Would you go to TY 89, please?

3 A TY 89. Certainly. TY 89. Yes.

4 Q TY 89 is actually dated both November 14 and
5 November 16, '95, do you see that? At the bottom it has
6 a date of November 16, 1995.

7 A Oh. Yeah. I saw that.

8 Q Why was that done, do you know?

9 A The -- the -- the date on the bottom of the
10 page, which is November 16th, I think is a date that --
11 when the file was printed, that computer
12 automatically -- in this setting, the computer
13 automatically put a date on the bottom. But what you
14 write on the page stays as, in this case, two days
15 earlier.

16 Q So the November 14, '95 draft of the Zhang
17 article was on ChemRisk's computer; is that right?

18 A I believe so. I believe so.

19 Q If you go to TY 102.

20 A 102. Sure. Sure.

21 Q Now, this appears to be an update of the
22 November 16, '95 draft, and it also bears a date at the
23 bottom of November 25, 1995, which tells me based upon
24 your last answer that this was printed out on
25 November 25, '95; is that right?

1 A I think so.

2 Q And if you look at the face page of this draft
3 that begins on TY 102 --

4 A Okay.

5 Q -- you'll see that the journal names have
6 changed and it's no longer Environmental Health
7 Perspectives or American Journal of Public Health but
8 it's Archives of Environmental Health, correct?

9 A Correct.

10 Q Now, the two articles, the two journals that
11 are crossed out, Environmental Health Perspectives and
12 American Journal of Public Health --

13 A Yes.

14 Q -- was the article submitted to those journals
15 as well?

16 A I don't know. Not to my knowledge. I -- I did
17 not submit it to those two journals.

18 Q I'm having trouble figuring out how, on
19 November 14, '95, the two journals are Science of the
20 Total Environment and Environmental Research --

21 A Uh-huh.

22 Q -- but then on November 16th the two journals
23 that are crossed out are different, they're
24 Environmental Health Perspectives and American Journal
25 of Public Health, and they're crossed out and a fifth

1 journal, which is Archives of Environmental Health, is
2 listed. Do you see that?

3 A I see Archives of Environmental Health listed,
4 yeah.

5 Q So those are five journals in addition to JOEM
6 that have been listed on drafts of the Zhang article,
7 right?

8 A Hold on for a moment. Let me compare the --

9 Q You want to compare TY 89 --

10 A Correct.

11 Q -- and TY 102?

12 A Correct. I want to see whether those two name
13 crossed in TY 102 are the two names appear on TY 89.

14 Q Please confirm for me. I think they're not.

15 A Okay.

16 MR. WILKINSON: Objection. The documents speak for
17 themselves.

18 THE WITNESS: The names are different, yeah.

19 BY MR. PRAGLIN:

20 Q So that means that there were five journals
21 whose names were on the various drafts of the Zhang '97
22 article, right?

23 A Could be five. I -- I don't know.

24 Q Well, there was JOEM, right?

25 A Uh-huh.

1 Q Yes?

2 A Yes.

3 Q And there was Science of the Total Environment,
4 right?

5 A That's a name of a journal, I believe, yeah.

6 Q And there was Environmental Research, right?

7 A That's -- yes.

8 Q And there was Archives of Environmental Health,
9 right?

10 A That's a name, yes.

11 Q And there was Environmental Health
12 Perspectives, right?

13 A I don't know whether Environmental Health
14 Perspectives different from Environmental Research.

15 They could be the same. Just different names.

16 Q And there was also American Journal of Public
17 Health, right?

18 A That's a -- that's a different journal. That
19 was a different journal.

20 Q So there were at least four to six different
21 journals whose names were on the drafts of the Zhang
22 article, right?

23 A That's a name appear on these two document,
24 yeah. Four --

25 Q Who kept putting those names on the drafts?

1 A Could be Brent Kerger, could be Bill Butler,
2 could be either of them or anyone else, but -- yeah.

3 Q Was the Zhang article submitted to any of those
4 other journals besides JOEM and Archives of
5 Environmental Health?

6 A Not to my knowledge, no.

7 Q Going back to TY 102 --

8 A Uh-huh.

9 Q -- which is the November 16, '95 draft, and it
10 runs through TY 112 --

11 A Yes.

12 Q -- on the face page --

13 A Yes.

14 Q -- there's a footnote for ShuKun Li and it
15 appears to say "Recently deceased." Do you see that?

16 A Yes, I saw that.

17 Q Why was that there?

18 A I don't know. I -- I think that might be the
19 person who write on this page thought Li was deceased.
20 That's appear on this page that must be the reasoning.

21 Q You're saying the person who wrote this page
22 thought that Dr. Li was deceased?

23 A Who, I will say, typed, printed, composed,
24 printed, at least this page thought Dr. Li was deceased.

25 Q Did you ever hear that Dr. Li was deceased?

1 A No.

2 Q As you sit here now, do you know if Dr. Li is
3 deceased?

4 A No.

5 Q And you have no information as to how this
6 person who wrote the page TY 102 got the impression that
7 Dr. Li was recently deceased; is that your testimony?

8 A That's my belief.

9 Q Now, this November 16, 95' draft which begins
10 on TY 102 --

11 A Yes.

12 Q -- has some shaded edits throughout the pages.
13 Do you see that?

14 A I saw that.

15 Q Does the shading mean that that's language that
16 is added and the cross-outs means that that's language
17 that was deleted?

18 A I do not know. This is not my -- this is in my
19 production to -- for your subpoena but it's not -- I -- I
20 don't have a recollection that I made such edits, so --

21 Q These edits were not made by Dr. Zhang, were
22 they?

23 MR. WILKINSON: Objection. Vague.

24 THE WITNESS: Again on the computer, not

25 Dr. Zhang's. Discussed with him and come up with the

1 edits. Could be Dr. Zhang.

2 BY MR. PRAGLIN:

3 Q Are you aware of anybody who was told by
4 Dr. Zhang to make these edits?

5 A I don't recall. I don't recall who made those
6 edits and whether, in the procedure of making those
7 edits, what happened or what went into that person's
8 mind. I -- I -- I can say with quite a -- some
9 confidence this was not my work.

10 Q On page TY 106 --

11 A Uh-huh.

12 Q -- the first paragraph, the last sentence --

13 A Yes.

14 Q -- it's in the shaded part and it appears to
15 say, "Thus, it is apparent that the increased mortality
16 rate was not due to the contaminated water."

17 Do you see that?

18 A I saw that sentence.

19 Q You don't know who wrote that?

20 A I cannot remember who wrote that, no.

21 Q But it wasn't you, right?

22 A As I remember -- since I don't remember, it's
23 unlikely to be me but it could be me. I just don't
24 remember who wrote it. If I -- if I wrote it, I -- I
25 may have a better memory of it. But since I don't

1 remember, so you can -- you can say that it's likely not
2 be me.

3 Q And since it's in English it wasn't Dr. Zhang,
4 right?

5 MR. CASAS: Object. Calls for speculation.

6 THE WITNESS: Dr. Zhang may have contributed to it
7 in a Chinese version which ended in this English
8 sentence.

9 BY MR. PRAGLIN:

10 Q If Dr. Zhang contributed that language in a
11 Chinese version, it's not in your file, is it?

12 A Well, I -- I did not specifically look for this
13 sentence so I do not know whether it is in my
14 900 pages. There is no sentence like this, I -- I do
15 not -- I don't know. If I have to -- if I -- if I'm
16 asked to say one way or the other definitely, I have to
17 just look for this page -- look for this sentence to see
18 similar Chinese through all of these documents, but I
19 did not.

20 Q As you sit here now, you have no recollection
21 of having received a Chinese document from Dr. Zhang
22 telling you to write that language that says, "Thus, it
23 is apparent that the increased mortality rate was not
24 due to the contaminated water," do you?

25 A I do not recall a specific sentence or a place

1 contains such a specific sentence in my material, no.

2 Q Do you have a recollection that someone at
3 ChemRisk was making edits to the Zhang article in the
4 November '95 time frame?

5 A Make edits, make editorial change? November
6 '95.

7 Well, I -- I do not -- I cannot say
8 specifically for November. But around that period of
9 time there are editorial changes here and there in
10 ChemRisk, fair to say; so maybe it happened in October,
11 but I -- I do not -- I cannot put a time frame on it.

12 Q On page TY 107 --

13 A Yes.

14 Q -- would you agree there is considerable
15 editing on that page?

16 A Well, there are some changes on this page, or
17 appear to be some changes. I mean, changes -- by
18 "changes" I mean the cross and letters in shade. I
19 don't know what the meaning of letters in shade, whether
20 they're emphasized what -- or something. But appear to
21 be a -- on the third I will say or around a quarter.

22 I cannot quantify that -- what is a substantial
23 change, but there are some changes on this page.

24 Q Looking at page TY 107, wouldn't you agree that
25 that page was considerably revised?

1 MR. CASAS: Objection. Vague and ambiguous.

2 THE WITNESS: There are changes made. Consider- --
3 I -- I -- I don't know. They're just revised at this --
4 the document speaks for itself.

5 You look at this document and you will say oh,
6 changes are made. Yeah, sure, changes are made. And
7 they're made more than one places, I can -- I can say
8 that. And made into more than one sentences, that's
9 true.

10 BY MR. PRAGLIN:

11 Q In fact, entire sentences are deleted, aren't
12 they? Crossed out?

13 A If "cross out" means delete, then there is a
14 sentence entirely crossed out.

15 Q And if "shading" means rewritten, then entire
16 sentences were rewritten, right?

17 A There's one sentence shaded entirely.

18 Q And do you see in the large paragraph the third
19 line from the bottom --

20 A Yes.

21 Q -- it says, "environmental factors not related
22 to the chromium (VI) contamination may be a source of
23 the variation in these cancer rates," and it was changed
24 to read "environmental factors not related to the
25 chromium (VI) contamination are the likely source of the

1 variation in these cancer rates," wasn't it?

2 A There are edits just like what you described in
3 this document. Yes, I agree.

4 Q And you can look at Exhibit 2, the '97 Zhang
5 article, and confirm for yourself that that was the
6 final language in the article? It's on the last page,
7 the middle column, we read it before.

8 A I -- I -- I am tempted to just take your word
9 for it but just to make sure I'm on the same page with
10 you, so me -- let me have a look at this.

11 The sentence you just mentioned, I saw them
12 appear in the 1997 article, yes.

13 Q So whoever rewrote that sentence was the person
14 whose authorship ended up in the final Zhang '97
15 article, right, for that sentence?

16 MR. WILKINSON: Objection. Vague and compound.

17 THE WITNESS: I -- the sentence -- the same sentence
18 appeared, I agree. And the person who made a change in
19 here, in my Exhibit 107, I would say made his
20 contribution in English word to 198- -- 1997 article.

21 BY MR. PRAGLIN:

22 Q In all of the 925 pages that you produced for
23 me --

24 A Uh-huh.

25 Q -- you don't have a document written by

1 Dr. Zhang telling you to make that change, do you?

2 A I don't recall seeing such a -- a fax or a
3 Chinese version specifically, but I think that if I
4 looked into the 900 or so pages, I will find similar
5 statement to this from Dr. Zhang.

6 Q And now if you look at page 109, TY 109 --

7 A Yes.

8 Q -- somebody has changed the front to have
9 correspondence addressed to Dr. Zhang care of you at
10 your home address, right?

11 A Yes, that's my home address.

12 Q Who made that change as of November 25, 1995?

13 A I don't know.

14 Q It wasn't you?

15 A I don't know. This could be me, but I don't
16 recall that I typed this document.

17 Q Well, you didn't have the authority to decide
18 that the journal would be corresponding with you rather
19 than with ChemRisk, did you?

20 A I do not -- I do not have the authority to
21 decide but I have the authority to reject. I have the
22 authority to decline, to say I -- you know, don't I --
23 I'm not -- I feel comfortable speaking Chinese, don't
24 contact me. I could do that.

25 Q Well, did someone at ChemRisk come to you and

1 say Tony, we'd like to make you the contact person for
2 the journals with the Zhang article?

3 A I --

4 MR. WILKINSON: Objection. Asked and answered.

5 THE WITNESS: I think they are. There were people
6 asked me to be the contact person. And I -- I take that
7 as a compliment to my ability to speak both languages
8 and then I proudly accepted that role.

9 BY MR. PRAGLIN:

10 Q Did you establish some special relationship
11 with Dr. Zhang?

12 A When you say "special," I -- I don't think that
13 I would categorize it that -- I would describe my
14 relationship with Dr. Zhang in that way. There is no
15 special relationship.

16 Certainly I -- I liked Dr. Zhang and I
17 considered him as a very experienced peer or researcher
18 I respect, but nothing more than that.

19 Q He was a professional relationship, right?

20 A I would say that way, yes.

21 Q You were the translator, right?

22 A I was.

23 Q You were not his friend, were you?

24 A Well, "friend" definition is very broad. I
25 consider "friend" definition is very large. You could

1 consider a professional relationship to be with some
2 personal like -- if you call it personal like or
3 personal is a friendship, that's a friendship.

4 Q But after the Zhang article was published, you
5 made no effort to keep up your contact with Dr. Zhang,
6 you only responded to his contacts, right?

7 A That's what I did, right. But I was not a very
8 active person in contacting my current friends. I -- I
9 was slow in that.

10 Q In all the time that you were involved in this
11 Zhang article, did it ever cross your mind who's paying
12 for all of this work?

13 A I know ChemRisk is paying, or McLaren/Hart is
14 paying.

15 Q Wasn't ChemRisk billing PG&E for this work?

16 A I believe they did. I don't --

17 Q Did you ever tell Dr. Zhang that ChemRisk was
18 working for PG&E?

19 A Yes, I did.

20 Q You did?

21 A Yes.

22 Q You --

23 A Actually, in one of my documents in this pile,
24 if you want me I can find it for you but I think you
25 probably can find it yourself, too. There's a piece of

1 paper I remember I saw Dr. Zhang write in Chinese with
2 a -- in between a English letter -- three English
3 letters "PG&E." That has confirmed my communication to
4 him of who is the interested party in this matter.

5 MR. PRAGLIN: Let's mark as the next exhibit --

6 THE REPORTER: Exhibit 12.

7 MR. PRAGLIN: -- Exhibit 12 --

8 THE WITNESS: Good.

9 MR. PRAGLIN: -- a letter that you sent to
10 Dr. Zhang. It's Bates stamped TY 419 and 420.

11 (Plaintiffs' Exhibit 12 was
12 marked for identification, a copy of
13 which is attached hereto.)

14 THE WITNESS: Thank you.

15 BY MR. PRAGLIN:

16 Q Is this a copy of a letter that you wrote to
17 Dr. Zhang on or about July 5, 1995?

18 A Look like one, yes.

19 Q And he --

20 A Look like a English translation --

21 Sorry. Let me rephrase it.

22 Look like a English translation of a letter I
23 sent in Chinese to Dr. Zhang.

24 Q And in the first paragraph, you introduce
25 yourself, don't you?

1 A Yes, I did.

2 Q And you say, "I am working at McLaren/Hart
3 Alameda office as a researcher. I am the translator of
4 your papers," right?

5 A Yes.

6 Q And then you say, "Entrusted by Dr. Brent, I
7 prepare this letter to discuss some details in your
8 papers and other related issues," right?

9 A Correct.

10 Q Isn't it true that in Exhibit 12 you don't
11 mention PG&E?

12 MR. CASAS: Objection. The document speaks for
13 itself.

14 THE WITNESS: If there's no mentioning of PG&E on
15 these two pages, then I will take your word for it. But
16 to me -- I will take your word for it because I have to
17 look through this entire document, which there are two
18 pages, to find the letters "PG&E."

19 BY MR. PRAGLIN:

20 Q Isn't it true that in all of your contacts with
21 the various journals that you never disclosed that
22 ChemRisk was working for PG&E?

23 A I do not recall I provided that information to
24 any of the journal.

25 Q Isn't it true that in all of your

1 correspondence to the journals you never disclosed that
2 you were working for ChemRisk?

3 A I don't recall I disclosed that information,
4 because by the time I contacted all the journals, I was
5 no longer work for ChemRisk.

6 Q Isn't it true that in all of your
7 correspondence to the journals you never disclosed that
8 you were working for Environmental Risk Analysis?

9 A I don't know that for a fact.

10 Q You think that you might have a letter to a
11 journal identifying yourself as an employee of
12 Environmental Risk Analysis?

13 A I may have a phone call to a journal editor
14 telling her or him that if you are not there, I leave a
15 message and this message may -- contains my work number
16 at the Environmental Risk Analysis. And when a person
17 called my work number at the Environmental Analysis, if
18 I'm not at my desk, the message was Tony Ye at
19 Environmental Risk Analysis, please leave a message.
20 That's a standard requirement from ERA.

21 So if I leave a phone number to them, I may
22 have. It means I may have leaved my work phone number
23 to the journals.

24 Q Would you look at page TY 538, please?

25 A 538. Yes, I am looking at the page.

1 Q And also page 540.

2 A 540.

3 Q And also page 541.

4 These are all memos regarding conversations
5 with the journals, right?

6 A Correct. Looks like that way.

7 And just to append to what I just answered to
8 your question, since I remember I make that phone calls
9 at work, which is during the working hours of the
10 journal staff, I must have made those phone calls from
11 my work phone.

12 Q Each one of these three memos dated March 27,
13 1996 and April 19, '96 and May 20, 1996, reflect that
14 the calls were made per the request of Dr. Brent Kerger;
15 isn't that true?

16 A That's on the beginning of each of these three
17 pages that you identified. We -- which is a sentence,
18 "Per the request of Dr. Brent Kerger," yeah.

19 Q And it appears on page TY 541 that per the
20 request of Brent Kerger you called Elizabeth Popper, the
21 managing editor of JOEM, correct?

22 A Correct. That what this document say.

23 Q Now, the paper had been at JOEM for some
24 considerable time before you ever heard back the good
25 news; isn't that true?

1 A Well, it's been five months by page TY 541
2 date, which is May 20th. It's been five months. And
3 I -- I don't know whether five months is considered long
4 or short in review such a article.

5 Q And as of May of '96 JOEM still had not
6 accepted the paper for publication, correct?

7 A Let me -- let me try to remember based on this
8 document.

9 Well, according to this document, which is the
10 TY 544, 541, sorry, TY 541 -- well, actually, the second
11 paragraph said, "Elizabeth F. Popper," who is the
12 managing editor of JOEM, "said she had talked with
13 editor regarding of the short communication. She said
14 she was pretty sure that the paper had been accepted."

15 So I will say by the time of May 20th, the
16 paper has been accepted.

17 Q Well, isn't it true that it wasn't until
18 January 22, 1997, some seven months later, that you
19 received the letter from JOEM announcing that they had
20 accepted the paper for publication?

21 A I remember it was before that time, but I could
22 be wrong.

23 Q Why don't you look at TY 545.

24 A 545. Okay. Yes. I'm looking at TY 545.

25 MR. PRAGLIN: Let's attach that as Exhibit 13.

1 (Plaintiffs' Exhibit 13 was
2 marked for identification, a copy of
3 which is attached hereto.)

4 THE WITNESS: Thank you.

5 BY MR. PRAGLIN:

6 Q Looking at Exhibit 13, it's dated January 22,
7 1997, right?

8 A Yes.

9 Q And it's on JOEM letterhead, correct?

10 A Yes.

11 Q And it's addressed to Dr. Jin Dong Zhang care
12 of Tony Ye, right?

13 A Yes.

14 Q And it says, "At last, I have the answer for
15 which you've (sic) been waiting such a long time. The
16 manuscript is probably going to be printed in the
17 April 1997 issue," correct?

18 A That's what it says.

19 Q What happened between May of '96 and
20 January 22, 1997 regarding attempts to get this paper
21 published at JOEM?

22 A Other than I may inquire a couple of times, I
23 know nothing -- I know -- that's only thing I know.

24 Q If memos were done in March, April and May of
25 '96 --

1 A Uh-huh.

2 Q -- regarding the need to follow up with JOEM --

3 A Yes.

4 Q -- is it your testimony that there were no
5 memos or requests for follow-up in the seven months
6 after May '96 before the paper was eventually accepted?

7 A That's not my testimony. My testimony is I do
8 not have a piece of paper between that period of time to
9 document whether I made the phone calls or whether I --
10 there could be such pages but it is -- no longer exists
11 in my document. But in my current document, I do not
12 have such pages, and I do not recall in that period of
13 time when each phone call happened.

14 Q Did you write some letters to JOEM in the seven
15 months between May of '96 and January of '97 requesting
16 the status on the publication of the Zhang article?

17 A I don't recall.

18 Q You don't recall writing any letters?

19 A I don't recall writing it, but I may have. I
20 just don't remember it.

21 Q Does that sound like something that you would
22 have done in those seven months?

23 A Sounds like --

24 MR. WILKINSON: Objection. Asked and answered,
25 calls for speculation.

1 THE WITNESS: It's something I -- I don't recall but
2 if I am request to do so, I would. But I probably -- I
3 don't know. I just don't recall if I wrote such
4 letters, so --

5 BY MR. PRAGLIN:

6 Q Did the Journal of Occupational and
7 Environmental Medicine, JOEM, ever request any rewrites
8 or edits or modifications of Dr. Zhang or you for the
9 '97 Zhang article?

10 A I think there's a procedure from article called
11 galley proof. It means when -- before a article is
12 published, they will send back a -- for editorial --
13 minor editorial changes so that the article -- the final
14 version appeared in the journal would contain those
15 editorial changes.

16 So if you mean editorial changes, yes, I
17 remember I received the -- what we call galley proof,
18 which is a request for editorial changes.

19 Q Did you make any of those editorial changes on
20 the galley proofs?

21 A Not me.

22 Q What did you do with them?

23 A I sent it to -- I informed Brent Kerger's
24 office, probably Tom Flahive, I sent it to them, and
25 they take care of it.

1 Q Now, this was in the late '96, early '97 time
2 frame; is that right?

3 A Early '97 probably.

4 Q Where did you send those galley proofs to,
5 what address?

6 A I will say -- I don't recall, but I will say
7 likely to be the address of ChemRisk at Irvine.

8 Q To Brent Kerger?

9 A Or to his staff.

10 Q Where is the correspondence confirming those
11 transmittals?

12 A I think that I have a fax page from Tom Flahive
13 to me in my production here that stated we'd received
14 the galley proof and -- that's the sentence I remember.
15 If you want me to find, I can find it in these
16 documents. I remember I saw it.

17 Q I think I have it.

18 A Okay. You have it. That's good.

19 MR. PRAGLIN: Let's attach as Exhibit 14 a single
20 page -- no, I'm sorry, it's two pages, TY 642 and 641, I
21 think they're out of order but I don't even know if they
22 go together, I don't think they do. I'll leave it like
23 this, though.

24 (Plaintiffs' Exhibit 14 was
25 marked for identification, a copy of

1 which is attached hereto.)

2 THE WITNESS: Yes, this is the fax I -- just a
3 moment ago I referred to.

4 BY MR. PRAGLIN:

5 Q So you're looking at page TY 642; is that
6 right?

7 A Yes, I -- yes, I do.

8 Q Let's take that one first.

9 This was sent to your office; is that right?

10 A I'm trying -- the fax number looks like my
11 office fax number, yes, which is ERA's fax number.

12 Q Now, when the galley proofs came from JOEM they
13 were sent to your home, right?

14 A I don't recall. This -- maybe. It's
15 reasonable to assume so.

16 Q And Mr. Flahive writes to you --

17 A Uh-huh.

18 Q -- on this Exhibit 14 --

19 A Yes.

20 Q -- "Tony, We received the galley proofs to the
21 Zhang article and are ready to send it to the
22 publisher. There is, however, a \$350 publication fee
23 that we would like to see if we can have waived. I
24 wrote a short note from you that I would like to send in
25 with the article. I was going to send it out on plain

1 paper with no signature. Let me know if this will be
2 o.k."

3 And then he signs it, right?

4 A Yes.

5 Q Now, why was he saying that he was going to
6 send this letter to the journal on plain paper with no
7 signature?

8 MR. CASAS: Objection. Calls for speculation.

9 If you know.

10 THE WITNESS: I do not. You'd have to ask
11 Tom Flahive for it, but I -- I agree.

12 BY MR. PRAGLIN:

13 Q You agreed to let the letter go out on plain
14 paper with no signature?

15 A Correct.

16 Q Under your name, right?

17 A Under my name.

18 Q And if you look at the second page of
19 Exhibit 14 --

20 A Yes.

21 Q -- is that a copy of the unsigned plain paper
22 letter that was sent?

23 A I don't know. I believe this is a letter sent
24 to -- because I didn't send this letter, Mr. Tom Flahive
25 send this letter; so I believe this is a -- looks like

1 to me a page that he mentioned in this fax, but I -- I
2 don't know which final version he sent out.

3 Q When he sent you Exhibit 14, did it occur to
4 you that it was a little bit misleading to the journal
5 to have a letter by you at your home address sent
6 without a reference to ChemRisk when it was really
7 ChemRisk that was sending the letter?

8 A I --

9 MR. CASAS: Objection. Compound, argumentative.

10 THE WITNESS: Number one, it's not my home address.
11 The address appeared on TY 641 is Environmental Risk
12 Analysis address.

13 It is -- actually didn't occur to me as a
14 misleading statement. I agreed with the content of this
15 letter.

16 The number one reason is I was no longer an
17 employee of ChemRisk; so anything signed by or sent
18 under my name, information at ChemRisk, that would be
19 misleading because I was no longer a ChemRisk employee
20 at that time.

21 So, correctly speaking, I was a Environmental
22 Risk Analysis employee, the address reflect that; so
23 I -- I didn't consider this was inappropriate.

24 BY MR. PRAGLIN:

25 Q Now, if you knew that the work was being paid

1 for PG&E, did it seem to you to be misleading to tell
2 the journal that the \$350 publication fee should be
3 waived?

4 MR. CASAS: Same objection.

5 THE WITNESS: I stated earlier I know this work is
6 paid by ChemRisk for McLaren/Hart. I do not know how
7 much ChemRisk or McLaren/Hart get paid from PG&E. I was
8 not at the level of having such information.

9 So I -- I -- I cannot answer your question of
10 a- -- by assuming that I have those knowledge. I did
11 not. I did not know how much of the study was sponsored
12 by PG&E. Entirely or 80 percent, I don't know.

13 BY MR. PRAGLIN:

14 Q Well, were you under the impression that
15 ChemRisk couldn't afford the \$350 publication fee?

16 MR. CASAS: Objection. Argumentative.

17 THE WITNESS: I don't know. This is a ChemRisk
18 provision that they -- to me they do not want to pay for
19 this \$350 and I do not -- I do not know at that time
20 what ChemRisk reasoning. At that time I was not a
21 ChemRisk employee.

22 BY MR. PRAGLIN:

23 Q Did that seem like a fair position to you, that
24 ChemRisk would try and get out of paying the \$350
25 publication fee?

1 MR. CASAS: Objection to form.

2 Go ahead.

3 THE WITNESS: No. I do not have a -- any
4 uncomfortable or think that waiving or asking for a
5 requesting of waiver of 350 is inappropriate because my
6 understanding is in ChemRisk, when I was in ChemRisk,
7 every project probably have a budget; so for a budget,
8 if you -- my understanding is in my daily work, my
9 impression from ChemRisk is try to do your work in the
10 efficient way so that you will not negatively impact the
11 group in -- in meeting the budget.

12 So if this -- my understanding is if ChemRisk
13 is saying that the \$350 too much for us to pay, we do
14 not want to allocate money for it, I respect their
15 decision.

16 BY MR. PRAGLIN:

17 Q Did you have a conversation with Tom Flahive
18 about whether this \$350 publication fee should be
19 waived?

20 A I -- I may have. I -- I -- I don't recall I
21 have but I -- after I received this fax, I may have
22 talked to him over the phone.

23 Q Did he give you a reason why the
24 \$350 publication fee shouldn't just be paid by
25 ChemRisk?

1 A I -- I -- if he gave me, I probably forgot. I
2 just don't remember he told me one way or another. But
3 I respect ChemRisk's decision, that they are not paying
4 this \$350, and they are not paying.

5 Q Did you ever tell Dr. Zhang that you were
6 requesting to have the \$350 publication fee waived?

7 MR. CASAS: I'm going to object. It's
8 argumentative.

9 I don't know how long you want to go on this.
10 You know this case a lot better than I do, Gary, but I
11 don't know what possible relevance this line has over a
12 \$350 fee. They didn't want to pay the fee, obviously,
13 so they were trying to get away with it. I mean --

14 MR. PRAGLIN: If you want me to answer you I'll
15 answer you after we change the tape.

16 THE VIDEOGRAPHER: This marks the end of tape number
17 three in the deposition of Tony Ye. We're going off the
18 record. The time is 3:31.

19 (Off the record.)

20 THE VIDEOGRAPHER: Back on the record. Here marks
21 the beginning of tape number four in the deposition of
22 Tony Ye. The time is 3:37. Please begin.

23 BY MR. PRAGLIN:

24 Q Mr. Ye, let me ask you about the second page of
25 Exhibit 14.

1 A Oh, yes.

2 Q If I understand your testimony correctly, this
3 letter, dated February 27, 1997, under your signature,
4 went out on plain white paper with no signature; is that
5 right?

6 A Under my name without my signature. That's my
7 understanding, yes.

8 Q And you approved of that procedure, right?

9 A I approved.

10 Q And it was suggested by Tom Flahive at
11 ChemRisk, right?

12 A Yes.

13 Q And in fact, the second page of Exhibit 14,
14 which is Bates stamped 641, was written by Tom Flahive
15 and it has his name in the footer in the lower left,
16 doesn't it?

17 A On the lower left there is a directory called
18 the "Staff TOMF." I don't know whether T-O-M-F referred
19 to Tom Flahive but -- but you can interpret it that
20 way. If you ask anyone working in ChemRisk at Irvine,
21 they probably have a better idea how the names are
22 directed, not me.

23 Q And was this letter being sent to the editorial
24 office for the publishing firm that was publishing the
25 '97 Zhang article?

1 A I believe this letter was sent to JOEM, yes.

2 Q Do you know what interactions with JOEM
3 occurred on behalf of ChemRisk or its scientists between
4 May '96 and January '97 when JOEM agreed to publish the
5 Zhang article?

6 A No.

7 Q Do you remember at the beginning of this
8 deposition this morning I asked you if you knew
9 Dennis Paustenbach?

10 A Yes. I remember now.

11 Q He was one of the head guys at ChemRisk, right?

12 A Yes, he is. He was.

13 Q Do you know if Dr. Paustenbach had a
14 relationship with JOEM?

15 A No.

16 Q Do you know if anybody who had a relationship
17 with JOEM, other than the person to whom you were
18 writing, was contacted about getting this Zhang paper
19 published?

20 A No, I do not.

21 Q Did it seem strange to you that Archives of
22 Environmental Health had rejected the paper but JOEM
23 accepted it?

24 MR. CASAS: Objection. Form.

25 MR. WILKINSON: Vague, argumentative, misstates the

1 documents and the testimony.

2 THE WITNESS: Earlier -- earlier I stated that I did
3 not view the letter from Archive as a rejection, maybe
4 that's because I have no publishing or submitting
5 article experience. But I do not see that as a
6 rejection. I think that's a comment and a suggestion.

7 Given that, I think that the -- and second is
8 the different perspective from Archives and JOEM are not
9 in any way surprise me because when you asked -- when
10 you have a scientific document or article, my
11 understanding is expert that reviewed -- or the person
12 who reviewed this article certainly may have different
13 perspective or views on it. Some of them are very
14 positive, encouraging, and some of them are neutral and
15 some of them may be negative.

16 So -- I think that's the nature of it. I think
17 nothing is wrong with it.

18 BY MR. PRAGLIN:

19 Q When you received the comments from Archives of
20 Environmental Health --

21 A Yeah.

22 Q -- Exhibit 11, did you follow up on the
23 suggestions that the editors made?

24 A I personally did not because I --

25 Q Were you given some information by ChemRisk

1 that you should shift gears and pursue JOEM and not
2 Archives of Environmental Health?

3 A I don't recall any specific requirement or --
4 or -- or conversation that I was informed I should,
5 quote-unquote, shift gear. I remembered that whenever
6 they request me to say can you do a follow-up on this
7 particular journal, I will, per ChemRisk's request, to
8 place such an inquiry into the corresponding journal; so
9 I did not realize or no one instruct me, say, to shift
10 gear or not. That's never came up in my discussion, in
11 my conversation with ChemRisk.

12 Q When you submitted the Zhang article to JOEM,
13 weren't you required to make a representation to JOEM
14 that Dr. Zhang was not submitting the paper to multiple
15 journals?

16 A I didn't know. I didn't know that JOEM -- JOEM
17 had such specific requirement, and I rely upon people
18 working in ChemRisk who had a more -- much more journal
19 article publishing experience to make such decision, not
20 myself.

21 Q After the Archives of Environmental Health
22 rejected the Zhang paper, did you have a discussion with
23 anyone at ChemRisk about the fact that the Zhang article
24 had been submitted to more than one journal?

25 MR. CASAS: Objection. Misstates the testimony.

1 Go ahead.

2 THE WITNESS: First, I don't know whether it's --
3 whether it's rejected or not. If you consider receiving
4 the letter from Archive as an event, I can tell you that
5 after that event, I may have reached the point to people
6 in ChemRisk saying that I don't know whether it's okay
7 to send a article to be -- more than one journal or to
8 pursue -- continue to pursue to be published in two
9 journals; so you guys make the decision.

10 But that's just a suggestion, probably based on
11 my limited understanding of publication. But I may have
12 made such a suggestion.

13 BY MR. PRAGLIN:

14 Q And what were you told in response?

15 A I don't recall.

16 Q You don't recall anything about that?

17 A I don't. The suggestion I made may be in
18 writing or in fax or just a -- if it's in phone
19 conversation, there should be a -- or there would be a
20 answer, but since I don't -- I don't recall how did I
21 make that suggestion, but I think I made that
22 suggestion. So they may -- ChemRisk may -- may not even
23 have it.

24 Q Well, didn't you conceal from JOEM the fact
25 that the paper had already been sent to Archives of

1 Environmental Health?

2 MR. CASAS: Objection. Argumentative, misstates his
3 testimony.

4 THE WITNESS: I send JOEM -- I send Dr. Zhang's
5 article to JOEM per the request of ChemRisk. And the
6 draft letter was prepared by I would say ChemRisk in
7 general. I don't know who prepared the letter.

8 I did not -- I did not take the responsibility
9 to -- to -- to check whether journals or which journal
10 has the requirement of -- of disclosure of whether this
11 article has been sent multiple places. I was not in
12 charge of that.

13 BY MR. PRAGLIN:

14 Q Did you assume ChemRisk did take that
15 responsibility?

16 A I assumed that way, yes.

17 Q What was the basis for that assumption?

18 A Well, when I work -- work at ChemRisk as an
19 employee, I was assistant science -- assistant health
20 scientist, that was my title. And publication or
21 communication sent out of doors are -- normally I would
22 say it's a -- it's a working habit to be -- rely upon
23 more senior scientists to -- to say the final word.

24 So we -- as assistant scientists, we -- we did
25 not make that decision.

1 Q Is it part of your job to read scientific
2 articles?

3 A Yes, I would say so.

4 Q From reading scientific articles, are you aware
5 of the practice of acknowledging the source of funding
6 of the article?

7 A I know some of the articles mention sourcing,
8 source of funding of the articles, some of them do, but
9 I do not know to what degree it's required or to what
10 degree it's -- it's standard.

11 Q Have you read some of Dr. Paustenbach and
12 Dr. Kerger's papers from ChemRisk?

13 A No, I did not.

14 Q Did you consider whether the Zhang paper should
15 acknowledge PG&E as a source of funding in it?

16 A I did not have the either experience or I did
17 not have the role or position in ChemRisk or in
18 McLaren/Hart, or at my beginning years in ERA to make
19 such any suggestion or decisions, so --

20 Q Was there any discussion between you and anyone
21 at ChemRisk about disclosing that PG&E was funding the
22 Zhang article?

23 A No.

24 Q Did you assume that someone at ChemRisk had
25 addressed that issue?

1 A I don't know.

2 Q No discussions on that whatsoever?

3 A No discussion in front of me and no discussion
4 with me on that matter.

5 Q Before you submitted the Zhang article to
6 journals, did you make yourself familiar with the
7 guidelines of the ICMJE?

8 A ICMJE?

9 Q Yes. International Committee of Medical
10 Journal Editors.

11 A No, I did not.

12 Q Have you ever heard of that body?

13 A That's my first time today.

14 Q Did you know that there were published
15 guidelines for how to submit a scientific journal
16 article?

17 A To a -- in general knowledge, I would think
18 that there are such guidelines and I would think that
19 there are such guidelines for each journal. I don't
20 know whether there is a standard guideline for all of
21 the journal, I don't know whether that exist. But I
22 think that there must be guidelines in each journal.

23 Q Did you investigate what the guidelines for any
24 of the journals that the Zhang paper was submitted to
25 were with regard to acknowledging the source of

1 funding?

2 A I did not investigate.

3 Q Do you know who the reviewers of the Zhang '97
4 paper were?

5 A No, I do not.

6 Q Do you know if there were peer reviewers?

7 A Yes.

8 Q How do you know?

9 A Typically for a journal article I think that
10 there are reviewers. And I too -- and the -- after I
11 submit the Zhang article, since this take some length of
12 time and in my follow-up inquiries to JOEM and to
13 Archives, I was told by editing -- by managing editor
14 that oh, this thing is still in the review, my reviewer
15 has not got back to me. So just from those wording, I
16 know there are reviewers on this article.

17 Q Are you under the impression that the manner in
18 which the Zhang '97 article was submitted was typical?

19 A Well, I --

20 MR. CASAS: Objection. Vague and ambiguous.

21 THE WITNESS: I don't have a way to say is typical
22 or atypical because I -- this -- I told you before, this
23 was the first article that I -- I submitted for
24 publication.

25 BY MR. PRAGLIN:

1 Q But didn't it seem unusual to you that you
2 would be submitting correspondence to the journal on
3 plain white paper from your home address when the paper
4 was really being written by ChemRisk and Dr. Zhang and
5 funded by PG&E but none of that was mentioned?

6 MR. CASAS: Objection. Calls for speculation.

7 MR. WILKINSON: Asked and answered, vague and
8 argumentative.

9 THE WITNESS: I stated before that I was assigned
10 the role as the comment person for Dr. Zhang that you
11 asked. I find that assignment reasonable because I
12 involved in this project and I -- I speak both languages
13 around that time, too.

14 So it fall naturally on me to send or to be the
15 contact person, I will say it this way.

16 Since I was the contact person, ChemRisk -- the
17 decision of not using a -- using a plain paper or using
18 my home address is natural because if I'm the person
19 submitting this letter, I'm not a -- and I -- I --
20 I'll -- by the time I submitted this letter, I was no
21 longer a ChemRisk employee. Using ChemRisk stationery
22 probably more misleading the journals to send the
23 correspondence to ChemRisk which I will not receive.

24 If I do not receive, how can I be the contact
25 person anymore? So it makes sense to me, although I did

1 not make that decision.

2 BY MR. PRAGLIN:

3 Q Why didn't you just send the correspondence to
4 the journal on your letterhead from Environmental Risk
5 Analysis?

6 A You know --

7 Q That wouldn't have been misleading, would it?

8 A Okay. Again, I said it earlier, I do not
9 remember the decision. And I think that by the time the
10 letter was typed and sent to me, it is -- already
11 contains my home address. I -- I didn't change it.

12 Actually, for -- for example, for the
13 Exhibit 14 that you just mentioned, on the Exhibit 14,
14 second page, that was McLaren/Hart -- no, that was ERA's
15 address, office address; so I do not recall one way or
16 the other I should or should not use ERA address. I
17 don't recall. I don't think that matters.

18 Q Well, why then, on this February 26, '97
19 unsigned letter on plain white paper that has your name
20 and the address of ERA, is the name of Environmental
21 Risk Analysis not even on the letter?

22 MR. CASAS: If you know.

23 THE WITNESS: I do not because this letter is -- you
24 see this -- you know, this exhibit is a letter sent by
25 Tom Flahive, that's his reasoning and I respect that.

1 BY MR. PRAGLIN:

2 Q Would this be a usual practice for you, to
3 allow others in another company to send out
4 correspondence under your name unsigned on plain white
5 paper?

6 MR. CASAS: Object to form.

7 Go ahead and answer.

8 THE WITNESS: Well, I'm not sure whether -- how you
9 use the word "usual," because this thing happened
10 probably only this time. But as long as I reviewed --
11 around that time, as long as I reviewed -- this is the
12 statement you just made and I agreed upon it, I give
13 approval to Tom Flahive to send this letter.

14 BY MR. PRAGLIN:

15 Q And you did this without ever having met
16 Tom Flahive in your life; is that right?

17 A Yes.

18 Q Have you stayed in touch with him since the
19 Zhang article was published?

20 A No.

21 I considered Tom Flahive also work -- either
22 Tom Flahive himself is a very senior person that he has
23 earned an established trust in ChemRisk to make such
24 decision, or Tom Flahive would ask someone that's senior
25 in ChemRisk to make such decision. Since I worked in

1 ChemRisk, I know in my impression that ChemRisk senior
2 scientists are capable of making such decision
3 appropriate -- appropriately, and I just rely upon them
4 to make such decision.

5 Q In all the time that you were involved with
6 ChemRisk on the Zhang article --

7 A Uh-huh.

8 Q -- did you ever get a report back from anyone
9 as to what was happening in the chromium litigation that
10 PG&E had ChemRisk as the consultants on?

11 A I will tell you what I recall I received and
12 see whether that's a material you would consider as a
13 status reports of the litigation.

14 I remember in my produced material here, I
15 think I produced that to you, a -- some type of court
16 document, either a -- some -- some type of litigation
17 document that -- either drafted by plaintiff or by
18 defendants, that mentioning a litigation was going on
19 between PG&E and a party, a certain party which I do not
20 know, and I remember I -- I saw such a material. And
21 that's all. That's all the information I had regarding
22 a PG&E litigation around that time.

23 Q And you never heard that ChemRisk's client PG&E
24 paid \$333 million to the plaintiffs in the Anderson
25 chromium litigation, stemming from the Hinkley chromium

1 contamination?

2 A Only a few days ago I realized that.

3 Q You did know, though, that PG&E had entered
4 into a contract with McLaren/Hart-ChemRisk and that
5 McLaren/Hart-ChemRisk had entered into a contract with
6 Dr. Zhang, didn't you?

7 MR. WILKINSON: Objection. Asked and answered.

8 THE WITNESS: I believe that I know ChemRisk is a
9 paid consultant for PG&E. What type of contract between
10 them, I don't know.

11 And for the contract between ChemRisk and
12 Dr. Zhang, I -- the contract was discussed before I
13 participated into the -- into contacting Dr. Zhang, but
14 I -- I will say I heard of or I knew in 1995 when I
15 contact Dr. Zhang that there is sort of some type of
16 agreement, or if you call them contract.

17 BY MR. PRAGLIN:

18 Q Didn't you actually have a copy of that
19 contract in your file?

20 A I may at one point of time. And it may be
21 included with this pile of paper. But I don't recall
22 that I specifically looked or started such contract.

23 Q Did you ever translate that contract for
24 Dr. Zhang?

25 A I don't recall I translated that contract.

1 MR. PRAGLIN: Let's attach the contract as
2 Exhibit 15.

3 (Plaintiffs' Exhibit 15 was
4 marked for identification, a copy of
5 which is attached hereto.)

6 BY MR. PRAGLIN:

7 Q Exhibit 15 is Bates stamped TY 75, 76 and 77.

8 A Yes.

9 Q This came from your files, right?

10 A I think so.

11 Q And it's entitled "Consultant Agreement,"
12 right?

13 A On the third page there is a thing saying
14 "Consultant Agreement," yes.

15 Q And on the third page it mentions that
16 "Pacific Gas & Electric, McLaren/Hart's client, has
17 requested consultant's support to perform a specified
18 portion of the work to be performed for Pacific Gas &
19 Electric," right?

20 A Yes. Yes.

21 Q And the consultant is Dr. Zhang, isn't it?

22 MR. WILKINSON: Objection. The document speaks for
23 itself.

24 THE WITNESS: I -- I will say the document just
25 stated that's what it may be.

1 BY MR. PRAGLIN:

2 Q And the first page of the document is signed by
3 a Richard W. Caton, C-a-t-o-n, of McLaren/Hart, right?

4 A There is a signature and in the signature is
5 the signature of Richard Caton, yes.

6 Q Do you know that man? Do you know him?

7 A Oh, Richard Caton?

8 Q Yes.

9 A No, I do not. No.

10 Q Dr. Zhang was retired at the time that he was
11 involved in this matter, wasn't he?

12 A That's what I recall, yes.

13 Q And do you recall that he was living on \$50 a
14 month in China?

15 A I do not. I do not, because by the time I
16 involved, I participated in talks to Dr. Zhang,
17 McLaren/Hart already have some agreement with him on the
18 payment; so whatever he was paid before that time, what
19 payment he was living on, I don't recall I discuss that
20 with him.

21 Q Did you have any discussions with Dr. Zhang
22 about his payment by ChemRisk?

23 A Yes, I did.

24 Q Would it be fair to say that he was anxious to
25 get his money from ChemRisk?

1 A Well, I'm not sure if he's anxious but he
2 certainly mentioned a couple of times to me, I remember,
3 that he did not receive the payment he thought he was
4 entitled to. And as a courtesy I -- I did a little bit
5 of follow-up on that.

6 But whether that represented whether he is
7 anxious or not, I -- I don't know.

8 Q In the 1995 time frame was \$50 a month a lot of
9 money to live on in China?

10 A It's not a lot of money. It's not a -- a lot.
11 No, it's not.

12 Q You and I, we couldn't live on \$50 a month here
13 in the United States, could we?

14 A I don't think I can.

15 Q And did you get the sense that Dr. Zhang was
16 having trouble getting by financially in the time that
17 you were involved with him?

18 MR. WILKINSON: Objection. Calls for speculation.

19 THE WITNESS: That's not my impression. I do not
20 have an impression he was in a -- any financial struggle
21 at all.

22 BY MR. PRAGLIN:

23 Q Didn't he go to Kuala Lumpur, Malaysia to start
24 a new business?

25 A He went to Malaysia but I don't know the nature

1 of that. I think the nature was he was invited to
2 participate in an international story. That's -- I
3 think that what he told me, he represented to me. I
4 don't think I will -- I will say he started a new
5 business.

6 Q Didn't you have a conversation with him where
7 you were told or you made a comment that you should make
8 him happy with money?

9 A I -- I don't recall such conversation but I --
10 just earlier I told you that he mentioned a couple of
11 times to me that he have not received the payment he
12 earlier agreed upon with ChemRisk and he asked me to do
13 a follow-up, and I think that as a person that -- who
14 speak his -- his language, I considered a fair effort
15 should be made by me to -- to satisfy his request. Or
16 at least to verify, to do a follow-up on his request.

17 Q Would you look at TY 734, please.

18 A Sure. Yes.

19 Q Is that your handwriting?

20 A Looks like my handwriting.

21 Q At the very top, item number 1, it says "Money,
22 make him happy."

23 Do you see that?

24 A Yes, I saw that.

25 Q Why did you write that?

1 A I remember that he asked me a couple of times
2 of the payment he thought he entitled to, and he asked
3 me to do a follow-up on that. And I think that as a
4 person who speaks his language, I consider that it would
5 be a courtesy from me to make sure that I at least do
6 some decent effort to follow up on his request to see
7 whether indeed McLaren/Hart's payment never arrived to
8 him and what's the reason and where the money really
9 is.

10 I was trying to satisfy -- or try to satisfy
11 his request when he request that saying that I entitled
12 to this, I have not received, I will do a follow-up for
13 him.

14 Q Isn't it a fact that McLaren/Hart-ChemRisk was
15 paying Dr. Zhang under the table cash?

16 A There is agreement between -- my understanding
17 is there is a agreement between McLaren/Hart and -- and
18 Dr. Zhang, and that agreement is clearly documented or
19 stated. I don't think that "under the table" is the
20 right way to describe it.

21 Q Was Dr. Zhang being paid in cash?

22 A I don't know because I never hand cash to him,
23 I never mail cash to him. And so if he paid -- I think
24 he probably paid by check from McLaren/Hart office in
25 Shanghai or in Beijing of China.

1 Q You're not aware of a ChemRisk employee named
2 Tony Wong hand-carrying cash to China to pay to
3 Dr. Zhang?

4 A I don't recall that, no.

5 Q Have you ever heard the name Tony Wong before?

6 A If I've heard it, probably very -- I don't
7 recall this name. And Tony Wong -- for your
8 information, Tony is a common name and Wong is a very
9 common last name in Chinese; so when you mention
10 Tony Wong, it's just not ring a bell in my mind that
11 this is a person working in ChemRisk.

12 Q Would it be normal practice for you to be
13 involved on a project where ChemRisk was paying a
14 consultant cash?

15 MR. WILKINSON: Objection. Assumes facts not in
16 evidence, contradicts the testimony.

17 THE WITNESS: I don't know I involved in a project
18 that expert are paying by cash. I think experts are
19 compensated by check rather than cash.

20 BY MR. PRAGLIN:

21 Q Like I gave you a check today, right?

22 A Like you gave me a check today, yes.

23 Q If I tried to pay you in cash you'd think
24 something was up, wouldn't you?

25 MR. CASAS: Objection. Calls for speculation.

1 THE WITNESS: Well, sitting here --

2 MR. WILKINSON: From you?

3 THE WITNESS: In the U.S. today -- yes, today if you
4 gave me some cash, it was just amount up here on the
5 table, I would think that's a little bit funny. I will
6 put it that way. It's -- it's not indicating to me
7 anything wrong. It's just like there is a interesting
8 way to handle money.

9 BY MR. PRAGLIN:

10 Q And you never heard that ChemRisk was paying
11 Dr. Zhang cash?

12 MR. CASAS: Asked and answered.

13 THE WITNESS: I don't recall. I don't recall I
14 heard a cash payment. But if there is a cash payment, I
15 would not be surprised.

16 BY MR. PRAGLIN:

17 Q Why is that?

18 A Because in 1995 in China in Dr. Zhang's -- in
19 1995 in China, I will -- I will say that probably
20 80 percent of people do not have cash account -- do not
21 have -- sorry, do not have a checking account. It's
22 typical, very typical in China that people do
23 transaction in cash.

24 Q But didn't Dr. Zhang have an account that
25 ChemRisk could wire money to?

1 A I don't know.

2 Q You never had correspondence with Dr. Zhang
3 about wiring money to him?

4 A I don't recall. I may have, I may not but I
5 don't recall.

6 But either way, there is a payment to
7 Dr. Zhang, I know that, and whether the payment is -- my
8 impression is it is in check. But if it's in cash, I
9 would not be surprised at all given the situation of
10 China in that time. Even now.

11 Q Would you go to page TY 520 of Exhibit 1,
12 please.

13 A Surely. Yes.

14 Q This is a document entitled "Copyright
15 Assignment," correct?

16 A Yes, it is.

17 Q And this was a form that was required by JOEM
18 to have Dr. Zhang sign as the author, right?

19 A I believe so.

20 Q And in fact, it required that all authors would
21 have to sign, right?

22 A I believe so.

23 Q Did you try and submit this document to JOEM
24 with just Dr. Zhang's signature and then it got rejected
25 and they asked for Dr. Li as well?

1 A No, that's not what I recall. No.

2 I remember that around the time of submission
3 is Tom Flahive or someone in ChemRisk's office informed
4 me that they need both signature, so -- so I, per their
5 request, contact Dr. Zhang and obtain both signatures.
6 I recall that.

7 Q Did you translate this document into Chinese
8 for Dr. Zhang?

9 A I don't recall. I may have.

10 Q There's not a Chinese written translation of
11 this copyright assignment form in your file, is there?

12 A If you did not find, I would take your word for
13 it. I have not gone through my file of 900 pages just
14 to look for that specific information.

15 Q On page 520 --

16 A Yes.

17 Q -- it says, "We hereby affirm that this
18 manuscript titled 'Cancer Mortality in a Chinese
19 Population Exposed to Hexavalent Chromium in Water' is
20 original."

21 A Yes.

22 Q Then it says, "It has not been published and is
23 not being submitted for publication elsewhere."

24 Do you see that?

25 A I saw that.

1 Q Did you explain to Dr. Zhang that at the time
2 this form was sent to him for signature, the paper had
3 been submitted to Archives of Environmental Health a few
4 days beforehand?

5 A I don't recall a conversation but I -- I -- I
6 probably -- I -- I -- I think I told him, yes.

7 Q You didn't tell him in writing, did you?

8 A If not, if there's no writing document, I take
9 your word for it. In my document here, I may have, I
10 may not. But I may have told him in writing, I may have
11 told him verbally. I just don't have a document to --
12 to -- to show you.

13 Q Wouldn't it be true that at the time this
14 copyright assignment was signed by Dr. Zhang and he's
15 affirming the statement that the paper has not been
16 published and is not being submitted for publication
17 elsewhere, that, in fact, that was false and the paper
18 had been submitted elsewhere, specifically to Archives
19 of Environmental Health?

20 A I -- I don't think I know. I don't think I
21 knew on December 12th.

22 Q Would you look at page TY 495, please,
23 alongside page TY 520.

24 A 495?

25 Q Yes.

1 A Sure. Yes.

2 Q Page TY 495 is your letter to Archives of
3 Environmental Health submitting the Zhang paper for
4 publication on December 5, 1995; isn't that true?

5 A I believe this -- my -- this similar to the
6 letter or this is the letter. I -- I have no way to
7 confirm this is indeed the letter I sent to Archive.
8 But it look like it very similar to letter I sent to
9 Archive.

10 Q It has your signature, right?

11 A Yes, it is. But there are documents with my
12 signature never sent out.

13 Q And then if you look at page TY 520 --

14 A Uh-huh.

15 Q -- the copyright assignment signed by Dr. Zhang
16 on December 12, 1995 --

17 A Uh-huh.

18 Q -- his representation that the paper is not
19 being submitted for publication elsewhere is, in fact,
20 false, isn't it?

21 A The December 12th -- by December 12th, I do not
22 know and I don't think -- I don't know whether Dr. Zhang
23 knows whether the submission to Archive on December 5th,
24 what happened to that submission; for example, whether
25 the submission has been cancelled or withdrewed (sic) or

1 something happened to that submission.

2 So it could be December 5th there is a
3 submission, then later time got canceled, then
4 December 12th decided to resend it to another journal.
5 The sentence in -- on page 420 is -- is has not been
6 published and is not being submitted, it didn't say it
7 was sent or submitted before, it's just not
8 simultaneously at December 12th of '95.

9 Q Don't you know that scientific journals don't
10 want to have multiple submissions because they don't
11 want to incur the expense of reviewing an article and
12 making edits only to find out that it gets published
13 elsewhere?

14 MR. CASAS: Objection. Calls for speculation.

15 THE WITNESS: In my general knowledge, I think
16 generally professional journals will have such a
17 requirement. I am not familiar with Archives of
18 Environmental Health and I am not familiar with JOEM. I
19 do not know their specific requirement.

20 BY MR. PRAGLIN:

21 Q Can you name me a scientific journal that
22 allows papers to be submitted for publication when
23 they're being submitted to other journals?

24 A I -- here is my impression. I don't know
25 whether it's right or wrong because I do not have that

1 much experience in publishing articles.

2 I think that in a scientific meeting, you can
3 send, you can present your material in a scientific
4 meeting and it would be included in the proceeding of
5 the scientific meeting. But I think that you could send
6 your article later time to a journal, even though your
7 article already presented once in a meeting. And I
8 think that's true.

9 Q The Zhang article was never presented in a
10 meeting, was it?

11 A I do not know what's the nature of Archives of
12 Environmental Health. I do not know what's the nature
13 of JOEM. This could be -- I do not know whether they
14 are type of proceeding, whether they are -- what was the
15 nature of those two journals; so I don't know their
16 specific requirement.

17 Q Isn't it true that Archives of Environmental
18 Health had the Zhang paper under submission from
19 December of '95 until May 20th of '96 when it sent the
20 rejection, which is Exhibit 11 to your deposition?

21 A I saw a letter in my Exhibit 11, and I -- I --
22 I do not know it's a rejection. And the date between
23 that is exactly what you stated, between December and
24 May.

25 Q So isn't it true that when Dr. Zhang signed the

1 copyright assignment form, which is TY 520 to your
2 production, Exhibit 1 --

3 A Yes.

4 Q -- that the representation that the Zhang paper
5 was not being submitted for publication elsewhere was,
6 in fact, false because it was under submission to
7 Archives of Environmental Health at that time?

8 MR. CASAS: I'm going to object. Assumes facts not
9 in evidence that Dr. Zhang even knew what the
10 submissions were at that time.

11 THE WITNESS: I didn't know it was false. I don't
12 know whether Dr. Zhang knows it's false or not. I don't
13 know it's false.

14 I didn't know it was false.

15 BY MR. PRAGLIN:

16 Q Did you consider whether that statement was
17 false?

18 A No. It never occur to me around that time.

19 Q Did you ever tell Dr. Zhang that you had
20 submitted his article to two different journals at the
21 same time?

22 A I think I had.

23 Q And did you explain to him this sentence on
24 page TY 520 that says, "It has not been published and is
25 not being submitted for publication elsewhere"?

1 A I think I had, or -- I think I had. Or he
2 understood. Either way.

3 Q And when you explained that to him, did it just
4 slip your mind that the paper had been submitted to two
5 different journals?

6 A I don't recall I have two specific conversation
7 saying this is the translation, so I -- I -- I cannot
8 tell you that the -- I don't have a recollection that
9 something slip over in my mind over that time. But I
10 was -- this didn't concern me around that time. I can
11 tell you that.

12 Q The signature for Dr. Zhang --

13 A Yes.

14 Q -- is dated December 12, 1995, right?

15 A Yes, on this piece of paper, yes.

16 Q Do you recognize that as his signature?

17 A Looks like to me his signature, yes.

18 Q Now, Dr. ShuKun Li --

19 A Yes.

20 Q -- is the second signature line, right?

21 A I believe so. I believe so, yes.

22 Q Who signed her name on page TY 520?

23 A I assume herself.

24 Q Why do you assume that?

25 A The first I think -- just in general, I think

1 that the signature from Dr. Zhang and Dr. Li are just
2 look like to me different signature. And we fax -- I
3 think we fax this page to Dr. Zhang and we probably
4 explained to him what was going on, what this document
5 said and tell him that -- told him that he needs both
6 signature from him and Dr. Li.

7 And Dr. Zhang send this back to us with
8 signature from him and he represented to me or to
9 ChemRisk that the first signature is his and second
10 signature is from Li. And I didn't talk with Li, I
11 don't think I ever talked with her in that period of
12 time; so I -- other than to believe Dr. Zhang, I have no
13 other way to confirm this.

14 Q Did you see any evidence that Dr. Zhang had
15 actually sent the copyright assignment form to Dr. Li?

16 A That would be a communication between Dr. Zhang
17 and Dr. Li and happening in China. I would not have one
18 way or the other to guess what's the way they
19 communicate, whether it was sent by fax, whether it was
20 hand delivered, whether it was by mail. I would not
21 know.

22 Q And you'd agree that if, on December 12, 1995,
23 Dr. Li was, in fact, recently deceased, that she
24 couldn't have signed that form, wouldn't you?

25 A If that's true, Dr. Li indeed deceased in

1 December 12th -- before December 12th, then certainly
2 she could not sign this piece of paper. That's --

3 Q We agree on that, don't we?

4 A We agree on that, yes.

5 MR. WILKINSON: Objection. The previous question
6 misstates the prior document.

7 BY MR. PRAGLIN:

8 Q And does this refresh your recollection that,
9 in fact, Dr. Li was dead at the time of December 12,
10 1995, and it was you were unable to get her signature?

11 A My impression is Dr. Li was alive in
12 December 12, 1995.

13 Q So why didn't you write to her directly?

14 A The -- Li's name was mentioned by Dr. Zhang,
15 requested by Dr. Zhang to be the second author. And the
16 contact person we had is always with Dr. Zhang. To be
17 honest, I do not even know that -- where I can find
18 Ms. Li. Or -- that's a she, I would say Li, Dr. Li.

19 I do not have -- I don't think I have her phone
20 number around that time. The only person we have direct
21 contact with is Dr. Zhang, and we take his word for it.

22 Q Could it be that Dr. Zhang forged Dr. Li's name
23 on this copyright assignment form, page 520?

24 MR. WILKINSON: Objection. Calls for speculation.

25 MR. CASAS: Calls for speculation.

1 THE WITNESS: I certainly wouldn't think so. I
2 respect Dr. Zhang as a decent scientist. I don't think
3 he would forge anyone's signature.

4 BY MR. PRAGLIN:

5 Q And you had no conversations with him about him
6 signing Dr. Li's name on this copyright assignment
7 form?

8 A Certainly not, no.

9 Q You would not have authorized him to forge her
10 name, would you?

11 A I would not even suggest that, no.

12 Q Would you look at page TY 520 alongside page
13 TY 534, please.

14 A 534. 534, yes.

15 Q On 534 you see two signatures at the bottom,
16 don't you?

17 A I do.

18 Q You see Dr. Zhang's signature, don't you?

19 A Looks like to me Dr. Zhang's signature, yes.

20 Q And you see Dr. Li's signature, don't you?

21 A There is a S. K. Li. I'm assuming that's
22 Dr. Li. I assume that's Dr. Li, yes.

23 Q And doesn't the handwriting look the same on
24 both names?

25 A I --

1 MR. WILKINSON: Objection. Calls for speculation.

2 I don't think he's here as a handwriting
3 expert.

4 MR. CASAS: He's not an expert.

5 THE WITNESS: I -- I -- I -- I do not know.

6 BY MR. PRAGLIN:

7 Q It looks the same to you, though, doesn't it?

8 MR. WILKINSON: Same objections. Calls for
9 speculations.

10 THE WITNESS: I do not, no. Anyone can have
11 different saying on this. Saying whether they're
12 similar or not, you probably need a expert on this to
13 tell you whether they are similar or same, but I'm not.

14 I'm -- I'm terrible in my handwriting myself.
15 You can see some of my document I gave to you. I
16 will -- I was very unorganized in some way in my
17 handwriting and so I -- I wouldn't consider myself in
18 any way can tell one way or the other if they're similar
19 or not.

20 BY MR. PRAGLIN:

21 Q You read Dr. Kerger's testimony to prepare for
22 this deposition, right?

23 A Briefly, yeah.

24 Q You understand that his deposition was taken
25 just last week?

1 A Yes. So it was briefly because I was having --
2 given this document for some -- for a small -- short
3 period of time.

4 Q What day did you read it?

5 A God. I -- I think that I started reading it on
6 Monday, this -- just this last Monday.

7 Q So three days ago?

8 A Three days ago.

9 Q And you read the whole thing, right?

10 A I just paged through the whole thing, yes.

11 Q When you say you just paged through it, did you
12 flip through it or did you read every page?

13 A I did not read every page.

14 Q Did you read Dr. Kerger's testimony that he was
15 under the impression that Dr. Zhang wanted Dr. Li's name
16 on the paper because Dr. Li had died recently and wanted
17 to be published posthumously?

18 A I remember seeing that, seeing that Kerger
19 mentioned that he thought that Dr. Li was dead. I
20 remember seeing Kerger saying that.

21 Q And you think Dr. Kerger was wrong about that?

22 A I think Dr. Kerger mistaken. The two Li
23 authors, one is in 1987 article, Li XiLin, and the
24 second one is Li ShuKun in the 1997 article.

25 I -- I do not blame him because it's very easy

1 to get confused because both person has the last name of
2 Li, but I think they're different persons. To my
3 knowledge, I think anyway. To my knowledge, they are
4 different persons.

5 Q If you go back for a moment to page TY 495 --

6 A Yes.

7 Q -- in the bottom paragraph --

8 A Yes.

9 Q -- you say to the editor of Archives of
10 Environmental Health, "Also, enclosed with the submittal
11 is Dr. Zhang's signed authorization to publish this
12 communication. We have included both a Chinese version
13 and a translated English version of the authorization."

14 A Yes, I do see that.

15 Q "We appreciate your consideration of this
16 communication and look forward to hearing from you."

17 And then it has your signature, right?

18 A Yes.

19 Q What document were you referring to as
20 Dr. Zhang's signed authorization there?

21 A Yes. I can find that document for you.

22 Q Please.

23 A Yes.

24 Allow me to take some time because there's a
25 whole pile of paper but I -- I remember I saw that page

1 someplace in my document.

2 Okay. There's one of such page on TY 0480,
3 480. I believe this is the one copy of the page I
4 mentioned in the submittal letter to JOEM. Page 480.

5 Q Okay. So if you look at page 480 along with
6 page 495 --

7 A Yes.

8 Q -- do you see that?

9 A Yes, I do.

10 Q On page 495 you write on December 5, 1995 --

11 A Uh-huh.

12 Q -- that enclosed is Dr. Zhang's signed
13 authorization, right?

14 A Yes.

15 Q But on page 480, Dr. Zhang didn't sign it until
16 November 18, 1995; isn't that true?

17 A Hold on for a moment. November 18, 1995.

18 Okay. Okay. I do not see how that be --

19 Yes.

20 Q So you think that's how it happened?

21 A He signed on November 18th, according to my
22 page 480. And the submission letter on the page 495 is
23 December 5th; so it's entirely -- entirely reasonable
24 that this letter was included. And I -- I -- I -- I
25 remember this letter was included and I can still -- I

1 hope I can confirm that with the journal right now but I
2 think the journal saw this letter.

3 Q So as you read this letter --

4 A Yes.

5 Q -- you have written the Chinese, correct?

6 A Yes. Yes.

7 Q And then you've translated in English, correct?

8 A Or the other way, I don't remember that --
9 which way I start with, whether I have English first and
10 then put Chinese in between, or the other way around.

11 Q The English is intended to be an accurate
12 translation of the Chinese, right?

13 A I believe so.

14 Q Well, you say in the first paragraph, "Per our
15 tell discussion" --

16 A Yes.

17 Q Let me start over.

18 In the first paragraph you have written this
19 for Dr. Zhang to sign, right?

20 A I -- I don't know whether I was the original
21 author of this draft but I printed, yes. The Chinese
22 lettering here are mine, I believe so.

23 Q So you wrote the letter, right?

24 A The letter probably originally draft by some
25 other McLaren/Hart or ChemRisk employee and I make the

1 trans- -- insert the translation into the original draft
2 and send it to Dr. -- Dr. Zhang.

3 Q Well, where is the original draft of this
4 letter in English from McLaren/Hart?

5 A I -- I may be able to find it, but that would
6 take a -- a little bit longer time in this 900 or so
7 pages. But I may be able to find it. It may be
8 included in this 900 pages.

9 Q So in this first paragraph you wrote for
10 Dr. Zhang to sign --

11 A Someone wrote in ChemRisk and I agreed, yes.

12 Q Okay. I'll start over.

13 So in this first paragraph, someone in ChemRisk
14 wrote --

15 A Yeah.

16 Q -- and you agreed for Dr. Zhang to sign the
17 following language. "Per our telephone discussion, I
18 totally agree to your editing and expanding of the
19 original manuscript. I think the English translation is
20 accurate and complete."

21 Have I read that correctly?

22 A You did.

23 Q How would Dr. Zhang know that the editing and
24 expanding of the original manuscript is accurate and
25 complete if he doesn't read English?

1 A The -- what he said, I think that you just
2 changed his sentence. I think this sentence, "I totally
3 agree to your editing and expanding" -- "and
4 expanding." He's thinking the English translation is
5 accurate. The English translation is accurate and
6 complete.

7 Q The English translation of what?

8 A Translation of the -- I would say the entire
9 document.

10 Q Where is the Chinese version of the Zhang
11 article that he could read?

12 A I do not have a -- I did not find a version in
13 my pile of paper but I did find a draft that come up
14 with the same conclusion, or similar conclusion to 1997
15 in Chinese.

16 Q But the draft that you're talking about is one
17 that Dr. Zhang wrote pre-1995, right?

18 A No. This is a draft, that three-page -- I
19 think it's my 451 through 453. I show to you earlier in
20 the morning.

21 Q Well, it wouldn't be 451 and 453.

22 A Okay. I'll look into --

23 Q Can you give me that number again, please?

24 A Okay. Yes. One moment.

25 Q Is it 43 to 45?

1 A Yes. You got it. Thank you. Thank you.

2 Yes, that's the page I -- I meant to find.

3 Q But you testified earlier that --

4 A Go ahead.

5 Q -- 43 to 45 is a manuscript in Chinese which
6 you typed from an English version, right?

7 A I trans- -- correct. I typed from an English
8 version.

9 Q At the time that Dr. Zhang signed this form in
10 December of 1995, wasn't he already in Malaysia?

11 A I don't recall. He was traveling around. He
12 might be in Malaysia for a period of time, but I don't
13 recall that from where he signed this letter.

14 Q Do you know how much money Dr. Zhang was paid
15 by ChemRisk in total?

16 A I do not. I do not. I think around \$2,000,
17 \$3,000.

18 Q You remember earlier this afternoon we talked
19 about this Tony Wong?

20 A Yes. You mentioned Tony Wong and I told you
21 that's a name I don't remember corresponding to a person
22 working in ChemRisk.

23 Q And do you recall that Dr. Zhang was initially
24 contracted at the rate of \$250 per month?

25 A I remember I saw that amount.

1 Q Why don't you look at page TY 430, please.

2 A Sure. Yes.

3 Q Is that your handwriting?

4 A I don't think so. Actually, the numbers on the
5 bottom of this page could be mine.

6 Q The calculation?

7 A Is that a calculation or -- or it's just some
8 number. I -- I don't know whether this number is a
9 calculation. It's 030021608 looks like to me it is not
10 a -- it is either a date or a job number. If it's a job
11 number, this is not a calculation, it's just simply a --
12 some type of release to work on action. That looks like
13 my handwriting.

14 And the other part of this document doesn't
15 look like my handwriting at all.

16 Q So the name Tony Wong in the middle of the page
17 that's in heavy bold writing --

18 A Uh-huh.

19 Q -- that's not your writing?

20 A I don't think it's mine, no.

21 Q You see what I'm talking about, don't you?

22 A Yes, I -- I saw what you are talking about.

23 Q And it says "Tony Wong - hand carried."

24 Do you see that?

25 A I saw that.

1 Q You don't know what that references?

2 A I do not.

3 Q Would you go to page 499, please.

4 A Sure. Yes.

5 Q Would you look at page 499 and then the
6 previous page, 498.

7 A Yes.

8 Q It looks to me as though you are translating a
9 bill from Dr. Zhang which appears on page TY 500; is
10 that true?

11 A 500. Let me have a look at 500. Just a
12 moment.

13 I will say both is -- is part of this is a bill
14 and a part of this is just a reporting of how many hours
15 he spent.

16 Q Well, page 500 is Dr. Zhang's Chinese letter to
17 you, right?

18 A Look like Dr. Zhang's handwriting, yes.

19 Q And he accounts for his hours and a description
20 of what he did, right?

21 A He provides some description, yes, of what he
22 did.

23 Q And then you translate it in TY 499, don't
24 you?

25 A This looks like -- look like to me the -- the

1 TY 499 does not contains all the information on TY 500.

2 Q Well, your cover note to Kathy Depotor --

3 A Uh-huh.

4 Q -- at ChemRisk says, "Hi, Kathy, Here is
5 translation and the original expenses report from
6 Dr. Zhang," and then you sign it, correct?

7 A Yes, I did.

8 Q So isn't page 499 your translation of
9 Dr. Zhang's itemized expense report?

10 A Sitting here, this doesn't look like me -- to
11 me that's the complete expenses report as in the TY 500;
12 so I reasonably guess that, you know, in addition to
13 page 499, I may have some other pages, I just don't
14 recall.

15 Q If you look at page 499, which is the English
16 translation of Dr. Zhang's itemized expenses --

17 A Yes.

18 Q -- would you agree that nowhere there does it
19 indicate that he was involved in the writing of the
20 article?

21 MR. WILKINSON: Objection. Vague, misstates the
22 document and the testimony.

23 THE WITNESS: I'm trying to answer your question.

24 Actually, there is a item, actually, I think,
25 documenting Dr. Zhang's review of the article which I

1 will -- is a -- is a second item from the bottom of
2 TY 499. It's stated "Receive a short communication from
3 ChemRisk and looked over it, 20 hours."

4 BY MR. PRAGLIN:

5 Q You would agree that Dr. Zhang doesn't bill for
6 writing that article, wouldn't you?

7 MR. WILKINSON: Objection. Vague --

8 MR. CASAS: Objection.

9 MR. WILKINSON: -- argumentative, asked and
10 answered, misstates the testimony and the document.

11 THE WITNESS: Based on this document, Dr. Zhang
12 stated he spend 20 hours, receive a short communication
13 and I would say review it or look over it on -- stated
14 on this page.

15 And again, this -- the page you are showing to
16 me is not the only document that -- for works Dr. Zhang
17 has performed over -- in the 1995 period of time; so
18 other similar documents, if we put them together, you
19 will see how much work he has done, how much
20 communication he has involved to come up to compose the
21 1997 article.

22 BY MR. PRAGLIN:

23 Q Let's try and stick with this one page that you
24 have in front of you now, which is TY 499.

25 A We can do that.

1 Q Wouldn't you agree that on that page Dr. Zhang
2 does not bill for writing the Zhang article?

3 MR. WILKINSON: Objection. Asked and answered --

4 MR. CASAS: Same objection.

5 MR. WILKINSON: -- argumentative, misstates the
6 document and the testimony.

7 THE WITNESS: I will agree that the word "writing"
8 is not -- does not appear in this document of his hours
9 spent in October and in November. But the -- the item
10 of receive and review to me is at least a document of
11 his participation of this draft of this article in
12 November.

13 MR. PRAGLIN: Let's attach page 499 as the next in
14 line.

15 Exhibit 16?

16 THE REPORTER: Yes.

17 (Plaintiffs' Exhibit 16 was
18 marked for identification, a copy of
19 which is attached hereto.)

20 THE WITNESS: Thank you.

21 BY MR. PRAGLIN:

22 Q Looking at Exhibit 16 --

23 A Yes.

24 Q -- you don't see the word "write," w-r-i-t-e,
25 on that page, do you?

1 A I do not.

2 Q And looking at Exhibit 16, you don't see the
3 word "compose" on that page, do you?

4 A I do not.

5 Q And looking at Exhibit 16, you don't see the
6 word "draft," as in draft a document, on that page, do
7 you?

8 A I do not.

9 Q Would you look at page TY 460, please.

10 A Sure. Yes.

11 Q We may have covered this or a similar document
12 before.

13 A I believe we have.

14 Q Is it your understanding that this document was
15 at some point signed by Dr. Zhang?

16 MR. WILKINSON: Objection. Calls for speculation.

17 THE WITNESS: I don't remember. I don't remember
18 this document was signed by Dr. Zhang.

19 BY MR. PRAGLIN:

20 Q Looking at page TY 460, wouldn't you agree that
21 the scope of work as described on the document does not
22 include writing by Dr. Zhang?

23 A "Scope of Work," description is "Document
24 review and consultation regarding epidemiology,
25 groundwater contamination and health effects of

1 chromium."

2 "Document review and consultation regarding" --

3 The word -- I will say "writing" is not --
4 "write" or "writing" was not described in the scope of
5 work based on this piece of paper, sure.

6 MR. PRAGLIN: Why don't we take a short break.

7 THE WITNESS: Sure.

8 THE VIDEOGRAPHER: Going off the record. The time
9 is 4:50.

10 (Off the record.)

11 THE VIDEOGRAPHER: We're back on the record. The
12 time is 5:03. Please begin.

13 THE WITNESS: Okay.

14 BY MR. PRAGLIN:

15 Q Mr. Ye, would you go to Exhibit 1, which is
16 your production, and let's look at pages 62, 63 and 64.

17 A Okay. Yes. I'm on page 62, 63, 64. Yes, I
18 am.

19 Q Do these three pages go together?

20 A Let me have a look.

21 Q And possibly page 65, may be related. I'm not
22 sure.

23 A Okay. I'll have a look. I don't think they go
24 together. The -- page 62 goes with pages before 62.
25 It's not in -- yeah, I think that's the case.

1 So page 63, 64, maybe 65 -- nope, I take that
2 back. Page 63 and 64 looks like it goes together.

3 Q Well, here's why I asked you the question.

4 A Sure.

5 Q On page 62 it's obviously a translation of a
6 fax to you from Dr. Zhang, right?

7 A A translation of a fax from Dr. Zhang, I just
8 repeated what you said, yes.

9 Q And it says second page, correct?

10 A Correct.

11 Q And if you look at page 64 --

12 A Yes.

13 Q -- it appears similar to --

14 A Oh.

15 Q -- page 62 but it appears to have the hours
16 totaled or not the hours totaled but it says total
17 amount due from April to September '95 is \$1,960. Do
18 you see that?

19 A I see that, yes.

20 Q And both pages are shown as a fax to you from
21 Dr. Zhang, right?

22 A A translation of a fax to me from Dr. Zhang.
23 Okay. Yes.

24 Q So did you total up the amount owing for
25 Dr. Zhang as \$1,960, or was that provided to you by

1 someone else?

2 A Let me confirm that from --

3 Just give me a moment.

4 I don't recall how the amount of \$1,960 came
5 up. I would not have a basis to assign a amount of
6 money; so I -- if the amount of money stated on this
7 page is either requested or some way calculated based on
8 these hours by Dr. Zhang or someone else, but I do not
9 have a basis -- I don't think I -- I don't remember I
10 had a basis to assign dollar amount.

11 Q You're saying that you didn't make up the
12 number \$1,960; you took it from somewhere else, right?

13 A Yes. Yes.

14 Q Would you look at page TY 460, which is the
15 authorization letter task order for Dr. Zhang?

16 A 460. Yes. I'm looking at this page.

17 Q That has a total of \$1,960 at the bottom,
18 doesn't it?

19 A Yes, it does.

20 Q And it accounts for the amounts to be paid to
21 Dr. Zhang for various periods, right?

22 A It's some from April to August, I think. Yes,
23 August. Yes, I agree with you.

24 Q And so the amount that's shown on page TY 64 of
25 \$1,960 is for the work that is described in that page,

1 right?

2 A I don't recall. But based on these two pages,
3 one is TY 64, one is TY 460, I don't think the \$1,960 is
4 for the task or the hours spend on page 64, because when
5 I read page 460 it is described --

6 Sorry, I -- I -- I don't know. I take that
7 back.

8 I -- I do not have a reasoning to believe this
9 two amount of money, 1,960, appearing two different
10 places, how they correlate or connected. I do not know.

11 Q Well, let me ask you this: On page TY 64 --

12 A Uh-huh.

13 Q -- the entries for the various times --

14 A Yes.

15 Q -- take April 27th to April 29th, for example,
16 where Dr. Zhang lists "Prepare for meeting with ZhuGuang
17 in Shanghai (12 hours)," do you see that?

18 A I saw that.

19 Q You translated that from a document, didn't
20 you?

21 A I believe I did.

22 Q From what page? Do you have a Bates stamp?

23 A I -- yes, I think I can find that page. Just
24 hold on for a moment.

25 I believe it's from my Bates stamp TY 60, which

1 is 6-0.

2 Q As I look at page TY 60 it totals more hours
3 than does page TY 64; is that true?

4 A I have not done the calculation myself or
5 sitting here. This looks like to me -- this looks like
6 to me more hours.

7 Hold on for a moment. I was trying to compare
8 these two items. Just give me a moment.

9 I -- I agree with you. It appears on the
10 Chinese version or on the page with Chinese letter on
11 TY 60, it has more hours than TY 64, yes.

12 Q On the page TY 60 --

13 A Yes.

14 Q -- there are some columns and there's an
15 extreme right column and there's a Chinese character at
16 the top in parentheses, correct?

17 A Yes.

18 Q What does that mean?

19 A The letter means -- by itself means -- can
20 mean -- can mean different things. I think in here it
21 means "sum" or "total."

22 Q Total in hours?

23 A I believe so because I -- when I see this
24 number in this column, this appears to me, I -- I just
25 saw a couple of numbers down here. It appears to me the

1 product of these two numbers before it; so yes.

2 Q And take the first line, it says 4 times 4 and
3 then there's a little character after the 4.

4 A Oh, yes.

5 Q What does that character mean?

6 A Month.

7 Q Thank you.

8 A Or actually 4 month means April.

9 Q So that's in April?

10 A Yes.

11 Q So if we read the first line it would mean
12 April, 16 hours? Or is that not right?

13 A It will say April, then provided a date of
14 April, then saying that in that period of that -- on the
15 first line it says April 20th to 25th, which is around
16 five days, 16 hours.

17 Q Okay.

18 A That's what this said.

19 Q Is TY 64 a translation of TY 60?

20 A It doesn't appear to me. It doesn't appear to
21 me it contains all the hours on the TY 60. I have to
22 compare item to item to see that -- which item on the
23 TY 60 is included on the TY 64, but it doesn't -- but --
24 but we discuss this just a moment ago. I agree with
25 you, there are more hours on the TY 60, the Chinese

1 version, than the TY 64.

2 Q In the middle of TY 60 --

3 A Yes.

4 Q -- is an entry for I believe June 18th through
5 June 25th. Do you see that?

6 A I saw that, yes.

7 Q And then the column in the right says 80. Does
8 that mean 80 hours?

9 A I believe so. It's 80 hours, yeah.

10 Q What is the description in that body of
11 June 18th to June 25th? What was 80 hours spent on?

12 MR. CASAS: I'm going to object.

13 You're asking him to do a translation of
14 someone else's hand. I think we've been through that.

15 BY MR. PRAGLIN:

16 Q Can you tell me what the subject matter is?

17 A There is an English letter that both you and I
18 can read which is "MH," McLaren/Hart it stands for; so
19 I -- although I -- I don't think I will be able to
20 provide translation on the spot, but I can -- generally
21 speaking, this related to McLaren/Hart.

22 Q I kind of assumed that.

23 A Oh, okay. Then we're all on the same page
24 then.

25 Q If we just use TY 64 --

1 A Okay.

2 Q -- which is what you sent to Kathy Depotor,
3 right?

4 A I think I sent her this, yes.

5 Q Do you remember why you were sending it to
6 her?

7 A No, I -- I -- I would assume that she requested
8 it.

9 Q What was her position at ChemRisk?

10 A My impression was she was a -- either
11 accountant or the person in charge of accounting, but
12 I -- I do not have evidence to confirm that.

13 Q Do you have any sense as to how many hours
14 total Dr. Zhang spent in his work with ChemRisk in
15 writing the '97 article?

16 A I would estimate it to be hundreds of hours but
17 I do not have a specific amount of hours.

18 Q If he worked the 207 hours that are listed on
19 page TY 64 --

20 A Did I give you a copy of that?

21 Q Yes.

22 A 272?

23 Q No. 207 hours.

24 A Oh, 207 hours, okay.

25 Q Okay. Just trust me that that adds up to 207.

1 A That's fine. I take your word for it.

2 Q -- at \$1,960 payment, which is what it says at
3 the bottom of TY 64, that's \$9.46 an hour.

4 A I trust you calculated that way. Okay.

5 Q Would that have been reasonable pay for a
6 doctor in 1995 in China, \$9.46 an hour?

7 MR. CASAS: I'm going to object. He's got no
8 foundation to answer that question. It calls for
9 speculation.

10 It appears to misconstrue the documents as
11 well, since on the top of page TY 64 it references two
12 pages; so I don't even think he's comparing apples to
13 apples here.

14 But go ahead, if you understand the question.

15 THE WITNESS: I understand the question is whether
16 \$9 or \$10 an hour reasonable -- reasonable pay to a
17 medical doctor in China. I -- I have nothing connected
18 to here, I just -- if your question is in general to say
19 \$9, \$10 an hour for a doctor, I would --

20 The reason I pause is I have to convert that
21 into Chinese salary and try to think of -- in '90 -- and
22 all the way back to '95 to see whether or not it's
23 reasonable.

24 I would say it's reasonable. I just -- I have
25 nothing connected to the page you show me.

1 BY MR. PRAGLIN:

2 Q Was Dr. Zhang anxious to do further work with
3 McLaren/Hart-ChemRisk?

4 MR. WILKINSON: Objection. Vague, calls for
5 speculation.

6 THE WITNESS: I will not use the word "anxious." As
7 a scientist, he has research interest that he likes to
8 pursue, he likes to extend his research, yes. But
9 anxious, well, I don't think is the way to describe him.

10 BY MR. PRAGLIN:

11 Q Did he write to you expressing an interest in
12 doing a further work with McLaren/Hart?

13 A I believe -- I believe he did, and I believe he
14 also mentioned that in my conversation with him over the
15 phone, and I would have translated that into English to
16 tell ChemRisk managers, either Brent Kerger or
17 Bill Butler, about it.

18 Q So you passed that on to ChemRisk; is that what
19 you're saying?

20 A Yes. Certainly.

21 Q Did he ever do further work with ChemRisk, so
22 far as you know, besides the article?

23 A Not to my knowledge of -- or nothing I
24 participated because I left ChemRisk by the end of
25 1995. Since then, I do not know internally at ChemRisk

1 what project has been going on.

2 Q Did you stay in touch with ChemRisk after 1995
3 for any purpose other than to get the Zhang article
4 published?

5 A Yes.

6 Q What other purpose?

7 A I will say there are some projects that
8 ChemRisk require some service from ERA and --
9 Environmental Risk Analysis, and I don't know whether
10 that work is under anyway client privileged; so for me
11 to review them here, I am afraid I will cross a line
12 to -- to my client.

13 Q Did that further work relate to PG&E?

14 A I have to check. I don't know.

15 Q Did that further work relate to chromium?

16 A I don't think so, but I have to check.

17 Q Is that something that you can check over the
18 evening and let me know tomorrow?

19 A It would be hard because the material would be
20 in my office. And after this depo I probably will head
21 into home, which is probably an hour driving from my
22 office.

23 Q Okay. Did Dr. Zhang ever write to you and ask
24 you how are the plans and activities with McLaren/Hart
25 going in the future and could you please contact me more

1 often?

2 A I believe I saw such communication to me, yes.

3 Q Would you look at TY 539, please.

4 A Yes.

5 Q That's a letter written to you from Dr. Zhang
6 in Chinese, right?

7 A Looks like from Dr. Zhang, yes.

8 Q And it's dated April 8, 1996, isn't it?

9 A Yes.

10 Q And does Dr. Zhang write to you there to the
11 effect that he is asking about plans and activities with
12 McLaren/Hart in the future and he's requesting that you
13 could please contact him more often?

14 MR. CASAS: Same objection.

15 I'm going to instruct him not to answer, do an
16 on-the-spot translation.

17 MR. PRAGLIN: I'm not asking for a word-for-word
18 translation. I'm asking if that's the gist of part of
19 the letter.

20 THE WITNESS: I'm reading -- I'm trying to read it
21 and trying to see whether I can provide a answer to your
22 question on the spot.

23 Well, my general impression of reading it here
24 is he likes to know the status of work in McLaren/Hart
25 and puts it that way.

1 BY MR. PRAGLIN:

2 Q And doesn't he ask you to please contact him
3 more often?

4 A I would not -- I don't think that's the precise
5 translation, and I think that what I can say, just my
6 impression reading it, not word by word, is he asks
7 that -- whether it's possible for me to keep contact
8 with him. That's my impression on this page. And he
9 provided a fax number on this page, as you can see.

10 Q In this document, TY 539 --

11 A Yes.

12 Q -- in the middle there are three items numbered
13 1, 2 and 3, correct?

14 A There are, yes.

15 Q Doesn't item 3 say, in essence, could you
16 please contact me more often?

17 A Translation of that, it can -- you can have
18 multiple different translations. You stated the meaning
19 that you probably found out from another Chinese
20 speaker, but to me this is saying that -- whether it's
21 possible to keep contact and that's it.

22 Q So is Chinese a language that is subject to
23 multiple interpretations by different people?

24 A Any language I could do so.

25 Q Do you find that to be the case in English?

1 A In the English word I -- no, I will not
2 overstate it. But I think a lot of the English word
3 that when you say that, not only the interpretation
4 might be different, it also depends on who -- who said
5 it, depends on -- and what's the circumstances he said
6 it. He is mad, I mean, he's angry or he's just foolish.

7 I just -- I -- I consider that language is a
8 art rather than a science, without a definite unique
9 answer to any of language question.

10 Q Did you write to Dr. Zhang about problems at
11 McLaren/Hart and the fact that the company was breaking
12 up?

13 A I may have. I may have. I mean, I -- my
14 impression is everything I knew of in McLaren/Hart I
15 will disclose, I will feel freely to disclose to
16 Dr. Zhang. I do not have any information I would
17 withhold personally from him; so anything I know I would
18 tell him. And in 1996, at least it's -- my impression
19 is McLaren/Hart are breaking -- were breaking up; so if
20 I knew about it, I probably have told him.

21 Q So if you were already working at ERA in 1996,
22 how did you learn that McLaren/Hart was breaking up?

23 A Oh, it's probably a topic that came up in the
24 conversation with Bill Butler because Bill Butler, who
25 also worked with me at ERA, and he may have told me,

1 saying well, remember the old office we were working in,
2 and they are no longer -- they probably are going to be
3 breaking up.

4 So I -- I don't remember from whom I heard of
5 the news. But if I know the news, if Dr. Zhang asks me,
6 I would just tell him. There's nothing I hide from him.

7 MR. PRAGLIN: Why don't we knock off for the day and
8 pick up tomorrow.

9 THE WITNESS: Sure.

10 MR. PRAGLIN: And counsel, we have a standard
11 stipulation that we do in this case on these
12 depositions, I would ask Laurie the court reporter to
13 tell you what it is, but basically it provides for the
14 witness to get 30 days to read the transcript and to
15 review it and I think the original comes back to me, but
16 it will be sent to you in a few weeks, I would think.

17 MR. CASAS: Okay.

18 MR. PRAGLIN: It's a standard stip.

19 MR. CASAS: That's fine.

20 MR. PRAGLIN: We'll read it to you off the record if
21 you like.

22 MR. CASAS: Okay.

23 MR. WILKINSON: So stipulated.

24 MR. CASAS: That's fine.

25 THE VIDEOGRAPHER: This marks the end of tape number

1 four in the deposition of Tony Ye. We're going off the

2 record. The time is 5:27.

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1 STATE OF _____)
2 COUNTY OF _____) ss.

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9 I, the undersigned, say that I have read the
10 foregoing deposition, and I declare, under penalty of
11 perjury under the laws of the State of California, that
12 the foregoing is a true and correct transcript of my
13 testimony contained therein.

14 EXECUTED this ____ day of _____, 2003,
15 at _____.

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TONY YE
Volume 1

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4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth; that
8 any witnesses in the foregoing proceedings, prior to
9 testifying, were placed under oath; that a verbatim
10 record of the proceedings was made by me using machine
11 shorthand which was thereafter transcribed under my
12 direction; further, that the foregoing is an accurate
13 transcription thereof.

14 I further certify that I am neither financially
15 interested in the action nor a relative or employee of
16 any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed
18 my name.

19

20 Dated: _____

21

22

23 _____
24 LAURIE HELD-BIEHL, CSR, RPR, CRR
25 CSR No. 6781

