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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
Friday, December 13, 2002
Volume 2

LAURIE HELD-BIEHL
CSR NO. 6781
JOB NO. 202925

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Deposition of TONY YE, Volume 2,
taken on behalf of the Plaintiffs,
at 505 Montgomery Street, San Francisco,
California, commencing at 10:20 a.m.
and ending at 6:01 p.m. on Friday,
December 13, 2002, before LAURIE
HELD-BIEHL, Certified Shorthand
Reporter No. 6781.

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IDENTIFIED FOR COUNSEL

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1 San Francisco, California, Friday, December 13, 2002

2 10:20 a.m. - 6:01 p.m.

3

4 THE VIDEOGRAPHER: Good morning. Here begins
5 videotape number five of Volume 2 in the continuing
6 deposition of Tony Ye in the matter of Aguayo versus
7 Betz Laboratories, et al., in the Superior Court of the
8 State of California, the County of Los Angeles, the lead
9 case number of which is BC 123749.

10 Today's date is December 13, 2002. The time on
11 the video monitor is 10:20.

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, California.

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

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

23 MR. BEILKE: Jarod Beilke of Engstrom, Lipscomb &
24 Lack representing the plaintiffs.

25 MR. TATRO: Rene Tatro for PG&E.

1 MR. CASAS: Dan Casas for the witness, 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, Mr. Praglin.

11

Q Yesterday at the beginning of your deposition,

12

I explained to you some ground rules about the

13

deposition.

14

A Yes, you did.

15

Q Do you have those in mind?

16

A Yes, I think I do.

17

Q There's no need for me to go through those

18

again now, is there?

19

A I don't think you need to do that.

20

Q You remember, though, that you are under oath

21

today?

22

A Yes, I do.

23

Q And you remember that the penalty of perjury

24

applies here today?

25

A Yes, I do.

1 Q All right. Since yesterday, have you reviewed
2 any materials in preparation for today's deposition?

3 A No, I have not.

4 Q Since yesterday, have you spoken with anyone
5 other than your lawyer about either your deposition or
6 the subject of the Zhang article?

7 A No, I have not.

8 Q Yesterday, you identified for us a Chinese
9 manuscript, you called it --

10 A Yes.

11 Q -- that was Bates stamped TY 43, 44 and 45. Do
12 you recall that?

13 A I recall that.

14 Q I'm going to attach it as an exhibit to your
15 deposition.

16 THE REPORTER: Exhibit 17.

17 MR. PRAGLIN: Exhibit 17.

18 (Plaintiffs' Exhibit 17 was
19 marked for identification, a copy of
20 which is attached hereto.)

21 THE WITNESS: Thank you. Yes.

22 BY MR. PRAGLIN:

23 Q Exhibit 17 has five paragraphs, correct?

24 A Yes.

25 Q And it has two references, correct?

1 A Correct.

2 Q And it has one table, correct?

3 A Correct.

4 Q And you typed this; is that correct?

5 A I believe so.

6 Q You sent it to Dr. Zhang, right?

7 A Yes, I did.

8 MR. PRAGLIN: Mr. Casas, you had asked for an extra

9 copy of Exhibit 1. Here it is.

10 MR. CASAS: Thanks.

11 MR. PRAGLIN: Sure.

12 Q Mr. Ye, I have another document that I want to
13 mark as Exhibit 18.

14 A Uh-huh.

15 (Plaintiffs' Exhibit 18 was
16 marked for identification, a copy of
17 which is attached hereto.)

18 MR. PRAGLIN: And this comes from the production of
19 Bill Butler, it's Bates stamped WB 164, 165, 166 and
20 167.

21 THE WITNESS: Okay. Thank you.

22 BY MR. PRAGLIN:

23 Q If you would look at Exhibit 18, please.

24 A Yes, I am.

25 Q Is this an English translation that you made of

1 Exhibit 17?

2 A It looks like it have the same number of
3 paragraph, I will say. Looks like to me the similar
4 structure. But without comparing word by word -- this
5 could be the English version of the Exhibit 17, yes.

6 Q Looking at Exhibit 17 and 18, you'd agree that
7 they both have five paragraphs, wouldn't you?

8 A I would -- yes, I would agree.

9 Q And you'd agree that they both have one table,
10 wouldn't you?

11 A Yes, they do.

12 Q And you'd agree that they both have two
13 references, wouldn't you?

14 A Yes, I do.

15 Q And the title is the same on both documents, is
16 it not?

17 A Just reading briefly of the English and
18 Chinese, I don't think they are -- they are exactly
19 word-to-word translation of these two title.

20 Q How are they different?

21 A Well, one moment. I -- I'll -- one single
22 thing.

23 In the English version for Exhibit 18 there's
24 a -- there's a year mentioned, 1970 to 1978, and the
25 year is not even mentioned in the Exhibit 17. Without

1 word-by-word translation, which I don't feel comfortable
2 providing, but just by simply -- we can look at just the
3 structure, for example, the year never really appeared
4 in Exhibit 17; so they're not exactly, that's what I'm
5 saying.

6 Q When you translated --

7 A Yes.

8 Q -- Exhibit 18 into Exhibit 17, you attempted to
9 do a word-for-word translation, didn't you?

10 A First, I do not know Exhibit 18 -- Exhibit 17
11 is based on Exhibit 18. My earlier statement I said it
12 looks like they have the paragraph structure, they have
13 the same number of reference, but I don't -- sitting
14 here, I don't recall Exhibit 17 is a translation of this
15 document you just gave me. I don't know that.

16 Q Can you lay your hands on another document in
17 the 925 pages that you produced for me that is in
18 English that you think is more likely an English version
19 of Exhibit 17?

20 A Than -- when you say --

21 MR. CASAS: Excuse me. I'm going to object.

22 To the extent he's got to go through every
23 page, if you want him to do that then he will, but I'm
24 not going to have him guess about it because he hasn't
25 reviewed the documents that were submitted.

1 THE WITNESS: I agree with my attorney, but the --
2 when you say "more likely," I believe it is more likely
3 than Exhibit 18.

4 I may be able to -- I think there are multiple
5 versions of -- looks like -- in my impression, looks
6 like the document 18, but I may find a version which are
7 at least on surface a title similar to the Exhibit 17.

8 BY MR. PRAGLIN:

9 Q I want to make sure that I understood you.

10 Are you saying that it's more likely that
11 Exhibit 18 is the English version of Exhibit 17 but
12 you're not sure?

13 A No. I don't know Exhibit 18 is more likely or
14 not likely. I think that equally likely that I will
15 find a document in my 900 or so pages that is more
16 closer, is more likely to be Exhibit 17 than Exhibit 18.

17 When I say "equally likely," it means I may
18 find such a document, maybe 50 percent of the chance, I
19 may not find such a document given 50 percent of the
20 chance. I just not sure.

21 Q Let's do it this way.

22 A Uh-huh.

23 Q Our translator tells us that Exhibit 18 is the
24 English version of Exhibit 17.

25 A That's his impression and --

1 MR. CASAS: Go ahead. There's not a question.

2 BY MR. PRAGLIN:

3 Q I'm just making a representation to you.

4 A Sure.

5 Q And I'm going to ask you to assume that
6 Exhibit 18 is the translation of Exhibit 17 and ask you
7 some questions about it. If it turns out that you find
8 a different document that you believe --

9 A Uh-huh.

10 Q -- is the English version of Exhibit 17, then
11 you can tell me.

12 MR. TATRO: I'm going to object to that procedure
13 and that premise as asking for expert testimony on an
14 incomplete hypothetical. And also, if you have a
15 translation which you are representing as, quote, the
16 translation, then I think that you ought to put that in
17 front of the witness.

18 The witness has already testified that there
19 could be multiple translations of Exhibit 17 and you've
20 characterized the one, this one, as, quote, the
21 translation; so I think there's a variety of objections
22 to this procedure and all the questions that I assume
23 are going to flow from it.

24 THE WITNESS: Given that --

25 MR. CASAS: Is there a question pending?

1 MR. PRAGLIN: No.

2 MR. CASAS: Okay.

3 THE WITNESS: Okay. Then go ahead.

4 BY MR. PRAGLIN:

5 Q On Exhibit 17 --

6 A Okay.

7 Q -- there's a name beneath the title, isn't
8 there?

9 A There is.

10 Q Whose name is there?

11 A Dr. Zhang.

12 Q On Exhibit 18, there's a name beneath the title
13 in English, isn't there?

14 A Yes, there is.

15 Q Whose name is there?

16 A Dr. Zhang.

17 Q Is the subject matter in both Exhibit 17 and 18
18 the same?

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

20 MR. TATRO: Object.

21 MR. CASAS: We went through this yesterday. He's
22 not going to translate this document on the spot.

23 MR. PRAGLIN: I'm not asking for him to translate
24 it. I'm asking him if it's the same subject matter.

25 MR. CASAS: That would necessarily require him to

1 review the document and translate it.

2 MR. PRAGLIN: No, that's not true.

3 He translated Exhibit 18 at one time, and his
4 translation is Exhibit 17. He can look at the two
5 documents, he reads both languages, and he can confirm
6 for me that the same subject matter is discussed in
7 Exhibits 17 and 18.

8 MR. CASAS: I'm not going to have him do a
9 translation. And I think you're assuming a fact that's
10 not in evidence. But I'm not going to have him do a
11 translation on the spot.

12 MR. PRAGLIN: Would you mark that for the Court.
13 I'll file a motion on it.

14 (Identified for counsel.)

15 BY MR. PRAGLIN:

16 Q Mr. Ye, Exhibit 18 was faxed from McLaren/Hart
17 Alameda to McLaren/Hart Irvine, wasn't it?

18 A Stated on the document, yes.

19 Q Didn't you review Exhibit 18 at some point in
20 time?

21 MR. TATRO: I'm going to object. The question is
22 vague and ambiguous as to whether you mean by Exhibit 18
23 the document including the handwriting or the document
24 without the handwriting, because I don't think you've
25 laid the foundation on that.

1 BY MR. PRAGLIN:

2 Q Did you review it in some form?

3 A I don't remember this handwriting part. But
4 around that time there are similar -- at least similar
5 versions of this Exhibit 18, I believe, with the
6 paragraphs with the structure that I indeed reviewed,
7 put it that way.

8 Q Is any of the handwriting on Exhibit 18 yours?

9 A I -- let me have a look. It doesn't look like
10 mine but I -- I cannot definitely say they are not
11 mine.

12 For example, the -- for example, the word
13 that's been crossed, I -- I cannot tell whether -- whose
14 cross that could be; so this could be mine but I -- the
15 handwriting letters doesn't look like my handwriting.

16 Q The word that's crossed out is on page
17 WB 166 --

18 A Yes.

19 Q -- the third line from the bottom, correct?

20 A Yes, that's right.

21 Q The word that's crossed out is the word
22 "Partially," correct?

23 A That's right.

24 Q And wasn't that changed to the words "may be"?

25 A I don't know. This -- there's no indication on

1 here that -- what's the change has been made on
2 Exhibit 18. And sitting here, since I don't think these
3 are my handwriting, I just don't recall that was the
4 edits around that time.

5 Q When you sent Exhibit 17 --

6 A Yes.

7 Q -- to Dr. Zhang, what was your purpose in doing
8 so?

9 MR. TATRO: Objection. Assumes facts not in
10 evidence.

11 THE WITNESS: The -- around that time, we -- mainly
12 we communicated verbally because typing in Chinese was
13 not only -- it was difficult for me as well.

14 But I think that this is per -- this is either
15 per the request from ChemRisk, from either Bill Butler
16 or Brent Kerger, to have this in Chinese so that
17 Dr. Zhang can read the -- although we -- we probably
18 have discussed all the contents of Exhibit 17 verbally,
19 but we like to have the document sent to him, then he
20 can review the document and provide his review.

21 BY MR. PRAGLIN:

22 Q Wasn't one of the purposes of sending
23 Exhibit 17 to Dr. Zhang to inform him of what ChemRisk's
24 writing of the Zhang article was as of that point in
25 time?

1 MR. TATRO: Objection. Misstates the witness's
2 prior testimony, assumes facts not in evidence and it's
3 argumentative.

4 THE WITNESS: I -- back in time when this document
5 was faxed to Dr. Zhang, I remember it's either
6 September -- sometime in September. I don't know that
7 in September I knew that -- what going to be produced in
8 November or in December. I just don't know that.

9 This is a document in September that represent
10 in September the status of the -- the status of a
11 research project on chromium research, but I don't know
12 this is a document that ended or led to the
13 JOEM article.

14 BY MR. PRAGLIN:

15 Q And the document that you're talking about is
16 Exhibit 17?

17 A Yes.

18 Q On Exhibit 18 --

19 A Yes.

20 Q -- on page WB 166 --

21 A Yes.

22 Q -- the fifth line from the bottom --

23 A Yes.

24 Q -- there is a sentence that says, "Neither
25 stomach cancer nor lung cancer indicated a positive

1 association with chromium (VI) contamination."

2 A I saw that, yes.

3 Q You see that, don't you?

4 A I do.

5 Q Did I read that accurately?

6 A You did.

7 Q You didn't translate that sentence into
8 Exhibit 17 for Dr. Zhang to read, did you?

9 MR. CASAS: Objection. Assumes facts not in
10 evidence.

11 THE WITNESS: Again, I -- as I stated earlier, I do
12 not know whether Exhibit 17 is a translation of
13 Exhibit 18. And just from the title, they are not.

14 BY MR. PRAGLIN:

15 Q I'll give you my highlighter and I'll ask you
16 to highlight in Exhibit 17 the sentence that says,
17 "Neither stomach cancer nor lung cancer indicated a
18 positive association with chromium (VI) contamination."

19 MR. CASAS: Objection. He's not going to do that.

20 MR. PRAGLIN: Would you mark that for the Court,
21 please.

22 MR. CASAS: Same objection.

23 MR. PRAGLIN: You're instructing him not to answer
24 that question?

25 MR. CASAS: Instructing him not to answer.

1 He's not going to do a translation on the spot
2 in this deposition.

3 MR. PRAGLIN: I'm not asking him to translate it,
4 I'm asking for him to identify that sentence in
5 Exhibit 17.

6 You want to reconsider, Counsel?

7 MR. CASAS: No.

8 MR. PRAGLIN: Okay. We're going to file a motion
9 with the Court on this.

10 MR. CASAS: That's fine.

11 BY MR. PRAGLIN:

12 Q When you sent Exhibit 17 to Dr. Zhang, were you
13 trying to deceive him as to what ChemRisk was writing at
14 that time about the project?

15 MR. TATRO: Objection. Argumentative, assumes facts
16 not in evidence.

17 THE WITNESS: No.

18 BY MR. PRAGLIN:

19 Q Did you ever tell Dr. Zhang that you were
20 leaving out portions of the English translation when you
21 sent him Exhibit 17?

22 MR. TATRO: Objection.

23 MR. CASAS: Objection.

24 MR. TATRO: Assumes facts not in evidence.

25 THE WITNESS: I don't think I did.

1 BY MR. PRAGLIN:

2 Q When Dr. Zhang received Exhibit 17 he had a
3 problem with the conclusion in it, didn't he?

4 A I will say he had some wording problem, yes.

5 Q And he expressed that to you, didn't he?

6 A He did.

7 Q And you then sent a memo to Bill Butler, your
8 boss, about it, didn't you?

9 A Sent a fax, I would say, since Bill Butler was
10 not in Alameda office. If he was, I will report to him
11 verbally.

12 In my document, you will -- you can tell that
13 I -- it's not a habit of me to write memos to Mr. Butler
14 if we both in the same office. I normally just report
15 to him verbally.

16 Q The fax that you sent to Bill Butler was an
17 important fax, wasn't it?

18 MR. CASAS: Objection to form.

19 You can answer.

20 THE WITNESS: I don't -- I don't -- all documents
21 are important in the communication with Dr. Zhang and
22 with ChemRisk, and I don't think that -- there's nothing
23 not important.

24 BY MR. PRAGLIN:

25 Q Well, weren't you in the same office as

1 Bill Butler at this time?

2 A Yes, I am.

3 Q So why would you be sending him a fax if you're
4 in the same office?

5 A Because Bill Butler was not in the office, he
6 was traveled to a -- I think East Coast to attend a
7 conference.

8 But I need to -- I -- around that time,
9 everything that I translated I tried to immediately tell
10 him; so I sent a fax without waiting for him to return
11 to office. But I'm sure once he returned to office, I
12 will normally verbally report to him whatever Dr. Zhang
13 told me.

14 Q You sent Bill Butler the fax on about
15 September 6, 1995, didn't you?

16 A Sounds right.

17 MR. PRAGLIN: Let's mark that fax as Exhibit 19.

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

21 THE WITNESS: Thank you.

22 BY MR. PRAGLIN:

23 Q Is Exhibit 19 the fax that you sent to
24 Bill Butler in response to your conversation with
25 Dr. Zhang about the Chinese document, Exhibit 17, that

1 you had sent to Dr. Zhang?

2 A It's -- reading it it said, "Enclosed is a
3 paper. I have made some edits according to my
4 conversation with Brent Kerger and Dr. Zhang"; so just
5 based on that sentence, I don't think this is a fax just
6 exclusively just based on a fax -- whether it's a fax of
7 17 or not, Exhibit 17 or not, I don't think that's the
8 only purpose of this fax, or this fax contains only the
9 communication with Dr. Zhang. This also including
10 communication with Brent Kerger on this page, stated.

11 Q In Exhibit 19 you wrote to Bill Butler by fax
12 and you told him about your conversation with Dr. Zhang
13 where Dr. Zhang did not agree with the conclusion
14 section, didn't you?

15 A I stated that I have a conversation both with
16 Brent Kerger and Dr. Zhang.

17 Q And what did you write about your conversation
18 with Dr. Zhang?

19 A I wrote, "Dr. Zhang did not totally agree with
20 us with the conclusion section."

21 Q And then what else did you say?

22 A I said, "I have to make a little compromise."
23 That's what I said. And "I am in my office. If you
24 find it is necessary, please give me a call."

25 Q You made a little compromise?

1 A I made compromise. That's what's stated on
2 this document.

3 Q What was the little compromise that you made?

4 A I think there are changes that I made in the
5 English version represent Dr. Zhang's revision and sent
6 to Bill Butler.

7 Sitting here I don't know exactly which line
8 that I changed, but I could go to the trouble to compare
9 on the date of September 6, 1995 the English version in
10 this Exhibit 19 to any earlier English version of
11 similar documents to see what such change I made. I
12 just don't recall which change I made, but I know there
13 are some changes I made to represent Dr. Zhang's -- to
14 represent what Dr. Zhang told me.

15 Q You never told the journals that you submitted
16 this paper to that you made a little compromise of
17 Dr. Zhang's opinions, did you?

18 A Two things.

19 MR. TATRO: Object.

20 THE WITNESS: Go ahead.

21 MR. TATRO: I object. That misstates the witness's
22 testimony and misstates the facts.

23 THE WITNESS: Two things. Number one, the document
24 encloses in Exhibit 19, again, I do not know how much or
25 how related this document to the JOEM article in 1997.

1 I -- I remember I saw this document and I remember the
2 conclusion are similar. That's what I remember.

3 The second part, to answer your question of
4 whether I told the JOEM there are changes, this is
5 the -- this is September 6th. The article that I submit
6 to JOEM per the request of ChemRisk was in December.
7 During this period of time, certainly there are edits,
8 certainly there are discussions, certainly there are
9 changes. I have no problem of -- of -- to send to JOEM.

10 This doesn't -- my understanding is it doesn't
11 require me to go back three months before to tell them
12 that from three months before to December every single
13 change. I just don't think that's necessary.

14 BY MR. PRAGLIN:

15 Q In Exhibit 19 on the page that's Bates stamped
16 WB 178 --

17 A Okay. Yes.

18 Q -- the third line from the top --

19 A Yes.

20 Q -- there's a sentence that says, "These results
21 also suggest that the high cancer death rates in this
22 area may be attributed to lifestyle or environmental
23 factors not related to the chromium (VI) contamination."

24 A Yes.

25 Q I read that correctly?

1 A You did.

2 Q Now, would you look at Exhibit 2, which is the
3 Zhang article --

4 A Yes.

5 Q -- page 319.

6 A Yes.

7 Q -- this is the Zhang article that was actually
8 published in JOEM, right?

9 A Yes.

10 Q On page 319 in the middle column --

11 A Yes.

12 Q -- the second line --

13 A Okay.

14 Q -- it says, "Nonetheless, these results suggest
15 that lifestyle or environmental factors not related to
16 the chromium (VI) contamination are the likely source of
17 the variation in these cancer rates."

18 Do you see that?

19 A I saw that.

20 Q Who changed the words from "may be" in
21 Exhibit 19 to "are" in Exhibit 2?

22 A I don't recall. My impression is these two
23 documents, similar conclusion. That's my impression.

24 But I -- I do not -- I did not -- I don't
25 recall -- I don't recall I -- I made the -- any change

1 because this final edits was not my responsibility in
2 the JOEM article.

3 Q Whose responsibility were the final edits in
4 the JOEM article?

5 A The responsibility in English wording would be
6 either Bill Butler or Brent Kerger, based on the
7 discussions with Dr. Zhang.

8 Q So ChemRisk, right?

9 A Well -- well, if Dr. Zhang disagrees, then
10 ChemRisk cannot make up wording. I would say that.

11 Q That would be wrong, wouldn't it?

12 MR. TATRO: Objection.

13 MR. CASAS: Objection. Argumentative.

14 Go ahead.

15 THE WITNESS: I do not know whether it's right or
16 wrong. I was not in a position of judge such thing.

17 But I -- I would say that if ChemRisk had
18 anything that Dr. Zhang disagree with, that's certainly
19 inconsistent with Dr. Zhang's revision, but that's not
20 what I recall.

21 BY MR. PRAGLIN:

22 Q Well, wouldn't you agree that it wouldn't be
23 fair to Dr. Zhang for ChemRisk to write an article that
24 Dr. Zhang didn't hold the views about?

25 A It would be unfair if Dr. Zhang was not

1 informed, but that's not the case.

2 Q Did you ever tell Dr. Zhang that ChemRisk was
3 publishing an article in his name with views that were
4 not his?

5 MR. TATRO: Objection.

6 MR. CASAS: Objection. Assumes facts not in
7 evidence.

8 THE WITNESS: I -- everything ChemRisk did,
9 Dr. Zhang was informed. Based on a lot of documents in
10 here, with his agreement of publishing the document and
11 everything, you can see that he is informed, he agree
12 and he concluded in the same way, he -- same conclusion.

13 Everything I knew what ChemRisk was working on
14 I told Dr. Zhang, including that ChemRisk underlying
15 client is PG&E.

16 BY MR. PRAGLIN:

17 Q Did you have any responsibility for editing the
18 final Zhang article?

19 A I don't think so.

20 Q That was ChemRisk, right?

21 A That was ChemRisk --

22 MR. CASAS: Objection. Form.

23 Go ahead.

24 THE WITNESS: That was ChemRisk, based on discussion
25 with Dr. Zhang.

1 BY MR. PRAGLIN:

2 Q Did you have any responsibility for proofing
3 the final Zhang article that went to the journals?

4 A I don't think I have.

5 Q Would that also be ChemRisk?

6 MR. CASAS: Same objection.

7 THE WITNESS: The -- ChemRisk would proof or will --
8 will verify sentence with Dr. Zhang.

9 BY MR. PRAGLIN:

10 Q Well, how could ChemRisk verify it with
11 Dr. Zhang if it was submitted in English?

12 A Although submitted into -- although submitted
13 in English, but the conclusion is a scientific
14 conclusion that, both in English and in Chinese, the
15 conclusion was there is no dose-response relationship.
16 Dr. Zhang agree.

17 Q Let's stick with my question.

18 A Okay.

19 Q How could ChemRisk verify the final language in
20 the journal article with Dr. Zhang if the article was
21 submitted in English?

22 MR. CASAS: Objection. Asked and answered.

23 Go ahead.

24 THE WITNESS: Dr. -- ChemRisk will -- around that
25 time, ChemRisk communicated to Dr. Zhang through

1 multiple phone conversations, many, many times, and in
2 those phone conversations, structure of the article was
3 discussed, conclusions of the article was heavily
4 discussed; so I will see -- I will view those
5 discussions as a verification.

6 BY MR. PRAGLIN:

7 Q Are these communications, these conversations
8 that you just described, the ones that you translated?

9 A No. "Communication" not only means a letter
10 on -- or a sentence on a piece of paper, also just
11 verbally communicate back and forth many, many times.

12 Q You just said that ChemRisk communicated to
13 Dr. Zhang through multiple phone conversations?

14 A Yes.

15 Q Were those multiple phone conversations all the
16 ones that you translated for Dr. Zhang?

17 MR. TATRO: Objection. The question is vague and
18 ambiguous.

19 THE WITNESS: I participated in many of the
20 communications. I'm not sure I was the only one who
21 translated any communications -- translated all the
22 communications.

23 BY MR. PRAGLIN:

24 Q Can you give me the name of any other person
25 who translated communications between Dr. Zhang and

1 ChemRisk about this article?

2 A I can give you provided two names but you have
3 to verify that with Brent Kerger of what they said
4 between them because I did not participate.

5 One name is -- I remember a gentleman last name
6 is Z-h-u. I think first name is G-u-a-n-g, my recall.
7 He was a McLaren/Hart employee working in Beijing
8 office or Shanghai office in China.

9 Another person, this person is -- I knew this
10 person only because of a few days ago when I read
11 Dr. Kerger's depo, was -- I don't recall the name, but
12 that's another Chinese speaker in either Alameda --
13 either in ChemRisk Irvine office or ChemRisk
14 headquarters in Rancho Cordova.

15 Q What's the name of that second person?

16 A I can find out in Mr. Kerger's deposition. I
17 think you can find out that person's name. I just paged
18 through -- I just briefly look into Kerger's
19 deposition. I just did not record her name. I think
20 that's a her. But -- but there are conversations
21 that -- with -- without me in -- you know, translating.

22 Q Did you ever speak with either of these two
23 other Chinese-speaking translators about their
24 translations of the status of the Zhang article with
25 Dr. Zhang?

1 A I received a fax from the first person,
2 Mr. Zhu, Z-h-u. I never talked with Mr. -- I don't
3 recall I talked with Mr. Zhu or -- neither do I recall I
4 talked with the second person that Kerger mentioned.
5 That's it.

6 Q What dialect of Chinese did Dr. Zhang speak?

7 A Mandarin.

8 Q What dialect do you speak?

9 A Mandarin.

10 Q Did these other two translators also speak
11 Mandarin?

12 A That's my understanding, yes.

13 Q Is there more than one version of Mandarin
14 Chinese dialect?

15 A Not I think -- not that I know of.

16 Q So if I understand your testimony, you received
17 one fax from Mr. Zhu, Z-h-u --

18 A Yes.

19 Q -- but you never talked with either he or the
20 female translator about translations of the Zhang
21 article; is that right?

22 A That what I recall, yes.

23 Q And what did this fax say?

24 A I remember the fax was produced in my document
25 and I remember this fax is related to some payment to

1 Dr. Zhang.

2 Q So the fax didn't relate to translation of the
3 content of the article, did it?

4 A As I recall, the fax does not mention the
5 translation part, either translation of article or
6 translation of conversation. But it's translation -- it
7 covers a topic of payments, I recall that.

8 Q Before the Zhang article went to the journals,
9 did you carefully review it?

10 A Well, around that time, the -- around that time
11 there are several conversations back and forth with
12 Dr. Zhang verbally. And in those conversations, as I
13 recall, I was asked to translate back and forth of --
14 some contents of this 198- -- 1997 article.

15 If you call that a careful review, yes, I did.
16 But if you say whether I read from the first English
17 words to the last English words of this article, I may
18 have at one point of time, I just don't recall. Because
19 I was not assigned the responsibility to edit this
20 manuscript at all. So even I read it, I may not
21 register into my mind and say how do I change this
22 sentence because that's not my duty or responsibility.

23 Q But it was your responsibility to make sure
24 that Dr. Zhang saw the article before it went to the
25 journal, wasn't it?

1 A I communicate -- I was asked to -- to --
2 whenever I communicate to Dr. Zhang, I was asked by
3 other personnels, other people in ChemRisk to ask him
4 certain point and to verify certain point with him, and
5 that's what I did. I did what I told.

6 Q But wasn't it your responsibility to make sure
7 that Dr. Zhang saw with his own eyes on paper the
8 article that was being submitted to the journals?

9 MR. CASAS: Objection.

10 MR. TATRO: Objection.

11 MR. CASAS: Asked and answered.

12 MR. TATRO: And assumes facts not in evidence, it's
13 argumentative.

14 THE WITNESS: I remember it was assigned to my -- as
15 my responsibility in each communication to tell him, to
16 describe to him what ERA -- not ERA, sorry, what
17 ChemRisk did and what change, what might be the contents
18 and wording of the article. And I remember I, per the
19 request from Bill Butler or Brent Kerger or other staff
20 in ERA -- sorry, in ChemRisk, I did what assigned to me
21 at each conversation, yes.

22 BY MR. PRAGLIN:

23 Q But nobody at ChemRisk ever told you to send a
24 copy of the final journal article to Dr. Zhang that was
25 being submitted to the journals?

1 A I don't recall such a request, but it would
2 make sense to me in both -- in two scenarios.

3 Number one, Dr. Zhang doesn't speak English.
4 For him to -- to review an English document, it may not
5 help -- may not help him to understand that document at
6 all.

7 Second part is this English version of
8 1997 article been discussed and worked on between
9 Dr. Zhang and the ChemRisk over few months; so by the
10 time this document was sent to JOEM, all the conclusion
11 part and all the other part has been discussed in
12 multiple conversations. And my understanding is by that
13 time, Dr. Zhang was totally agreeing with ideas stated
14 in JOEM article.

15 Q But it wasn't sent in writing to Dr. Zhang in
16 its final form, was it?

17 MR. CASAS: Objection.

18 If you know.

19 THE WITNESS: In my 900 or so pages, I do not see
20 such a translation, I can tell you that. I don't recall
21 around that time -- around that time there are a lot of
22 communications; so I -- I don't recall exactly whether
23 there is or whether there is not such a fax. You can
24 see that I have many, many fax in my file.

25 But as I stated yesterday, I -- I -- I think

1 I -- I -- it's likely that some of the material's no
2 longer been kept in my -- in my 900 or so pages.

3 I made effort to keep these 900 or so pages.
4 To me, that already a lot. But I -- I -- it's -- some
5 years ago, there must be some document already lost.

6 BY MR. PRAGLIN:

7 Q Dr. Zhang's full name is JianDong Zhang, right?

8 A Yes.

9 Q J-i-a-n, second word D-o-n-g, next word
10 Z-h-a-n-g; is that right?

11 A I will take your word for it.

12 Yes. Sure. Yes.

13 Q Let's mark as Exhibit 20 his name that I've
14 written out.

15 (Plaintiffs' Exhibit 20 was
16 marked for identification, a copy of
17 which is attached hereto.)

18 BY MR. PRAGLIN:

19 Q Looking at Exhibit 20, is that the correct
20 spelling of Dr. Zhang's name?

21 A Yes.

22 Q Isn't it true that Dr. Zhang's name is
23 misspelled on the Zhang article that was published?

24 A I don't think so.

25 Really?

1 Q Look at Exhibit 2.

2 A I will say that's a misspell, yes. I agree.

3 Q It's a typo?

4 A I believe so.

5 Q How is it, if Dr. Zhang reviewed the draft
6 before publication, that he didn't pick up a typo in his
7 own name?

8 MR. TATRO: Objection.

9 MR. CASAS: Objection. Calls for speculation.

10 THE WITNESS: Well, I -- I -- to be honest, I --
11 sometimes I misspell I -- I do not pick up the apparent
12 spelling error of my information as well. I don't -- I
13 think that -- I don't know. I don't know why he miss
14 that name.

15 And I -- I -- to be honest, I don't know
16 that -- why this name was misspelled. Not only by him,
17 also by whoever working at ChemRisk when -- when they
18 typed this name, why they misspell it. I have no idea.

19 BY MR. PRAGLIN:

20 Q Well, ChemRisk misspelled Dr. Zhang's name on
21 several of the drafts that ChemRisk wrote, didn't it?

22 A I don't know. Actually, this is -- before you
23 posed -- you put this page right in front of me, I -- I
24 really have to go back to -- to check.

25 Q Well, let me show you some of those.

1 Let's mark them as Exhibit 21.

2 Exhibit 21 is a collection of some of the
3 drafts of the Zhang article.

4 (Plaintiffs' Exhibit 21 was
5 marked for identification, a copy of
6 which is attached hereto.)

7 MR. PRAGLIN: And let me just read into the record
8 what the Bates stamps are so that there's no confusion.

9 They're TY 453 through 458, TY 468 through 476,
10 TY 89 through 99 and TY 102 through 112. And then a
11 copy of the Zhang final article as well. That's
12 Exhibit 21.

13 MR. TATRO: Do you have a copy of that?

14 MR. PRAGLIN: I do. I'm just going to clip it
15 together so we can keep it altogether.

16 MR. TATRO: Okay.

17 MR. PRAGLIN: Mr. Casas, I came up one short on
18 that, although I think all of these --

19 MR. CASAS: I'll look at the witness's.

20 MR. PRAGLIN: Thanks. All of these, I think, are
21 marked.

22 Q I wanted to take you through some of the pages
23 on Exhibit 21.

24 A Yes.

25 Q Would you turn to page TY 454, please.

1 A Yes, I do.

2 Q This is the draft of the Zhang article dated
3 September 6, 1995 on the fax, right?

4 A Yes.

5 Q And Dr. Zhang's name on that draft by ChemRisk
6 is misspelled, isn't it?

7 A I agree with you, yes.

8 Q On the next page, TY 469, this is the
9 November 14, 1995 draft of the Zhang article by
10 ChemRisk, and on the face page, Dr. Zhang's name is
11 misspelled, isn't it?

12 A I agree with you, yes.

13 Q And this is the page that says Dr. Zhang's
14 address is JinDong Zhang, care of Brent Kerger at
15 McLaren/Hart-ChemRisk, right?

16 A That's what the document says, yes.

17 Q The next one is TY 89.

18 A Okay. Yes, sir.

19 Q And this is the November 16, 1995 draft of the
20 Zhang article prepared by ChemRisk, and it has
21 Dr. Zhang's name misspelled, doesn't it?

22 A It has misspelled Dr. Zhang's name, yes.

23 Q And this is the one that changes the address to
24 send correspondence to Dr. Zhang care of Tony Ye at your
25 home address, right?

1 A That's what appear on the document, yes.

2 Q Next, please, turn to TY 102.

3 A Yes.

4 Q This is the November 25, 1995 draft of the
5 Zhang article by ChemRisk, and this one, too, has
6 Dr. Zhang's name misspelled, doesn't it?

7 MR. TATRO: I'm going to object somewhat globally
8 here to your repeated characterization of these articles
9 as being, quote, by ChemRisk, close quote. I think that
10 deliberately misstates the witness's testimony from
11 yesterday and earlier today. And it becomes
12 argumentative by its repeated, deliberate misstatement.

13 MR. PRAGLIN: Your objection is preserved,
14 Mr. Tatro.

15 Q I'll restate my question for you, Mr. Ye.

16 A Certainly.

17 Q Isn't it true that on this page of Exhibit 21,
18 TY 102, that on the November 25, 1995 draft of the
19 Zhang article, which was prepared by ChemRisk, that
20 Dr. Zhang's name is misspelled?

21 A The name was misspelled on this page. I
22 confirm that for you.

23 Can you be --

24 Mr. Praglin --

25 Q Yes.

1 A -- before you continue, do you mind me have a
2 look of my Exhibit 1?

3 Q No. Take a look.

4 A Okay. Just take one minute or so.
5 Yes, you can continue, Mr. Praglin.

6 Q Also, when you submitted the letter to Archives
7 of Environmental Health, you misspelled Dr. Zhang's
8 name, didn't you?

9 A Which page are you referring to?

10 Q Let's mark it as an exhibit.

11 Let's mark it as Exhibit 22.

12 It's Bates stamped from your files TY 495.

13 (Plaintiffs' Exhibit 22 was
14 marked for identification, a copy of
15 which is attached hereto.)

16 THE WITNESS: Thank you. Oh, this letter. Yes.

17 First letter was not prepared by me, again.

18 Second one is -- I confirm with you the name of

19 Dr. Zhang was misspelled on this letter.

20 BY MR. PRAGLIN:

21 Q So this is Exhibit 22?

22 A Yes.

23 Q This is the cover letter that you signed when
24 you sent Dr. Zhang's article to the journal Archives of
25 Environmental Health on December 5, 1995, right?

1 A I believe that a -- I don't know whether this
2 page exactly sent but, yes, similar page like this was
3 sent, I agree.

4 Q And your signature is on Exhibit 22, isn't it?

5 A There are signatures of my -- there are
6 document I signed but -- but -- which are draft
7 version. I did not send, possible.

8 Q Well, did you read Exhibit 22 before you signed
9 it?

10 A Certainly.

11 Q And you didn't pick up the typo in Dr. Zhang's
12 name?

13 A I did not.

14 Q And you're saying that someone other than you
15 drafted Exhibit 22 for your signature, right?

16 A Someone drafted this letter and sent to me,
17 yes.

18 Q And it was someone at ChemRisk, right?

19 A Yes.

20 Before you continue, Mr. Praglin, can I raise a
21 point?

22 If I can direct our attention to Exhibit 1,
23 page 521, TY 521. The page TY 521 is a copyright
24 assignment signed by Dr. Zhang and the Dr. Li, both in
25 Chinese and in English. I remember this page was faxed

1 to Dr. Zhang for their signature because of JOEM
2 requires so.

3 And there's a signature of Dr. Zhang.
4 Dr. Zhang's name spelled like J-i-n-D-o-n-g, space,
5 Z-h-a-n-g.

6 Q Isn't that just one more typo of his name?

7 A If it's a typo of his name, this document, to
8 my -- in my perspective, is a direct proof that
9 Dr. Zhang think this spelling, J-i-n-D-o-n-g, is okay.
10 That's what this signature right above the -- the typed
11 J-i-n-D-o-n-g.

12 In my -- I think the official translation of
13 Dr. Zhang's name into English, according to my knowledge
14 of -- of -- alphabetically represent the Chinese letter,
15 I agree with you, it should be J-i-a-n-D-o-n-g. I agree
16 with you -- with you on that. But the spelling of
17 J-i-n-D-o-n-g, Dr. Zhang may think this spelling is
18 correct because he sign his name.

19 Now, I think Dr. Zhang indicate on this page he
20 thought this spelling is all right. He sign his name
21 on -- on the page 521.

22 Q Wouldn't you think that Dr. Zhang would spell
23 his name right on a book that he wrote?

24 MR. TATRO: Objection. Calls for speculation and
25 assumes that there is only one right spelling, which is

1 inconsistent with the witness's prior testimony.

2 THE WITNESS: He may in some other places spell his
3 name differently, I would say.

4 The reason for that is I don't think Dr. Zhang
5 will ever sign his name in Chinese in two different
6 Chinese letters. But when we try to translate or when
7 Dr. Zhang himself try to translate a Chinese letter into
8 a alphabetical English letter, try to represent the
9 pronunciation of the Chinese letter, I -- I don't know
10 in his perspective whether he thinks that both
11 translation are okay or what is correct, considered by
12 him.

13 BY MR. PRAGLIN:

14 Q Would you say the misspelling of Dr. Zhang's
15 name on the Zhang '97 article was a pretty big mistake?

16 MR. TATRO: Objection.

17 MR. CASAS: Objection. Argumentative.

18 MR. TATRO: Assumes fact not in evidence based on
19 Mr. Ye's testimony about the different potential
20 spelling and translation issues.

21 MR. CASAS: It's not a name written in Mandarin,
22 either.

23 So go ahead.

24 THE WITNESS: I would say it would be a mistake.
25 Big or not, this would be a mistake. If Dr. Zhang

1 disagree or Dr. Zhang would like his name to spell
2 otherwise. But if he agree this is my spelling of my
3 name, I have no problem with it.

4 MR. PRAGLIN: Let's mark as Exhibit 23 two pages
5 from Mr. Butler's file. They're Bates stamped WB 151
6 and 152.

7 (Plaintiffs' Exhibit 23 was
8 marked for identification, a copy of
9 which is attached hereto.)

10 MR. PRAGLIN: For some reason, I'm one short. I'm
11 sorry.

12 THE WITNESS: It looks obvious together.

13 BY MR. PRAGLIN:

14 Q Is this Exhibit 23 a list of all the papers
15 that you translated of Dr. Zhang's work?

16 A Let me have a look.

17 I would say it in this way. First, this is not
18 my document. I see some of the titles or English
19 descriptions of manuscript I was -- we received from
20 Dr. Zhang. I remember translating -- translated them.
21 There are some other items on here I remembered I
22 translated. I do not know whether this document is a
23 complete representation of all of the things I
24 translated on paper.

25 Q You said this was not your document. Is that

1 your handwriting at the bottom of the first page?

2 A I don't think -- I -- I do not know and I do
3 not think so.

4 Q So you don't recognize your own handwriting?

5 MR. CASAS: Objection. That's argumentative, also
6 misstates his testimony.

7 THE WITNESS: You -- well, there are things, if
8 you -- if you just very brief letter, like three
9 letters, four letters, not a continuous paragraph, and
10 you may noted this -- or you may write on this seven
11 years ago in a very standard writing style, then I think
12 for anyone it would be hard to recognize that a very
13 standard writing is indeed his own writing after seven
14 years, isn't it?

15 I have trouble in recognizing if I write a
16 very -- in very formal way; for example, I write paper,
17 p-a-p-r, seven years ago, now you ask me is this p-a-p-r
18 your handwriting, I -- I really cannot tell.

19 MR. PRAGLIN: Let's mark as Exhibit 24 pages WB 37
20 through 40 from Mr. Butler's file.

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

24 BY MR. PRAGLIN:

25 Q Have you ever seen Exhibit 24 before?

1 A I don't have a memory of seeing this document.
2 I may have, but I just don't remember seeing this
3 document.

4 Q The handwriting at the bottom that says,
5 "Notes, 8/17/95," is that your handwriting?

6 A It doesn't look like mine.

7 Q The footer in the bottom of the lower left of
8 the first page --

9 A Oh.

10 Q -- says
11 "S:\ChemRisk\Butler\PHinkley\China\Notes," correct?

12 A That's right.

13 Q Do you recognize that footer?

14 A You may recognize -- I certainly can read it
15 but that doesn't ring a bell to me that -- which
16 directory this may correspond to in ChemRisk file
17 directory. To be honest, I don't remember what ChemRisk
18 file structure is after seven years.

19 Q Didn't you create some documents with that
20 footer?

21 A I really don't recall.

22 Q Do you recall knowing that the China
23 translation of Zhang's work and the writing of the
24 article was related to the PG&E Hinkley file?

25 A Yes, I -- I knew -- I recall I knew by that

1 time they're related.

2 Q In the first paragraph of Exhibit 24 --

3 A Uh-huh.

4 Q -- it says, "The MCL for chrome (VI) in
5 drinking water is 0.1 milligrams per liter (whic (sic)
6 is 0.1 ppm or 100 ppb). Range of chrome (VI) exposure
7 at Hinkley in drinking water to consider in the
8 litigation is 2 to 4 milligrams per liter."

9 Have I read that correctly?

10 A You did, yes.

11 Q Who wrote that?

12 MR. TATRO: Objection. Lacks foundation, calls for
13 speculation.

14 THE WITNESS: I do not know.

15 Actually, this is -- when you show me this
16 document a moment ago, I told you that I -- I don't
17 recall if I ever saw this document before; so because
18 this document is -- you found it from Mr. Butler's file,
19 you probably just ask him.

20 BY MR. PRAGLIN:

21 Q So you don't think you ever saw this before?

22 A I -- I have no recollection of seeing this
23 before.

24 Q If you go to the next page of Exhibit 24 --

25 A Yes.

1 Q -- there's a heading that says "About Zhang."

2 A Yes.

3 Q And someone has written, "Tony said that Zhang
4 had been forced to do agricultural work from about 1961
5 to 1975. He returned from the farms in 1975 to execute
6 this mortality comparison."

7 Have I read that correctly?

8 A You did.

9 Q Did you have a conversation with Dr. Zhang
10 about that?

11 A I remember I did.

12 Q Did he tell you that he spent 15 years doing
13 agricultural work in China?

14 A That's not exactly what he told me. I think
15 that this sentence here doesn't really represent the
16 entire truth that I understand what Dr. Zhang told me.

17 Q Didn't Dr. Zhang tell you that because of
18 poverty he had to work in the fields for 15 years in the
19 contaminated area?

20 A No, that's not what he told me. That's not
21 what I remember what he told me.

22 Q He lived in the same area of the villages that
23 he studied in JinZhou, didn't he?

24 A He lived in JinZhou, yes.

25 Q And didn't he work in the farms of those

1 villages?

2 A My recollection of what he told me is not
3 because of poverty he worked in those farms, it's
4 because of his political stance during which time there
5 are a lot of political involvement in China, and there
6 are those -- in those times and they're -- the
7 government around that time.

8 Dr. Zhang -- many, many people like Dr. Zhang
9 that I believe that because of their holding some
10 different political view, then as a punishment, the
11 government will send them to a -- not in the city but in
12 the suburb or in a countryside, which is poorer, much
13 poorer than the city, to -- like a punishment to say
14 okay, you now assigned your position to this remote
15 places that no one want to go and we assign you to go.

16 So in that assignment, my understanding is some
17 people are forced to work in farms, just like farmer,
18 from time to time. It's not saying that they are
19 farmer, they're there just as a punishment to work as a
20 farmer for, say, half a year or a few month.

21 And Dr. Zhang, my understanding, is because of
22 his political point of view, he was punished in that
23 period of time. He was sent to this position in that
24 period of time.

25 Q For 15 years?

1 A For 15 years.

2 Q Do you know what villages or farms he worked
3 in?

4 A No, I do not.

5 Q So how do you know that the water wasn't
6 contaminated in those farms?

7 A I did not say I know one way or the other. He
8 worked as a farmer. I think he told me he worked as a
9 farmer from time to time as a punishment from the
10 government. That's all he told me. And I told
11 Bill Butler that during this time what happened to
12 Dr. Zhang.

13 Q As a farmer, didn't he work with the
14 agricultural water?

15 MR. CASAS: Objection. Calls for speculation. It's
16 also ambiguous.

17 THE WITNESS: I -- I don't recall he was very
18 detailed on what type of farm -- farm work he was in,
19 whether it's a -- in the field or whether to -- in the
20 pig house or what. There are a lot of different type of
21 farm works that you can -- you can do in a farm.

22 BY MR. PRAGLIN:

23 Q Dr. Zhang took hundreds of water quality
24 samples from farms in the JinZhou suburb, didn't he?

25 A I recall he took hundreds of sampling from

1 drinking water wells. Whether he also took from farms,
2 I -- I just don't recall. He may have.

3 Q This next section on page WB 38 of Exhibit 24
4 says, "Compensation for Zhang." Do you see that?

5 A Yes, I saw that.

6 Q It says, "Was given \$250 per month for three
7 months (April/May/June)."

8 A Yes.

9 Q "Will be given \$350 per month for four months
10 (July/August/September/October) plus expenses (xeroxing,
11 FAX, telephone, travel & accommodations in Beijing),"
12 right?

13 A Yes. You read it correctly.

14 Q You knew that that was Dr. Zhang's compensation
15 in his agreement with ChemRisk, didn't you?

16 MR. TATRO: Objection. Asked and answered.

17 MR. CASAS: Object.

18 THE WITNESS: I think at the point of time I may --
19 I may know. Yes.

20 Sitting here, I don't recall the exact
21 agreement of -- between ChemRisk and Dr. Zhang, but
22 at -- around that time, it makes sense for me to --
23 makes sense for you to say that I knew -- I would know.

24 BY MR. PRAGLIN:

25 Q Why was Dr. Zhang being paid for accommodations

1 in Beijing?

2 MR. CASAS: If you know.

3 THE WITNESS: I -- I do not -- I do not remember
4 those details.

5 BY MR. PRAGLIN:

6 Q Did ChemRisk pay for him to be put up at a
7 hotel in Beijing?

8 A Again, I do not know. The best person would
9 have knowledge on that is ChemRisk employee at Beijing
10 office.

11 ChemRisk has an office in Beijing; so they
12 would arrange something for Dr. Zhang without me
13 involved.

14 Q How far was Dr. Zhang's home from the Beijing
15 office of ChemRisk?

16 A From JinZhou, which is the area we talked about
17 earlier, to Beijing, I think is around 200 miles.

18 Q And he traveled there so that he could have
19 these conference calls with ChemRisk in the United
20 States, right?

21 A I do not know that.

22 Q You never heard about that?

23 A I know he traveled to Beijing and I know that
24 there is a consulting agreement between McLaren/Hart and
25 Dr. Zhang. The consulting agreement, to my knowledge,

1 is not only limited to chromium contamination in
2 JinZhou; also included some other topics.

3 So what purpose of Dr. Zhang travel to Beijing,
4 I -- I just don't know.

5 Q Did ChemRisk work with Dr. Zhang on some matter
6 other than the '97 article that you're aware of?

7 A I never involved in such project, but I think
8 they are. From one -- actually, from a document you
9 showed to me yesterday of how many hours Dr. Zhang
10 spent, I think that there is a -- my impression is there
11 are lines of description indicating it's not on
12 chromium, it's on petroleum.

13 Q I'm sorry, on what?

14 A Petroleum.

15 Q Plutonium or petroleum?

16 A Petroleum. Petroleum.

17 Q On Exhibit 24, that next paragraph on
18 page WB 38 --

19 A Yes.

20 Q -- it says, "The payment arrangement," this is
21 with Dr. Zhang --

22 A Uh-huh.

23 Q -- "is that the payment" --

24 I'm sorry, I'm going to start over.

25 It says, "The payment arrangement is that the

1 money is given to Zuc Wan, McLaren/Hart agent in
2 Beijing. Zuc Wan will hold the money until Zhang needs
3 it. Tony indicates that Zhang is getting this full
4 amount, and that Zuc Wan is not skimming off a
5 percentage as BB had feared."

6 A Okay.

7 Q Have I read that correctly?

8 A You did.

9 Q Now, you remember yesterday I asked you about
10 someone hand-carrying cash to Dr. Zhang in China?

11 A I -- I remember you mention that.

12 Q Does this now refresh your recollection that
13 someone was hand-carrying cash for ChemRisk to Dr. Zhang
14 in China and that you knew about it?

15 MR. TATRO: Objection. This assumes facts not in
16 evidence.

17 MR. CASAS: Objection.

18 MR. TATRO: Mischaracterizes the document.

19 THE WITNESS: Okay. Yesterday I told you I don't
20 recall someone hand-carried. That's still my position
21 today. I don't recall someone hand-carried because I
22 was never involved in the real money transaction at
23 all. My position was not that -- as that.

24 And my understanding is Dr. Zhang was paid one
25 way or the other, either by cash or either by check.

1 And I told you yesterday, if he was paid by cash, it's
2 not surprise to me. In 1995, the financial structure in
3 China, most people, I would say majority of people, do
4 not have checking account.

5 My parents lived in China around that time. My
6 father was a professor from a very good university,
7 prestigious university, he does not have a checking
8 account.

9 So for transactions in China, handled in real
10 money it is no surprise to me, not only in 1995, even
11 today.

12 BY MR. PRAGLIN:

13 Q Wasn't Dr. Zhang's pension of \$50 a month about
14 the same amount that your dad was receiving?

15 A I think my dad probably receive a little bit
16 more than that.

17 Q Why don't you look at the next two paragraphs
18 down, it says, "Tony guesses that Zhang's pension is
19 about \$50 a month (the same as Tony's father)" --

20 A Uh-huh.

21 Q -- "which is one of the higher amounts in
22 China."

23 A Uh-huh.

24 Q Do you see that?

25 A I saw that.

1 Q Did you have a conversation with Bill Butler
2 about the fact that Dr. Zhang's pension was about the
3 same as your dad's?

4 A I don't recall that but if Bill stated so, that
5 information must come from me, yes.

6 Q And if Bill said that you indicated that
7 Dr. Zhang is getting his full amount and that Zuc Wan
8 was not skimming money off as a percentage as
9 Bill Butler had feared, then that means that you
10 probably had that conversation with Bill Butler, doesn't
11 it?

12 A Yes. I -- I will clarify this.

13 I told you yesterday that Dr. Zhang mentioned
14 in multiple times to me that there are certain amount of
15 money he thought he was entitled to see whether he have
16 not received, he asked me to do a follow-up on that.

17 The follow-up -- I -- I asked -- as the person
18 that's speaking his own language, I think that is a --
19 not only a courtesy, I take that as a responsibility, I
20 have to follow up on that; so I talk with Bill Butler.
21 I may talk with other people to say well, Dr. Zhang said
22 he has not received so and so money, can you check on
23 that. That's the effort I made.

24 Q Well, didn't you ask someone in Beijing if
25 someone was skimming money off of Dr. Zhang's payment?

1 A No, I did -- I don't remember I -- I ever talk
2 with Beijing office about it.

3 I think that there are document in my pile
4 indicating that Beijing office and the Shanghai office
5 are not very happy with my response to Dr. -- to
6 Dr. Zhang's request.

7 Dr. Zhang request me to say Mr. Ye, can you
8 help me to find out what's the true amount sent out of
9 the office, I have not received the full amount I
10 thought I was entitled to. I did the follow-up. I
11 called probably to Brent Kerger or some accountant in
12 ChemRisk to tell them that this is happening.

13 So I don't know the structure between ChemRisk
14 in U.S. and ChemRisk in Beijing, but I later time
15 receive a fax from Beijing and from Shanghai saying
16 that -- complaining that -- saying that well,
17 Dr. Zhang's money is what we here handled locally, and
18 for you, Tony, to -- to even agree to do such a
19 follow-up, we think that you are just step too far,
20 we -- we don't like that.

21 But when I do -- when I did -- when did I this
22 follow-up, I did not realize I was -- you know, step on
23 someone's toe in Beijing office. But again, I -- if I
24 did, I did. I -- I think that if Dr. Zhang ask me to do
25 so, I should.

1 Q You remember yesterday I asked you who this
2 fellow Tony Wong was from the McLaren/Hart --

3 A You did.

4 Q -- Rancho Cordova office?

5 A Yes, you did.

6 Q And you said you didn't know who he was, right?

7 A I don't have a memory of who it was.

8 Q You said it was a very common name, right?

9 A It's a common name in Chinese.

10 Q Do you see this next paragraph on page 38 of
11 Exhibit 24 --

12 A Uh-huh.

13 Q -- where Mr. Butler writes --

14 A "In the past" --

15 Q -- "In the past, this money had been hand
16 carried to Beijing by Tony Wong, McLaren/Hart in Rancho
17 Cordova"?

18 MR. TATRO: Objection. That's an inaccurate reading
19 of this document.

20 THE WITNESS: That's not -- that's not what this
21 document said. You just didn't read it right.

22 BY MR. PRAGLIN:

23 Q Okay. Why don't you read it for me if you
24 think that I read it wrong. I think there was a typo
25 and I corrected it, but you go ahead and read it as it

1 is, Mr. Ye.

2 A Okay.

3 MR. CASAS: Object. The document speaks for
4 itself.

5 We could go on and on if we're going to read
6 documents.

7 MR. PRAGLIN: Well, he said that I --

8 MR. CASAS: He can see what it says.

9 MR. PRAGLIN: He said I read it incorrectly, and so
10 did PG&E's lawyer.

11 Q So why didn't you read it for us, Mr. Ye.

12 A Per your request, I can just read it.

13 "In the past, this money had been had carried
14 to Beijing by Tony Wong, McLaren/Hart in Rancho
15 Cordova."

16 Q It doesn't make any sense to be had been had
17 carried, does it?

18 A Doesn't make sense to me.

19 Q Don't you think that's a typo and it was "had
20 been hand carried"?

21 MR. CASAS: Objection.

22 MR. TATRO: Objection. Calls for speculation, lacks
23 foundation.

24 THE WITNESS: I -- I think that had -- there is a
25 "had" that I think is -- is a typo.

1 Dr. Zhang have not received the full amount and
2 Dr. Zhang asked me to do a follow-up to make sure he
3 would receive it. But I, in my mind, I -- I deeply
4 believe around that time he will sooner or later receive
5 that amount. There is just a delay, not a denial of
6 any -- or skim of any payment to him. But I -- I did
7 what he asked me to do and I think that reasonable.

8 Q If you look at the next page of Exhibit 24 --

9 A Yes.

10 Q -- which is WB 39 --

11 A Yes.

12 Q -- the entry for January 26, 1965 --

13 A Yes.

14 Q -- says, "Report that drinking water in some
15 wells of Nuer Village and JinChangBao Village have been
16 yellowish."

17 A Yeah.

18 Q Did I read that one right?

19 A You did.

20 Q Did you ever have discussions with Dr. Zhang
21 about there being yellow drinking water in those
22 villages?

23 A This line I think is not -- not only we
24 discussed -- well, the report of some village has
25 yellowish water is a -- first appeared, I believe, in

1 one of Dr. Zhang's manuscript, which I translated.

2 Then later time I think that in multiple
3 conversations we also confirmed that they are yellow --
4 yellowish water in the drinking -- in some water wells
5 in those two villages.

6 Q Yellow water is a sign of chromium (VI)
7 contamination, isn't it?

8 MR. TATRO: Objection. Calls for speculation, lacks
9 foundation, assumes facts not in evidence.

10 THE WITNESS: I don't know.

11 BY MR. PRAGLIN:

12 Q You don't know that about chromium?

13 MR. TATRO: Same objections.

14 THE WITNESS: I don't. I really do not. I am a
15 trained statistician but I do not -- I have a very
16 limited knowledge on chemistry.

17 BY MR. PRAGLIN:

18 Q So you're not an expert on chromium (VI)?

19 A I'm not. I do not consider I am one of them.

20 Q And you've never published anything on
21 chromium (VI), have you?

22 A No, I -- no, I did not.

23 Q And your first involvement in publishing a
24 scientific article about chromium (VI) was this Zhang
25 paper, right?

1 A Yes.

2 Q And you've never been involved in writing an
3 article with another scientist since, have you?

4 A I -- not on chromium, but I have a -- one --
5 since that time, I remember I have one presentation I
6 made, if you call the presentation a publication, it's a
7 presentation I made in a professional meeting.

8 Q Verbally, right?

9 A I think the material are included in the
10 proceeding of that professional meeting.

11 Q When I'm talking about a publication, I'm
12 talking about one of these scientific journals that
13 comes at someone's door step in a magazine form and has
14 scientific articles --

15 A Okay.

16 Q -- on paper. You've never done that, have
17 you?

18 A No, I did not.

19 Q Was the Zhang article reprinted in other
20 languages throughout the world?

21 A I do not know.

22 Q You didn't take any steps to have the Zhang
23 article reprinted in other languages throughout the
24 world, did you?

25 A I did not personally. No one asked me to do

1 so.

2 Q Did you take any steps to have the Zhang
3 article reprinted in Chinese somewhere?

4 A No, I did not.

5 Q Was it ever translated into Chinese?

6 A I don't recall. It may have, but I don't
7 recall.

8 Q If it was, where is it published?

9 A It might --

10 MR. CASAS: Objection. Calls for speculation.

11 BY MR. PRAGLIN:

12 Q If the Zhang article was translated in
13 Chinese --

14 A Uh-huh.

15 Q -- where is it published?

16 MR. TATRO: Objection. Assumes facts not in
17 evidence.

18 THE WITNESS: I do not know.

19 BY MR. PRAGLIN:

20 Q The Zhang article deals with five or six
21 villages in China, right?

22 A Yes, it is.

23 Q Well, given that it deals with contaminated
24 water in those villages in China, did you ever consider
25 having the article published in Chinese journals so that

1 Chinese scientists could read about it?

2 MR. CASAS: Same objection. Assumes facts not in
3 evidence.

4 THE WITNESS: Well, it was never across to my mind,
5 no.

6 BY MR. PRAGLIN:

7 Q And you never had such conversations with
8 anyone at ChemRisk?

9 A No, I did not.

10 MR. TATRO: Is this a good place for a short break,
11 Gary?

12 MR. PRAGLIN: Yes. But given the time constraints
13 and the time we lost this morning, let's try to keep it
14 short.

15 MR. TATRO: Sure.

16 MR. PRAGLIN: Take a short break.

17 THE WITNESS: Okay.

18 THE VIDEOGRAPHER: This marks the end of tape
19 number five in the deposition of Tony Ye. We're going
20 off the record. The time is 11:37.

21 (Off the record.)

22 THE VIDEOGRAPHER: This marks the beginning of tape
23 number six in the deposition of Tony Ye. We're back on
24 the record. The time is 11:44. Please begin.

25 BY MR. PRAGLIN:

1 Q Mr. Ye, let's mark as Exhibit 25 a page from
2 your production. This is Bates stamped TY 100.

3 (Plaintiffs' Exhibit 25 was
4 marked for identification, a copy of
5 which is attached hereto.)

6 MR. TATRO: Thank you.

7 BY MR. PRAGLIN:

8 Q Exhibit 25 came from your file, right?

9 A Yes. I remember I saw this page.

10 Q And you received this, didn't you?

11 Do you see that handwritten cc at the bottom
12 with your name?

13 A cc with my name? Yes, I saw that.

14 Q Maybe if you lower the document a little we can
15 see your nice face.

16 A Oh. I won't call it nice, but sure.

17 Q The cc's on that Exhibit 25 are you --

18 A Uh-huh.

19 Q -- at ChemRisk, right?

20 A Yes.

21 Q Brent Kerger at ChemRisk, right?

22 A Yes.

23 Q And then there's Tony Wong, right?

24 A Yes.

25 Q Wasn't he at ChemRisk?

1 A I didn't know.

2 Q Then there's a name that says something like
3 Chien Ngo, N-g-o?

4 A Yes, I saw that name.

5 Q Who's that person?

6 A I believe he is a vice president in
7 McLaren/Hart.

8 Q Which office?

9 A I don't know. Probably Rancho Cordova.

10 Q And then there is another name that says
11 Gary Carlton. Do you see that?

12 A I saw that name.

13 Q Who is that?

14 A I do not know.

15 Yesterday actually we saw this name appear
16 other places, I remember on one document that you showed
17 to me, but I -- I don't recall his name.

18 Q The person who wrote Exhibit 25 is that
19 gentleman named Guang Zhu; is that right?

20 A Correct.

21 Q I'm sure I'm not pronouncing it correctly,
22 but --

23 A Actually, very good. Your pronunciation is
24 very -- is quite precise.

25 Q And then it's addressed to a person named

1 Chris, correct?

2 A Yes.

3 Q And then the fax message at the top says
4 Chris Daniels, correct?

5 A Yes.

6 Q Who's Chris Daniels?

7 A My recollection is Chris Daniels also a vice
8 president of McLaren/Hart or ChemRisk. And I remember,
9 I -- I -- vaguely, that he probably in the Alameda
10 office, in the same office I was in.

11 Q In your work at ChemRisk in the time that you
12 were there --

13 A Uh-huh.

14 Q -- which was about a year, right, half a
15 year --

16 A Half a year.

17 Q -- did you have much involvement with the vice
18 presidents of ChemRisk?

19 A Not at all.

20 Q Vice presidents like Dr. Paustenbach or
21 Chris Daniels or Chien Ngo, that was uncommon for you to
22 have contact with them, wasn't it?

23 MR. TATRO: Objection. Compound.

24 THE WITNESS: I do not on any regular basis to talk
25 to them or to report to them at all.

1 BY MR. PRAGLIN:

2 Q So was this a pretty big event for you to be
3 receiving correspondence with cc's on it to vice
4 presidents at ChemRisk?

5 A Well, Brent Kerger is not a vice president and
6 I don't know who Tony Wong is. I -- this fax, when I
7 received, it doesn't make me excited of seeing my name
8 to be with other person's name. I -- I didn't think
9 that way.

10 Q Did you have conversations with any of these
11 vice presidents about the payment issue for Dr. Zhang?

12 A I don't recall. I may have. I -- other than
13 Brent Kerger, other names on here looks very unfamiliar
14 to me; so I don't recall I ever -- I think one thing I
15 think I can tell you is I don't think I ever called any
16 of these Gary or Ngo or Tony Wong.

17 Q And this Exhibit 25 is written on
18 McLaren/Hart-ChemRisk letterhead, isn't it?

19 A It's the Shanghai office, yes, I agree with
20 you.

21 Q And it's stamped "Urgent," isn't it?

22 A It is.

23 Q Do you know why it's stamped "Urgent"?

24 A I do not.

25 Q Did you give it urgent attention when you

1 received it?

2 MR. TATRO: I'm going to object to your
3 characterization of that as a stamp as opposed to a
4 printed designation on a fax cover sheet. I don't know
5 what it is.

6 Lacks foundation.

7 BY MR. PRAGLIN:

8 Q Did you give it urgent attention?

9 A I -- you -- when you say "urgent attention," I
10 certainly, whenever this page was received, put on my
11 desk and I read it, but I don't think -- I didn't think
12 that there was anything I could do.

13 Q Well, here you got a letter that has you cc'd
14 along with vice presidents at ChemRisk who you didn't
15 normally work with.

16 A I normally don't work with.

17 Q And now you've received this letter and it's
18 stamped "Urgent." Didn't you give it urgent attention?

19 A I'm only the cc person on this. This person --
20 this document did not require me to do anything.

21 If there is -- should be someone who take
22 actions on this, I would say the person addressed to
23 Chris Daniels, and Chris Daniels, although I don't know
24 him personally, but Chris Daniels probably would take
25 some action, but not me. And as I told you before, I

1 was not in a position that I can even question or -- or
2 handling accounting part or invoice part of ChemRisk.

3 So anything related to money is -- I think the
4 reason they cc me on this is because of -- I talk with
5 Dr. Zhang. Dr. Zhang requested me to follow up on some
6 monetary issues. I -- I just -- how to say this? I
7 just involved in this but I -- I really have no decision
8 power on this matter whatsoever.

9 So I -- I -- other than read this document by
10 that time, I -- I do not -- and I do not -- I did not
11 think any action can be taken from it.

12 Q At the bottom of Exhibit 25 it looks like
13 Chris Daniels has responded and there's writing that
14 says, "I will bill 1,960 USDollars to ChemRisk."

15 Do you see that?

16 A I saw such a wording but I do not know whether
17 that signature is Chris Daniels or not. I never really
18 saw the signature before or remember seeing the
19 signature before.

20 Is that Chris Daniels' signature, do you know?

21 Q I think it is.

22 A Then I do not. I do not know one way or the
23 other.

24 Q And did you know that this money, the \$1,960
25 that was being paid to Dr. Zhang, was being billed to

1 ChemRisk?

2 MR. TATRO: Objection. Assumes facts not in
3 evidence, lacks foundation, calls for speculation.

4 THE WITNESS: My impression is ChemRisk is paying
5 \$1,960 to Dr. Zhang. That's my impression. But how the
6 billing's handled, I -- I really don't know. I know in
7 ballpark that there is such amount of money paid to
8 Dr. Zhang. That's -- that's, I knew.

9 BY MR. PRAGLIN:

10 Q Earlier today you gave an answer to one of my
11 questions and you said, and I'm reading right off of
12 your sworn testimony --

13 A Yes.

14 Q -- it's at page 23, line 21 to line 23 --

15 MR. TATRO: As you've done with me in the past,
16 could you wait for a moment while I get to that?

17 MR. PRAGLIN: Sure. It's 23.

18 MR. TATRO: It's 23?

19 MR. PRAGLIN: On mine it's 23, page 23, line 21 to
20 23. It starts with the word "Everything."

21 MR. TATRO: Hold on one second.

22 The line starts with the word --

23 Okay. "Everything you can see"?

24 MR. PRAGLIN: No. It says, "Everything I knew."

25 MR. TATRO: Okay. I'm with you.

1 BY MR. PRAGLIN:

2 Q Okay. Let me start over, Mr. Ye.

3 A Uh-huh.

4 Q Earlier this morning in response to one of my
5 questions --

6 A Uh-huh.

7 Q -- you gave an answer which appears on the
8 computer transcript --

9 A Sure.

10 Q -- at page 23, lines 21 through 23, where you
11 said, "Everything I knew what ChemRisk was working on I
12 told Dr. Zhang, including that ChemRisk underlying
13 client is PG&E."

14 Do you recall giving that answer this morning?

15 A Yes, I did.

16 Q And you told Dr. Zhang that PG&E was ChemRisk's
17 client in connection with this article, didn't you?

18 A I don't remember exact wording but I told
19 Dr. Zhang that PG&E was the -- was ChemRisk's underlying
20 client, and that PG&E -- the chromium research is
21 related to PG&E.

22 I don't recall in your phrase that -- whether
23 article or not -- I just don't recall I told him whether
24 article or -- or whether article or not is a PG&E
25 project. But he -- my impression, and if that's my

1 impression, I told him, which is my impression is that
2 chromium research -- my time or Bill Butler's time spent
3 on the chromium research is compensated in some way, or
4 their payment from PG&E to at least partially sponsor
5 that research. That's my impression.

6 But since I do not -- never in ChemRisk I did
7 not handle -- I did not ever given a chance to invoice,
8 to handling bills or projects number, I really don't
9 know how much would be compensated -- would be
10 compensated by PG&E, whether it's entirely compensated,
11 I just don't know. But whatever I knew, I told
12 Dr. Zhang.

13 Q Did you tell Dr. Zhang that PG&E was involved
14 in chromium (VI) litigation in California stemming from
15 the chromium contamination in Hinkley, California?

16 A I may have, I may not. If I knew that fact, I
17 would not hide it from him.

18 Q Did you tell him what the levels of
19 contamination were of chromium (VI) at Hinkley?

20 A Because -- to be honest, the level of
21 contamination in Hinkley never really registered into my
22 mind. I don't remember what's the level of
23 contamination in Hinkley myself. And I -- I -- so if I
24 didn't tell him this, I don't know. If I know -- if I
25 knew, I would tell him -- I would have told him.

1 Q Did Dr. Zhang recognize the name PG&E?

2 MR. CASAS: Object. Calls for speculation.

3 If you know.

4 THE WITNESS: Dr. Zhang, I think, know the letter
5 "PG&E" representing a company.

6 BY MR. PRAGLIN:

7 Q Did he understand that it meant Pacific Gas &
8 Electric Company?

9 MR. TATRO: Objection. Calls for speculation, lacks
10 foundation.

11 THE WITNESS: I don't know. But may -- I don't
12 think it make difference to him. It's a company. He
13 knows -- I think he knows it's a company.

14 BY MR. PRAGLIN:

15 Q Well, did you explain for him, for example,
16 that he had studied chromium contamination from an
17 industrial source in the JinZhou area and ChemRisk's
18 client that you were working for was PG&E, who also was
19 an industry that had chromium contamination problems in
20 Hinkley, California?

21 MR. TATRO: Objection. The question is vague and
22 ambiguous, overly broad, misstates the record.

23 THE WITNESS: I can only tell you that I don't
24 recall specific wording of how I explained to
25 Dr. Zhang.

1 But my impression of -- or my -- my impression
2 of my understanding at around that time is -- is PG&E
3 has a -- has some contamination of chromium
4 contamination, and that PG&E are interested in the
5 research around -- anyplace research on chromium to
6 human health. And so PG&E and then ChemRisk are
7 interested in understanding the chromium research in --
8 in this particular matter, in JinZhou, which was
9 originally conducted by Dr. Zhang.

10 That was my impression and if that's what's my
11 impression around that time, I would have told
12 Dr. Zhang my impression about it. If there are details
13 of Hinkley contamination that I didn't know of or I
14 didn't pay attention to, then I would not be able to
15 communicate to Dr. Zhang.

16 BY MR. PRAGLIN:

17 Q Did you tell Dr. Zhang that PG&E was taking the
18 position in litigation that chromium (VI) did not cause
19 cancer in humans by oral ingestion?

20 MR. TATRO: Objection. Misstates the record.

21 THE WITNESS: I -- I don't recall that. I don't
22 recall I told Dr. Zhang the position you just referred
23 to because of -- that's not my -- at least that's not --
24 that's not my impression around that time of what
25 position PG&E was on.

1 BY MR. PRAGLIN:

2 Q You never knew that?

3 A I may know that at one point of time but I -- I
4 really don't know whether PG&E position was our chromium
5 doesn't cause cancer at all or low chromium exposure
6 doesn't cause cancer or the Hinkley exposure level
7 doesn't cause cancer. They are quite different
8 statement.

9 So I -- I don't -- I don't recall one way or
10 the other what PG&E or -- or what ChemRisk told me.

11 Q You remember yesterday you testified that you
12 received a document from the litigation?

13 A Yes, I did.

14 Q And that was a document that was the
15 plaintiffs' medical brief on chromium, wasn't it?

16 A I -- I know it was a legal document. I -- I
17 did not even try to put my effort try to understand how
18 this legal document fit in the very complicated
19 litigation structure around that time. But I know it
20 was a legal document I received.

21 Q Did you read it?

22 A I may have paged through that, yes.

23 Q And did you explain to Dr. Zhang what was in
24 it?

25 A Anything I understood about litigation or about

1 research, I would -- I would tell him. But if I don't
2 quite know what's the scenario this litigation or this
3 piece of document really referred to, then that would
4 not reach my attention to say oh, this is something
5 important that I need to talk about to -- to talk to
6 Dr. Zhang. I may have at that point of time, I may
7 not. I just don't know.

8 Q Well, did you understand what was being written
9 in the '97 Zhang article?

10 A Yes, sure.

11 Q There wasn't anything in there that was beyond
12 your scientific understanding, was there?

13 A Nothing beyond my understanding I would say.

14 Q You knew what you were doing with that article,
15 didn't you?

16 A I know that --

17 MR. TATRO: I'm going to object.

18 MR. CASAS: Object.

19 MR. TATRO: The question is vague and ambiguous,
20 lacks foundation, it's argumentative.

21 THE WITNESS: I know the description of how the data
22 been collected, what model been executed and I know the
23 conclusion of that article, and that's about it.

24 If you try to expand that article to include
25 any toxicology information to say how much chromium

1 cause cancer, I -- I have no expertise in that. I'm not
2 going to misrepresent in that way either.

3 BY MR. PRAGLIN:

4 Q Well, didn't you know that the position that
5 was being taken in the '97 Zhang article was the same
6 position that PG&E was taking in the Anderson chromium
7 litigation?

8 MR. TATRO: Object.

9 MR. CASAS: Objection. Calls for speculation.

10 If you know.

11 THE WITNESS: I do --

12 MR. TATRO: It also is inconsistent with the
13 record.

14 THE WITNESS: I -- really, I don't remember anyone
15 told me what position that PG&E was on. I was -- I was
16 informed by I think Mr. Butler that ChemRisk and
17 underlying clients, who's PG&E, are interested in
18 chromium research. And Dr. Zhang's research is one of
19 the chromium research they are interested in; so that's
20 why we are putting in time doing this work.

21 But what exact position that PG&E take or
22 ChemRisk take on how much or whether chromium cause
23 cancer, that's beyond me. That's just not -- not
24 something that I -- I would put effort in around that
25 time, to try to guess, try to understand or try to

1 accumulate document for.

2 BY MR. PRAGLIN:

3 Q So you didn't try and hide from Dr. Zhang that
4 PG&E was ChemRisk's client, did you?

5 A No, I did not.

6 Q So why not include PG&E in the acknowledgements
7 on the paper for sponsoring the research?

8 MR. CASAS: Objection.

9 MR. TATRO: Objection. Calls for speculation,
10 assumes facts not in evidence, misstates the record.

11 MR. CASAS: Asked and answered yesterday.

12 THE WITNESS: I think you have to ask the question
13 to either P- -- either ChemRisk, who -- the person who
14 in charge of drafting this letter, and -- and,
15 unfortunately, you told me that Dr. Zhang has passed
16 away. But -- if in any -- if earlier, you could ask
17 Dr. Zhang.

18 I was not responsible for -- I was not assigned
19 the duty to QC the article and to make suggestions like
20 that, to say what should be in the article, what should
21 not be.

22 MR. PRAGLIN: Let's mark as Exhibit 26 some pages
23 from Mr. Butler's file. They're Bates stamped WB 185
24 through 189.

25 (Plaintiffs' Exhibit 26 was

1 marked for identification, a copy of
2 which is attached hereto.)

3 (Discussion off the record.)

4 BY MR. PRAGLIN:

5 Q Did you ever see this document, Exhibit 26,
6 before?

7 A I -- I think so, and I think this document also
8 included in my production to you. And I don't know why
9 you gave me Dr. Butler's production. But I think I saw
10 this page in my material as well.

11 Q The first page is your fax cover page to
12 Gwen Corbett, right?

13 A I think so, yes.

14 Q And you say, "Hi Gwen: the following 4 pages
15 are: fax we received from Dr. Zhang on September 27th
16 and its translation. Second page of the fax is an
17 invoice of Dr. Zhang's," And then I can't read the last
18 word.

19 A "Hour."

20 Q "Hour."

21 You wrote that, right?

22 A I think so.

23 Q And so the next page is Dr. Zhang's Chinese
24 letter to you, right?

25 A Yes.

1 Q And the following page after that is
2 Dr. Zhang's Chinese letter to you, right?

3 A Yes, I believe so.

4 Q And then the next page, which is WB 188, is the
5 translation of Dr. Zhang's invoice, isn't it?

6 A 188?

7 Q Yes.

8 A I think that's a translation including some
9 hours of Dr. Zhang report. Invoice for money. I don't
10 know -- there's no -- no money information on this page,
11 as I can see.

12 Q But it's a tabulation of hours, isn't it?

13 A It's -- it is hours, yes.

14 Q And then the next page, WB 189, is the first
15 page of the fax, right, and that's what we were looking
16 for yesterday, remember?

17 A No, I do not but -- but if you say this is the
18 first page, this looks like the translation of the first
19 page to me.

20 Q And this page WB 189 of Exhibit 26, you
21 translated from a fax to you, didn't you?

22 A I believe so.

23 Q And these are background cancer information
24 from the Liaoning province that you received from
25 Dr. Zhang, correct?

1 A Looks like that way, yes.

2 Q And you had asked Dr. Zhang to send you the
3 background cancer rates for that province, hadn't you?

4 A It was requested to Dr. Zhang by ChemRisk and I
5 was the translator, yes.

6 Q And this page, WB 189, lists for stomach
7 cancer, item 3, a total death rate of 15.41 in 100,000,
8 correct?

9 A Yes, that's what the page says.

10 Q And item 4 for stomach cancer lists a total
11 death rate of 17.30 per 100,000, doesn't it?

12 And this is unadjusted.

13 A Correct. Yes, I agree.

14 Q And number 5 is for 1973 to 1977, stomach
15 cancer death rate, adjusted, for the LiaoNing province
16 at 21.25 per 100,000, right?

17 A Yes. Those are the numbers, yes.

18 Q And those would be death rates that Dr. Zhang
19 gave you, right?

20 A Yes.

21 Q Did you ever receive from Dr. Zhang the
22 underlying data tables from which these numbers came?

23 A I don't recall. If I -- if I received, I -- I
24 don't think that they are in my 900 or so productions.
25 I don't recall I received such a page.

1 Q Did you take these numbers that Dr. Zhang gave
2 you and compare them to any tables to verify that they
3 were right?

4 A At one point of time, we may have. In my
5 produced material there is a -- appear to be a copy from
6 a book in English, the book reported cancer rate in
7 China. Since we have a copy of few pages in this book
8 containing cancer rate, that's -- indicate to me that
9 around that time we were looking for mortality cancer
10 rate and we may have done some work to verify the number
11 in this exhibit you just provided to me, Exhibit 24.

12 Q I think it's 26.

13 A 26.

14 Q That would be an important step, to verify that
15 the cancer mortality rate was accurate, wouldn't it?

16 MR. TATRO: Objection. Assumes facts not in
17 evidence, calls for speculation regarding the purpose.

18 THE WITNESS: I can say is there are evidence in my
19 file indicating ChemRisk was trying to verify;
20 whether -- whether that's the only step or whether it's
21 one of many step, how important that step is, I -- I
22 don't know. I know there are steps to -- there are
23 documents here trying to -- indicating that -- their
24 effort of trying to verify this number.

25 BY MR. PRAGLIN:

1 Q Look at Exhibit 2 --

2 A Yes.

3 Q -- which is the Zhang article --

4 A Yes. Hold on for a moment.

5 Q -- page 317 --

6 A 317. Yes.

7 Q -- the left column, the first full paragraph,
8 it says, "No statistical comparisons with province
9 mortality rates could be made for site-specific cancer
10 rates because of the lack of appropriate rate
11 information," correct?

12 A Correct.

13 Q That was false, wasn't it?

14 A That was not.

15 Q Where are the rates that Dr. Zhang's cancer
16 mortality rates were compared to?

17 MR. CASAS: Objection. Ambiguous.

18 Go ahead.

19 THE WITNESS: I remember in the -- in -- when we
20 prepared -- when ChemRisk prepared the -- when we
21 prepare the numbers of Table 1, cancer mortality rate,
22 what we found is what -- in one of -- the number -- the
23 mortality rates appeared in --

24 Sorry, let me -- let me start over.

25 Mortality rates for the five villages presented

1 in Table 1 of JOEM article were originally from one of
2 Dr. Zhang's manuscript. I translated that manuscript.

3 In the manuscript I remember what Dr. Zhang
4 reported. He reported for all mortality, all cancer
5 mortality. He reported age-adjusted mortality. For
6 site-specific mortality, which is stomach cancer and the
7 lung cancer, he reported non-age-adjusted, unadjusted
8 mortality.

9 In statistical -- is a statistical -- is a
10 standard in statistical analysis that when you try to
11 compare one death rate to another death rate, you have
12 to control for the underlying age distribution. The
13 reason for that, if you have a place that most of its
14 people is above age 65, when you compare this town to
15 another city where most of the people are under age 50,
16 certainly the -- the -- the -- the village that have a
17 lot of people, most of the people over age 65, would
18 have a higher cancer or any death rate because -- that's
19 because of older people are just more likely to
20 decease.

21 That's become a known -- in normal jargon is
22 apple-to-orange comparison. That type of comparison in
23 statistical term is just not going to be very
24 informative, not going to provide you with which village
25 or which town is indeed higher and lower than the other

1 village or town because they're not the same age
2 distribution.

3 So in -- I -- I think the reasoning in the JOEM
4 article is because of -- for stomach cancer and the lung
5 cancer, there is no age-adjusted rate comparing this
6 unadjusted rate to any of LiaoNing rate, JinZhou rate or
7 China rates of stomach cancer deaths would be a
8 comparison of apple to orange. That what this sentence
9 you just referred to in this paragraph, "No statistical
10 comparisons with province mortality rates could be made
11 for site-specific cancer rates because of the lack of
12 appropriate rate information."

13 The lack of appropriate rating information, to
14 my knowledge, to refer to not age-adjusted rate for lung
15 cancer and for stomach cancer.

16 BY MR. PRAGLIN:

17 Q Why didn't the '97 Zhang article make this same
18 explanation that you just gave us about an
19 apple-to-orange comparison?

20 MR. CASAS: Objection.

21 MR. TATRO: Objection.

22 MR. CASAS: Calls for speculation.

23 THE WITNESS: First, I think that they -- the
24 statement is clear that saying that there is a lack of
25 appropriate rate information.

1 How -- I would say that although I -- I was not
2 the author of this article, but if I read this article,
3 I would not challenge author's decision of not providing
4 my long sentence of reasoning in such a four- or
5 three-pages article because if you include all of the
6 details, technical details, as I just stated, that would
7 be much longer than three pages or two pages, as this
8 article.

9 BY MR. PRAGLIN:

10 Q Isn't it true that the Chinese Cancer Atlas had
11 appropriate rate information but ChemRisk chose to
12 disregard it?

13 MR. TATRO: Objection.

14 THE WITNESS: No.

15 THE TATRO: The question is vague and ambiguous,
16 argumentative, assumes facts in evidence.

17 THE WITNESS: No. The -- explanation I just gave is
18 a explanation that why in this five -- these five
19 villages does not have appropriate cancer mortality rate
20 for lung cancer and for stomach cancer because they're
21 not age adjusted.

22 Well, if they are not age adjusted, whether
23 China -- whether you have data for China or for
24 LiaoNing, which is the province of this area, doesn't
25 really matter anymore because the number in this table

1 are not -- in these five villages are not age adjusted,
2 which means you cannot compare them to other -- to any
3 other national standard or national average. It's just
4 not a fair comparison you can make.

5 BY MR. PRAGLIN:

6 Q Well, the '97 Zhang article doesn't say that
7 the village information is not age adjusted, does it?

8 A To my knowledge, it does not.

9 Q Look at Table 1 on page 317 of the Zhang
10 article.

11 A Yes.

12 Q The second column from the right says "Range of
13 Average Rates in China."

14 Do you see that?

15 A I do.

16 Q And then if you go down the column to that
17 information for stomach cancer, it gives a range of
18 5.2 to 40.2 per 100,000, correct?

19 A That's right.

20 Q Isn't it true that that range of 5.2 to
21 40.2 for China is false?

22 A To my knowledge, it's not.

23 Q Where did that information come from?

24 A I don't recall. It's either provided by
25 Dr. Zhang or, as you stated, maybe it's tracked from

1 some published source of that number.

2 Q The public source is the Chinese Cancer Atlas,
3 isn't it?

4 A That's one of the published source, yes.

5 Q So wasn't that consulted by ChemRisk?

6 A Consulted by?

7 MR. CASAS: Objection. Calls for speculation, it's
8 ambiguous, vague.

9 BY MR. PRAGLIN:

10 Q Didn't ChemRisk review the Chinese Cancer Atlas
11 to make sure that the numbers that you received and put
12 into the Zhang '97 article were accurate?

13 A Well, at a point of time, I think that -- the
14 reason for that is because I have the -- I think that
15 ChemRisk make some effort to confirm, to calculate or to
16 find what is the range or average of cancer mortalities
17 and site-specific cancer mortalities, and try to make
18 them correct before it's going into this table, yes.

19 Q Looking at Table 1 on the Zhang '97 article --

20 A Yes.

21 Q -- on this column the "Range of Average Rates
22 in China" for stomach cancer --

23 A Uh-huh.

24 Q -- the high end of the range is 40.2 per
25 100,000, right?

1 A Hold on for a moment.

2 Which number are you referring to? The high
3 end?

4 Which number are you referring to?

5 Q Okay. We're on --

6 MR. CASAS: Page 317 of the article.

7 MR. PRAGLIN: Right.

8 THE WITNESS: Page 317.

9 BY MR. PRAGLIN:

10 Q Page 317 of the Zhang article --

11 A Okay.

12 Q -- the column that says "Range Of Average rates
13 in China" --

14 A Uh-huh.

15 Q -- the range has a high end of 40.2, doesn't
16 it?

17 A Yes.

18 Q If you look at Exhibit 26 --

19 A 26 --

20 Q -- and specifically page WB 189, the rate
21 information that you got from Dr. Zhang, for stomach
22 cancer for China there's no number that's as high as
23 40.2, is there?

24 A No, there's not. I agree with you.

25 Q The highest number there is --

1 MR. TATRO: Wait, wait, wait.

2 I'm going to object. Mr. Ye, I think was in
3 the middle of a sentence when you --

4 BY MR. PRAGLIN:

5 Q Go ahead, finish your sentence. I did speak on
6 top of you. Sorry.

7 A The number presented on the page 189 of this
8 Bill Butler's production, there is a number which is --
9 my understanding is the average number for a stomach
10 cancer. And it's unadjusted.

11 The average number is -- for total is 17.30.
12 And on this piece of paper there is no -- for stomach
13 cancer, at least I'm reading here, there is no range
14 ranging from the lowest to the highest. There is an
15 average but not a range.

16 Q So where did ChemRisk get the information for
17 the range?

18 A I don't recall. It was either from another
19 conversation we had with Dr. Zhang or from some
20 published -- published sources, but not from this piece
21 of paper that you just showed me.

22 Q Isn't the average more accurate than the
23 range?

24 MR. TATRO: Objection.

25 MR. CASAS: Objection. Argumentative.

1 MR. TATRO: It's also vague and ambiguous as to what
2 you mean by "more accurate" in the context of your
3 question.

4 THE WITNESS: May not be. May not be.

5 BY MR. PRAGLIN:

6 Q If you were to use this average for China --

7 A Uh-huh.

8 Q -- for stomach cancer that Dr. Zhang gave you
9 of 17.30 per 100,000 and compare it to the reported
10 incidence of stomach cancer in the five villages, there
11 would be a very significant excess of stomach cancer in
12 those villages, wouldn't there?

13 MR. TATRO: Objection. Calls for speculation, lacks
14 foundation, calls for expert analysis, statistical
15 analysis, which maybe Mr. Ye can do it sitting here in
16 his head but I'd be surprised.

17 THE WITNESS: That would be very hard.

18 My understanding of this article is for stomach
19 cancer reported on this page, reported on -- in the
20 article, are not age standardized, are not age adjusted;
21 so when it's not age adjusted you compare to a adjusted
22 standardized population rate. Just as a statistician,
23 as my chosen expertise, I don't think that's a fair
24 comparison. I don't think that's a -- that's a good
25 comparison either.

1 BY MR. PRAGLIN:

2 Q Looking at Table 1 of the '97 Zhang article --

3 A Yes.

4 Q -- the extreme right column says "Dose-Response
5 Coefficient (P Value)," correct?

6 A Correct.

7 Q And there are some calculations that are
8 given --

9 A Yeah.

10 Q -- for all cancer --

11 A Uh-huh.

12 Q -- for stomach cancer and for lung cancer,
13 correct?

14 A Yes, there are.

15 Q Who made those calculations?

16 A Those models, I think, originally designed and
17 discussed with Dr. Zhang, and Bill Butler probably
18 the -- requested this model. I'm the one who write
19 computer code to execute the model.

20 Q Dr. Zhang didn't run that model, did he?

21 A Not physically, no. To my knowledge, no.

22 Q He didn't even have the computer program to run
23 the model, did he?

24 A I do not know that.

25 Q You don't know that he didn't have a computer

1 program to run that model?

2 A I do not know that. There are computers --
3 around that time I can tell you that there are computers
4 in China and it's quite common to have offices or
5 different research places to have computers. Certainly
6 they have computers. Whether they -- they have
7 computers -- well, since I graduated from university in
8 China, I know that in the university -- at least in my
9 university we have statistical program that could be
10 used to execute this model.

11 Q Where is the calculation for that dose response
12 for those three entries on Table 1 of page 317 of the
13 Zhang article shown in your file?

14 A I think there are programs in my file -- there
15 are pages in my file. Looks like to me the execution of
16 this model, if you -- I think I can find it.

17 Q Let me ask you this: Isn't it true that the
18 '97 Zhang article doesn't describe how that calculation
19 was performed?

20 A I will say my recall --

21 Let me just have a look of one paragraph. I
22 can -- I can tell you with my -- I can tell you with my
23 impression of that paragraph.

24 No. I think it's described in this -- on the
25 page 316.

1 Q 316?

2 A Yes.

3 Q Show me where.

4 A On the -- at least one of the place. On the
5 right most column of the text.

6 Q Yes.

7 A From seventh line, it's described as "The
8 Poisson regression model was used, where the log
9 transformation of the expected rate of cancer was
10 assumed to change in a linear manner based on distance
11 from the contamination source."

12 Then they give a formula, which is \ln , rate of
13 cancer, equal to A plus B multiply distance. Negative
14 values for the slope B indicate that proximate --
15 proximity to the source was associated with greater
16 cancer death rates.

17 This is a typical description of a statistical
18 model in the journal articles, at least I knew of.

19 Q So is it true that the dose-response
20 relationships were examined using the distance of each
21 village from the source as a surrogate for exposure or
22 dose?

23 A I agree with you, yes. That's what's stated in
24 this paper. That's not -- that's -- your earlier
25 question is this model is not described. It's described

1 and it's clear.

2 Q Isn't it true that using the distance of each
3 village from the source as a surrogate for exposure or
4 dose is not a good way to determine dose-response
5 relationships?

6 A I don't know whether you can phrase that in a
7 good way or bad way. It's one of the measures you can
8 use.

9 Q It's not the most precise measure, is it?

10 MR. TATRO: Objection. That question is vague and
11 ambiguous and lacks foundation --

12 THE WITNESS: Well --

13 MR. TATRO: -- in this context.

14 THE WITNESS: -- I believe that if you have -- if
15 you can measure how much intake of each person on a
16 daily basis from morning tonight, how much water you
17 drink, and how much chromium or how much exposure he
18 really intaked, measure day in day out for each person,
19 you compare distance information to that, I will -- I
20 would agree with you.

21 Distance information is only a surrogate of
22 this true human body exposure. That's -- I agree with
23 you on that.

24 But -- but it's just in -- in this case, it's
25 impossible because the data on each person's intake of

1 how much drinking water they took from the drinking
2 contaminated water well was never recorded at any point
3 of time; so in that scenario, using distance is a
4 reasonable and probably the best of the measurement.

5 BY MR. PRAGLIN:

6 Q Was any other method besides distance
7 attempted?

8 A It may. I don't recall.

9 MR. PRAGLIN: Let's attach as Exhibit 27 the cancer
10 mortality tables from Bill Butler's file.

11 (Plaintiffs' Exhibit 27 was
12 marked for identification, a copy of
13 which is attached hereto.)

14 MR. PRAGLIN: And these are actually two separate
15 tables but I clipped them together.

16 THE WITNESS: Thank you.

17 MR. PRAGLIN: There's half of that one missing,
18 Mr. Casas, if you can look on with Mr. Tatro. I'm only
19 going to have a couple of questions about these.

20 Q Are these the tables that you saw?

21 A I remember I saw this table in my files, too.
22 Yes.

23 Q And although they were produced by Mr. Butler,
24 you saw these during the course of your work on the
25 Zhang article, right?

1 A I believe so, yes.

2 Q Where did you obtain these?

3 A I believe this is extracted from a book that we
4 found the book in a U.S. library around that time;
5 either from UC Berkeley Library or Stanford Library.
6 I -- I don't exactly recall from -- where is this thing
7 from.

8 Q Whose handwriting is at the top of Exhibit 27?

9 A It looks like Mr. Butler's to me. I'm not
10 sure, but to me it does.

11 Q Let's mark as Exhibit 28 some pages from your
12 file, TY 332 through 333.

13 (Plaintiffs' Exhibit 28 was
14 marked for identification, a copy of
15 which is attached hereto.)

16 BY MR. PRAGLIN:

17 Q You received this document, didn't you?

18 A Let me -- let me -- can I just look into my
19 document here --

20 Q Sure.

21 A -- for the 332 because I --

22 You did not include me page 331, which I think
23 is part of this document. I was trying to bring my --
24 bring myself back into the context so I would be better
25 to answer your question.

1 MR. CASAS: 331?

2 THE WITNESS: I think I saw that. 330, 329.

3 MR. PRAGLIN: I see what you're saying.

4 Q You're saying that this is just part of one of
5 the documents; is that right?

6 A I think so, yes.

7 Q Let's just identify where it begins with your
8 Bates stamp.

9 A Okay. I think it start with TY 324.

10 Q I see.

11 A Okay. It's a translation of a article. And
12 this -- the section that -- the page 332 is a page among
13 the translation of the article.

14 Q So Exhibit 28 is a part of your translation of
15 one of Dr. Zhang's articles, right?

16 A Yes, I believe so.

17 Q And on page 332, item 4, you say, "There is a
18 difference of cancer incidence rate among different
19 areas. Considering that there is not much difference in
20 residence socio-economic status and diet, the
21 difference...attribute to some geologic factors,"
22 correct?

23 A No, you didn't read this right.

24 You omit a word "may."

25 "The difference may attribute to some

1 geological factors."

2 Q Okay.

3 A Nothing wrong with your reading, just clarify
4 that there is a word you missed.

5 Q And that was a translation that you made of
6 Dr. Zhang's earlier work, right?

7 A I believe so.

8 Q Isn't he saying there that there is not much
9 difference in residence socioeconomic status and diet
10 among the different villages that he studied?

11 MR. CASAS: Objection. Calls for speculation.

12 THE WITNESS: You know, I -- I have to go back to
13 read this entire translation to -- to try to guess or
14 try to understand what he means by among all the --
15 among some villages, whether it's -- I don't know the
16 range of which villages he was talking about.

17 BY MR. PRAGLIN:

18 Q He's talking about some villages, right?

19 A I agree with you. There are some villages that
20 he said are similar in their demographic or
21 socioeconomic status.

22 No, no. Sorry. I take that back.

23 Only in the socioeconomic status and diet.

24 Q You said diet?

25 A Diet.

1 Q So isn't that statement by Dr. Zhang that you
2 translated inconsistent with what you wrote in the
3 Zhang '97 article on the last page where it says,
4 "Nonetheless, these results suggest that lifestyle or
5 environmental factors not related to the chromium (VI)
6 contamination are the likely source of the variation in
7 these cancer rates"?

8 MR. TATRO: I'm going to object.

9 MR. CASAS: Objection.

10 Go ahead.

11 MR. TATRO: I object. You're mischaracterizing the
12 witness's testimony, that he wrote that statement.

13 You're also calling for an expert opinion and
14 trying, I think, to vaguely and ambiguously compare
15 apples and oranges, as the witness has explained.

16 MR. PRAGLIN: I'll rephrase it for you.

17 MR. CASAS: Same objection.

18 THE WITNESS: Okay.

19 BY MR. PRAGLIN:

20 Q Isn't that statement by Dr. Zhang that you
21 translated at the bottom of page TY 332 of Exhibit 28 --

22 A Yes.

23 Q -- inconsistent with what the Zhang '97 article
24 says on its last page in the middle column where it
25 says, "Nonetheless, these results suggest that

1 lifestyle or environmental factors not related to the
2 chromium (VI) contamination are the likely source of the
3 variation in these cancer rates"?

4 MR. TATRO: Objection.

5 Sorry, Gary.

6 Objection. That, again, calls for an expert
7 opinion and it's also lacking in foundation to compare
8 apples and oranges because it's vague and ambiguous as
9 the witness has indicated regarding what are the
10 different areas referenced in Ye 28.

11 BY MR. PRAGLIN:

12 Q Go ahead, Mr. Ye.

13 A Without reading this entire document of what
14 you gave me, these two pages, just take one statement, I
15 will say the statement may be taken out of its context.
16 Number one.

17 Number two is even just based on this one
18 statement, if you ask me to say today as a person
19 sitting here looking at these two statement, compare
20 this statement to the 1997 article statement, whether
21 there is any difference in conclusion, it's -- I don't
22 think so.

23 I will give you my reasoning.

24 In 1997 article, the sentence is, "Nonetheless,
25 the results suggest that lifestyle or environmental

1 factors" --

2 There are two things, lifestyle or
3 environmental factors, okay.

4 In the Exhibit 28, what you gave me, there is a
5 sentence saying that "The difference may attribute to
6 some geological factors." Well, I don't know the
7 geological factors is something you can call -- you can
8 say different than environmental factors. To me or to
9 an average person reading this, do you think -- I don't
10 think environmental factors and geological factors are
11 inconsistent. I think they are somewhat consistent.

12 Q In the '97 Zhang article, isn't the phrase
13 "environmental factors not related to the chromium (VI)
14 contamination" the phrase that's used, and not just the
15 phrase "environmental factors"?

16 MR. TATRO: Objection. The document says what it
17 says.

18 BY MR. PRAGLIN:

19 Q You see that difference, don't you, Mr. Ye?

20 A Yes, I do. That statement is stated, yes.

21 Q So don't you think that statement is
22 inconsistent with Dr. Zhang's prior writings?

23 A Dr. Zhang wrote a lot of things. You are
24 showing me one sentence from one paragraph and one
25 translation. My impression is what Dr. Zhang said in

1 1997 article is not inconsistent with his entire writing
2 or research before 1997 or before 1995.

3 On surface, some of the sentence may have
4 different wording and on surface some of the sentence
5 may emphasize on different factors, but the bottom line
6 is Dr. Zhang never -- I -- I -- my impression is this
7 authority by 1995 was Dr. Zhang was still trying to find
8 what is the reason for some of the villages as a group
9 show a higher lung cancer or higher cancer mortality
10 rate than -- than the province average. That's what
11 I -- I -- I think is true.

12 But in that research, in that time of research,
13 you know, Dr. Zhang probably -- as any researcher will
14 do, is when you try to research something you try
15 different directions, you try different options, try to
16 see whether this will explain that, try that, try
17 another approach, whether that's better, explain this to
18 you. But -- so it's demonstrated a, by that time,
19 ongoing research project but nothing really saying that
20 they're just inconsistent.

21 I would not phrase in that way because when you
22 do more research, when you try option A without
23 option 2, then you later try option 2, then now you are
24 saying that you are inconsistent from option A,
25 option 2. Well, that's demonstrated a research process

1 of trying to find the answer.

2 I mean, I'm not sure I -- I convince you but
3 that's --

4 MR. CASAS: That's fine.

5 THE WITNESS: All right.

6 -- my impression.

7 MR. PRAGLIN: Should we take a lunch break?

8 THE WITNESS: Yeah. Why not.

9 THE VIDEOGRAPHER: We're going off the record. The
10 time is 12:36.

11 (Lunch recess.)

12 THE VIDEOGRAPHER: We're back on the record. The
13 time is 1:37. Please begin.

14 BY MR. PRAGLIN:

15 Q You all set, Mr. Ye?

16 A Yes, I am.

17 Q Did you know that ChemRisk was investigating
18 chromium contamination in Mexico in the 1995 time
19 frame?

20 A Yes, I knew that.

21 Q Were you involved in that at all?

22 A No.

23 Q Did you discuss ChemRisk's investigation into
24 the chromium contamination problems in Mexico with
25 Dr. Zhang?

1 MR. TATRO: Objection. Assumes facts not in
2 evidence, misstates the record.

3 THE WITNESS: I may -- I may have, I may not. I --
4 I don't recall one conversation or the other. I -- I
5 mentioned it, but I may have.

6 BY MR. PRAGLIN:

7 Q How did that come up?

8 A I don't recall specific conversation but I
9 think -- follow the logic, I probably will just tell him
10 that well, ChemRisk are interested in chromium
11 contamination and yours is one of them. If he ask what
12 the other ones are, I probably would have told him.

13 Q Did Dr. Zhang ever write to you to express his
14 disagreement with what ChemRisk was writing in the draft
15 of the '97 Zhang article?

16 MR. TATRO: Objection. Asked and answered.

17 THE WITNESS: Around that time I would say Dr. Zhang
18 write in and communicated, both in writing and verbally
19 in multiple places, of his view or his edits or -- or in
20 the line of those things to the conclusion or to this
21 research.

22 So when you say whether he ever wrote to me,
23 yes, he did. Whether he expressed different opinion,
24 well, he certainly sometimes have different wording and
25 a different way of expressing things, I would agree with

1 that. But whether conclusion are different, I think as
2 of November, I remember that all the conclusion are
3 agreed upon.

4 But before that time, before November, there
5 might -- there may be some exchange of saying that you
6 may think that way, I may think this way, they might be
7 slightly different in wording and, you know, sequence of
8 how to make a statement, yes.

9 BY MR. PRAGLIN:

10 Q Well, didn't he write to you specifically and
11 tell you that he disagreed with ChemRisk's conclusion on
12 its interpretation of his work?

13 MR. TATRO: Object. The question is overly broad.

14 THE WITNESS: I would say he wrote different time to
15 clarify certain points. But disagree, I -- I don't
16 know -- because to be disagreed, have to compare to
17 something, I don't -- I don't recall how do I make that
18 statement, and say he disagree on a particular
19 statement. Sitting here, I just don't recall.

20 BY MR. PRAGLIN:

21 Q So you --

22 A But I -- sorry.

23 I know he wrote to me multiple times and
24 verbally communicated many, many times of different
25 wording and different -- different part of revision, you

1 could call.

2 Q And some of those communications that he made
3 to you were about his disagreements with what ChemRisk
4 was writing in the article, weren't they?

5 MR. TATRO: Objection. Assumes facts not in
6 evidence, misstates the witness's prior testimony about
7 who was writing what.

8 THE WITNESS: Disagreement differences, how about
9 that.

10 BY MR. PRAGLIN:

11 Q You wrote to Dr. Zhang and sent him a copy of
12 what ChemRisk had written, didn't you?

13 MR. CASAS: Objection. Assumes facts not in
14 evidence.

15 Go ahead.

16 THE WITNESS: I believe in my document and in the
17 earlier testimony I had with you, there are at least the
18 one document that represent what -- by that time is
19 September what was wrote in ChemRisk to Dr. Zhang, but I
20 don't think that's the only copy -- that's the only time
21 I translate to him. And I -- at least there is a one.

22 So if you say did I ever translate to him -- to
23 him, I -- I will say yes, sure.

24 BY MR. PRAGLIN:

25 Q Let's attach a five-page set of communications

1 between you and Dr. Zhang from your file, Bates stamped
2 TY 51 through 55, as Exhibit --

3 Is it 28?

4 THE REPORTER: 29.

5 MR. PRAGLIN: -- 29.

6 (Plaintiffs' Exhibit 29 was
7 marked for identification, a copy of
8 which is attached hereto.)

9 THE WITNESS: Yes.

10 BY MR. PRAGLIN:

11 Q You recognize this document, don't you?

12 A I remember seeing this in my -- when I prepare
13 my documents to respond to your subpoena.

14 Q If Dr. Zhang had disagreed with what ChemRisk
15 was writing about his work --

16 A Uh-huh.

17 Q -- as of September of 1995, that would be
18 something that you would communicate to either
19 Dr. Kerger or Dr. Butler or Dr. Corbett at ChemRisk,
20 isn't it?

21 MR. TATRO: Objection. Assumes facts not in
22 evidence.

23 THE WITNESS: Again, I do not use the word
24 "disagreement," but any difference from point of view or
25 difference in even the wording that Dr. Zhang choose to

1 state it one way or the other, that he likes to do
2 certain things, I certainly will translate that and
3 communicate it to my supervisor, who is the Bill Butler,
4 or to -- I believe to who was the lead on this project,
5 which is Brent Kerger.

6 BY MR. PRAGLIN:

7 Q And Dr. Kerger and Dr. Butler and Dr. Corbett
8 they don't read Chinese, do they?

9 MR. TATRO: Objection. Calls for speculation.

10 MR. CASAS: Calls for speculation.

11 THE WITNESS: To my knowledge, they do not.

12 BY MR. PRAGLIN:

13 Q Where is the English translation of this
14 correspondence marked as Exhibit 29?

15 A I believe -- if it's not in my document, I
16 believe -- I don't know whether it's in my 900 or so
17 pages of documents. But if it's not, then I would say
18 the translation, I do not have it anymore in my file.

19 Q You didn't see an English translation of
20 Exhibit 29 in your file when you produced it to us this
21 week, did you?

22 A I did not look page for page but that's not --
23 I recall I do not see a translation version of this.

24 Q Look at Exhibit 29, please.

25 A Yes.

1 Q You can see at the top there's a string of fax
2 lines and it indicates that this was faxed on
3 September 6, 1995, and there's at least five pages in
4 consecutive order of the fax, correct?

5 A I agree with you, yes.

6 Q And it's from McLaren/Hart, right?

7 MR. CASAS: The document speaks for itself.

8 If you know.

9 THE WITNESS: The document has a McLaren/Hart on it,
10 yes.

11 BY MR. PRAGLIN:

12 Q Did someone white out the fax number on the top
13 line?

14 A I don't know. This is a document that I have.
15 I produced exactly to you whatever I have; so whether
16 there is a white out or not, I -- I didn't pay attention
17 to whether there is a white out.

18 Q On the third page, which is TY 53, it indicates
19 from McLaren/Hart in Alameda to a number, and it's
20 01186105125126. That's Dr. Zhang's fax number in China,
21 isn't it?

22 A 011 remind -- 01186 is a China number. But
23 sitting here, I don't know the number followed by that
24 is Dr. Zhang's number or is McLaren/Hart Beijing's
25 number. I -- I don't recall.

1 Q Can we agree, looking at pages TY 53 through
2 55, that those three pages were faxed to China from
3 McLaren/Hart-ChemRisk?

4 A Without 100 percent sure, but I tend to agree
5 with you, yes.

6 Q The pages that are marked TY 53 and 54, they
7 have some typewritten Chinese on them, correct?

8 A They -- they do, yeah.

9 Q You typed that, didn't you?

10 A I believe I did.

11 Q And then the page TY 53 and then the page
12 TY 54, they have some handwriting on the document, don't
13 they?

14 A They do.

15 Q The handwriting is Dr. Zhang's, isn't it?

16 A Look like to me it's Dr. Zhang's handwriting,
17 because they're not mine.

18 Q Looking at page TY 54 --

19 A Yes, I'm looking at it.

20 Q -- the last full paragraph of text in
21 typewritten Chinese --

22 A Yes.

23 Q -- before the references --

24 A Yes.

25 Q -- has a section that is circled and then a

1 line goes down from the circle to handwriting at the
2 bottom of the page, correct?

3 A They do.

4 Q That circle was made by Dr. Zhang, wasn't it?

5 MR. CASAS: Objection. Calls for speculation.

6 If you know.

7 THE WITNESS: I do not. Could be.

8 BY MR. PRAGLIN:

9 Q The line that goes down to the handwriting at
10 the bottom, that's Dr. Zhang's handwriting, isn't it?

11 A Looks like to me consistent with other material
12 Dr. Zhang send to me. The handwriting style, yes.

13 Q In that handwritten paragraph --

14 A Uh-huh.

15 Q -- at the bottom of TY 54 --

16 A Uh-huh.

17 Q -- that Dr. Zhang wrote, isn't he disagreeing
18 with the statement that is circled?

19 MR. CASAS: Objection. He's not going to answer
20 that question.

21 Instruct him not to answer.

22 He's not going to translate for us.

23 MR. PRAGLIN: I'm not asking for a word-for-word
24 translation.

25 Q I'm asking you, Mr. Ye, isn't it true that that

1 handwritten paragraph by Dr. Zhang expresses his
2 difference of opinion, to use your words, with what
3 ChemRisk was writing as of that point in time?

4 MR. CASAS: He would necessarily have to translate
5 it to tell you in English whether or not the Chinese
6 writing expresses what you are suggesting that it
7 expresses; so I'm going to instruct him not to answer
8 it.

9 MR. PRAGLIN: Let's mark that for the Court, please.

10 Q Did you translate Dr. Zhang's handwriting for
11 the scientists at ChemRisk, Dr. Kerger, Dr. Butler,
12 Dr. Corbett, that you were working with on the Zhang
13 article?

14 A Verbally or in writing, either way, I think I
15 did.

16 MR. PRAGLIN: Counsel, it doesn't seem fair that he
17 translated it for them but you won't allow him to do it
18 for me.

19 MR. CASAS: Oh, I'd allow him to do it for you if he
20 had the time to do it, but I'm not going to allow him to
21 do it on the spot.

22 MR. PRAGLIN: I'm not asking for a word-for-word
23 translation.

24 Q I'm asking whether or not Dr. Zhang's paragraph
25 at the bottom of TY 54 expresses his difference of

1 opinion, to use your words, with what ChemRisk had
2 written at that point.

3 MR. CASAS: Same objection.

4 MR. PRAGLIN: Same instruction?

5 MR. CASAS: Same instruction. Same instruction.
6 Same question.

7 MR. PRAGLIN: Let's mark it for the Court.

8 Q Did you ever translate on the written page
9 into English this last paragraph of handwriting by
10 Dr. Zhang at the bottom of TY 54?

11 A Well, I don't -- I don't recall the specific
12 page or specifically typing the translation. But given
13 that I was working in this scenario -- or given that all
14 my other document you can see that I documented
15 translation of even minor things Dr. Zhang told me, it
16 is reasonable to believe that I -- it is reasonable for
17 myself to believe that at the point of time I have
18 translated this material. It's just not in my -- in my
19 papers, still remaining in my possession, but it's
20 reasonable for me to -- to say as of one point in time I
21 translated this.

22 Q Was that translation in the 100 pages that have
23 been withheld from me in production that we talked about
24 yesterday?

25 MR. CASAS: Objection. Misstates the information.

1 I gave you the only document from Mr. Ye's file
2 that was withheld as outside the scope of the subpoena
3 was the Dr. Wang article, and it consisted of 12 pages
4 with a fax cover page.

5 MR. PRAGLIN: I thought yesterday you told me that
6 it might approximate 100 pages. How did it get down to
7 12?

8 MR. CASAS: It got down to 12 because I didn't know
9 exactly how many number of pages were withheld from both
10 Mr. Butler's set and Mr. Ye's set. And I subsequently
11 confirmed that, and I thought I explained that to you
12 yesterday.

13 THE WITNESS: I have to take my attorney word for
14 it.

15 BY MR. PRAGLIN:

16 Q So you don't know what happened to the English
17 translation of Dr. Zhang's paragraph at the bottom of
18 TY 54; is that right?

19 A It is not in my file, that I can tell you.
20 It's not in the -- it's not in the file, no.

21 Let me make this clear.

22 It's not in -- I don't think it's in this
23 900 or 20 so pages. I can look further but I -- I
24 just -- my impression when I accumulate this material
25 for you I -- my impression is I didn't see a

1 translation.

2 Q As you sit here now, do you remember what that
3 translation said?

4 A It must be seven years ago. No.

5 Q On the last page of Exhibit 29, TY 55 --

6 A Yeah.

7 Q -- that's Table 1, isn't it?

8 A Which Table 1? What Table 1 are you talking
9 about?

10 Q Doesn't it say "Table 1" in Chinese?

11 A Actually, no.

12 Q So you're able to read that to see that it
13 doesn't say Table 1?

14 A I just didn't find "Table 1" -- wording
15 "Table 1" in Chinese.

16 Q And you determined that after looking at that
17 page for about 10 seconds?

18 A I determined that only by reading the top line
19 of the table, because when -- when you say at Table 1,
20 my understanding is something like that should appear in
21 the first row, and the letter 1 would be very easy to
22 recognize. And letter 1 was not even in the first row
23 of this table.

24 Q Isn't the data in this table the same as the
25 data that made its way into the final Zhang article?

1 A I did not compare. But if I compare, they
2 may. They look like to me some of these number are the
3 numbers in the 1979 -- no, 1997 JOEM article.

4 Q But columns were added to this table in the
5 final article, weren't they?

6 A Well, my impression is the 1997 JOEM article
7 contains both more column and more rows than this table
8 in this document. That's my impression. I -- I could
9 do a line-by-line comparison if you want me to.

10 Q Where are the documents in Chinese that send
11 Dr. Zhang the additions to that table?

12 A To the 1997 JOEM article, right?

13 Q Right.

14 A I don't -- I don't know. I have to look for
15 it. I don't know. I -- I don't know whether it's in my
16 document of this 900 or so pages or it's not. But
17 this -- this is not.

18 Q Did you communicate the additions to the table
19 to Dr. Zhang?

20 A I think I have.

21 Q In writing?

22 A Either in writing or verbally.

23 Q The --

24 A And -- before I continue.

25 And we discuss this earlier today, that the

1 range or the range of cancer mortality in China, and I
2 remember late -- earlier you showed me a -- Dr. Zhang's
3 fax contains some of the cancer mortality rates for
4 LiaoNing province for China. And the fact that in your
5 exhibit that you demonstrated to me, you showed to me,
6 Dr. Zhang accumulated the -- or Dr. Zhang at least
7 searched for the death rate for the LiaoNing and for
8 China, that's speak by itself saying that numbers in
9 Table 1 of JOEM 1997 article, if you call them those two
10 columns addition columns, then those columns, Dr. Zhang
11 made effort to try to find numbers for those columns.

12 So the document is a evidence -- the further
13 documents we discussed is a evidence of Dr. Zhang's
14 involvement in -- in -- in edit or in coming up with the
15 Table 1 of 1997 JOEM article in my view.

16 Q But isn't it true that ChemRisk didn't use the
17 data that Dr. Zhang faxed to you, which is in
18 Exhibit 26, in the final article?

19 MR. TATRO: Objection. Lacks foundation, calls for
20 speculation.

21 THE WITNESS: What I just stated is Dr. Zhang made
22 effort looking for those numbers, and one of such effort
23 was documented in the exhibit you just mentioned.

24 Other numbers in other exhibit or in other
25 translations, I think are -- finally make it into the

1 Table 1 of 1997 JOEM article. But I -- but I disagree
2 with you that numbers you have in front of you in that
3 exhibit, none of them used in article. I don't know
4 that for sure. I have to compare.

5 BY MR. PRAGLIN:

6 Q Let's do that. Would you get out Exhibit 26,
7 the last page, which is page WB 189 --

8 A Okay.

9 Q -- and compare it to Table 1 in the final Zhang
10 article and show me where Dr. Zhang's data appears in
11 that table.

12 A Sure.

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

14 The documents speak for themselves. You can do
15 your own comparison.

16 MR. PRAGLIN: Well, I did mine. I don't see it.

17 Q See if you can show me where it is, Mr. Ye.

18 A Certainly.

19 Well, if we go to the 1997 JOEM article on
20 page 316 --

21 Q No, no. We're on 317, Table 1. That's the
22 question.

23 A Okay. I do not -- in page 317, I do not see
24 the numbers in -- by briefly looking at it, I do not see
25 the numbers in Exhibit 26. But I can point to you

1 another place in this article that paper -- that numbers
2 appeared in Exhibit 26 appeared in this article.

3 Q Where's that?

4 A In the paragraph on -- in article, paragraph on
5 page 316 to the right most column under the "Results"
6 section.

7 Going down -- I'm going to point to the
8 specific statement. This is the one of the place that I
9 see this are number used.

10 In the "Results" section, start from the eighth
11 line, sentence read as, "The rates for three of the
12 above-mentioned regions are comparable to the 1973 to
13 1975 rate of 66.1 per 100,000 for Liaoning province."

14 Q Show me where in Exhibit 26, Dr. Zhang's
15 translated fax to you, the number 66.1 per 100,000
16 appears.

17 A Okay.

18 MR. CASAS: Same objection.

19 Documents speak for themselves.

20 BY MR. PRAGLIN:

21 Q It doesn't appear, does it?

22 A It appeared as a number 66.7 instead of 66.1.

23 Q Where?

24 A In the document in Exhibit 26, last page, which
25 is WB 189, there are five items. If you go to the

1 second item, that's stated "1973 to 1977: LiaoNing
2 province cancer death rated (adjusted by age)," total is
3 66.69 over 100,000, or 10 to the power of 5.

4 The number reported in this article is 66.1.
5 The number Dr. Zhang send as of September 29th is
6 66.69. Slightly difference, I agree with you.

7 Q So you must have done some comparison to
8 something to round that number down to 66.1 from 66.69,
9 right?

10 A May not be. Maybe Dr. Zhang later time further
11 determined that it 66.1 instead of 66.69.

12 Q Couldn't it also be true that ChemRisk just
13 made up that data?

14 MR. CASAS: Objection. Calls for speculation, it's
15 argumentative.

16 THE WITNESS: I think this number we can find the
17 source, either from a published source or from
18 communications with Dr. Zhang. But scientifically
19 speaking, a 66.69 to 66.10, I don't think make any
20 difference in the conclusion of this article.

21 BY MR. PRAGLIN:

22 Q If ChemRisk made up the data, you'd agree that
23 would be scientific fraud, wouldn't you?

24 MR. TATRO: Objection. The question is
25 argumentative, assumes facts not in evidence, overly

1 broad.

2 THE WITNESS: Again, I believe 66.69 is a -- is a
3 number I can -- if I redo the research, I can find a
4 source for it.

5 BY MR. PRAGLIN:

6 Q Let's try and answer my question, Mr. Ye.

7 Wouldn't you agree that if ChemRisk made up the
8 data, that would be scientific fraud?

9 MR. CASAS: Objection.

10 MR. TATRO: Same objections. Asked and answered.

11 THE WITNESS: You're asking me for a hypothetical
12 scenario. But hypothetical scenario, I will answer
13 that. If anyone making up data without any basis, it
14 would be wrong.

15 BY MR. PRAGLIN:

16 Q What did ChemRisk check to see if Dr. Zhang's
17 number of 66.69 was accurate?

18 MR. CASAS: Objection. Calls for speculation.

19 If you know.

20 THE WITNESS: I can tell you that there is a
21 document in my production which is a -- a document that
22 earlier time we discussed which is a cancer mortality
23 reported in a published book, I believe. If you call
24 that a step to verification, yeah, that's one of the
25 step of verification. There might be other steps of

1 verification, I just don't recall, and I have not listed
2 all of them in front of you.

3 BY MR. PRAGLIN:

4 Q Well, isn't it true that the Chinese Cancer
5 Atlas does not confirm the number of 66.69 that
6 Dr. Zhang used in Exhibit 26?

7 MR. CASAS: Objection. Calls for speculation.

8 THE WITNESS: Sitting here, I really don't know.
9 I have to check. The number are contained in that book
10 and in the pages I copied from that book. And we could
11 go back to check all the numbers.

12 BY MR. PRAGLIN:

13 Q That book are the excerpts that are marked as
14 Exhibit 27, right?

15 A Yes, it is, I believe so.

16 Q And so you're saying that that number, 66.69,
17 should appear in Exhibit 27, right?

18 MR. CASAS: Objection. Misstates the testimony,
19 calls for speculation.

20 If you know.

21 THE WITNESS: I do not. I know the document,
22 Exhibit 27, is -- shows one step of ChemRisk used around
23 that time to confirm numbers reported from Dr. Zhang. I
24 can say that as a statement. It is one out of -- out of
25 many steps, maybe.

1 Whether the 66.69 is contained in this number
2 or from this number you can arrive the 66.69, I
3 really -- I have to redo the research again, I have to
4 read this document and see what's a reasonable way in
5 statistical estimation to come up close to the 66.9 --
6 .69 or 66.10, which was published in the JOEM is
7 article. Simply --

8 BY MR. PRAGLIN:

9 Q Who at ChemRisk did this process of confirming
10 the number of 66.1 that was put in the '97 article?

11 A I believe that the -- I will say that many
12 people involved, but the ultimate decision was made by
13 senior scientists like Bill Butler or Brent Kerger. But
14 I may enter Bill Butler's or Brent Kerger's instruction
15 and other scientists may enter their instruction to do
16 certain part of this comparison.

17 Q For what cancer is that 66.1 per 100,000
18 number?

19 A I think it's just --

20 Just hold on for a moment. I think it's for
21 all cancers. I think it's for all cancers. All
22 cancers.

23 Q And isn't it true that you didn't have numbers
24 that were comparable for the six suburb regions to the
25 overall total cancer mortality rate for China?

1 MR. CASAS: Objection. Vague and ambiguous, calls
2 for speculation.

3 THE WITNESS: I don't recall, but that might be
4 true, may not be true. I don't recall.

5 As presented in this paper, in the JOEM 1997
6 paper, the comparison was made of the suburban region of
7 JinZhou to LiaoNing province, JinZhou is a part of
8 LiaoNing province. That's what the document stated and
9 I think that's a right statement.

10 BY MR. PRAGLIN:

11 Q How was that comparison made?

12 A Well, the -- it's stated in the document of
13 JOEM article, in the "Results" section, first
14 paragraph. It listed the cancer mortality rate for each
15 of the five, six or seven suburban -- suburban areas of
16 JinZhou, and it's listed LiaoNing as 66.1, which the
17 LiaoNing province, we just went through the 66.1.

18 So the comparison is stated right there.
19 That's a -- anyone can read it and can compare the
20 number in there.

21 Q So there wasn't a calculation that was made,
22 you're just looking at the numbers to see if they
23 compare; is that right?

24 A I -- I don't --

25 MR. CASAS: Objection. It's vague and ambiguous.

1 THE WITNESS: You have to read the -- I have to read
2 the document to see whether, other than this paragraph,
3 is there any other place to further compare them, but
4 numbers stated in this paragraph is just -- that's the
5 rate comparison.

6 BY MR. PRAGLIN:

7 Q Well, where did the numbers for the six suburb
8 regions come from?

9 A I believe they came from Dr. Zhang.

10 Q Who cross-checked those numbers against actual
11 data?

12 A Well, Dr. Zhang would have to. I mean, from
13 ChemRisk office, I don't think -- I don't think we found
14 a source, unlike the cancer rate in China we can find a
15 source.

16 Cancer rate with this -- with this small
17 regions in JinZhou, I don't think ChemRisk can find such
18 source to confirm or disconfirm either way. We have
19 to -- and this cancer rate, I think it was documented by
20 Dr. Zhang; so we -- I think whatever appear this -- in
21 this paper is what Dr. Zhang provided. That's all.

22 Q Well, isn't it true that there were no records
23 on the number of cancer deaths or the number of subjects
24 used to calculate the cancer mortality rates presented
25 in Dr. Zhang's work?

1 A I remember in five transcript -- five
2 manuscript that I translate, I translated for Dr. Zhang,
3 initially we had a difficulty to find the number of
4 deaths and the number of population at risk for
5 Dr. Zhang's reported deaths rate. I remember we had
6 difficulty, and I remembered, per the request of
7 Bill Butler, I talked with Dr. Zhang multiple times,
8 tried to see whether Dr. Zhang can find those
9 information. And I recall that in that procedure,
10 Dr. Zhang find some information, if not all. I just --
11 that's -- that's the procedure I recalled.

12 Q Wouldn't it be true that if ChemRisk did not
13 have the number of cancer deaths, which would be the
14 numerator, or the number of people, which would be the
15 denominator, or for each suburb or for each village,
16 that that would be a problem in the analysis?

17 MR. TATRO: Objection.

18 MR. CASAS: Objection. Vague and ambiguous, calls
19 for speculation.

20 THE WITNESS: From a statistician perspective, I
21 will say not necessarily. Not necessarily.

22 The reason for that is first you have a -- you
23 have the death rate reported by Dr. Zhang, and we know
24 this death rate at a point of time was calculated based
25 on the formula you just mentioned. You use the number

1 of deaths divided by population.

2 If we do not have the population and if we do
3 not have the deaths, if Dr. Zhang can recall or can get
4 a reasonable estimation of how much death and how many
5 population in that places, in those villages, I will say
6 you can still do a analysis but you have to -- but given
7 that you do that analysis you know that you are -- your
8 analysis is subject to the amount of uncertainty of --
9 because of the data is not --

10 How do I say?

11 Because of the data is not readily in the form
12 of death and population, but it's not in any way invalid
13 your analysis. Actually in statistics, we -- as
14 statistician, we estimate a number, probably all the
15 time.

16 BY MR. PRAGLIN:

17 Q So Bill Butler never told you that not having
18 at least one of the quantities, either the numerator or
19 the denominator, that that would prevent you from
20 performing statistical analysis on the cancer death
21 rates?

22 MR. CASAS: Objection. Calls for speculation, vague
23 and ambiguous.

24 Go ahead.

25 THE WITNESS: I think around that time the -- my

1 impression is Dr. Butler's position is for the three
2 number, death rate, number of deaths and the population,
3 as long as you know two, you would be able to calculate
4 the other.

5 BY MR. PRAGLIN:

6 Q Didn't you have a concern that without some raw
7 data and statistical analysis, even if it was only
8 approximate, that you didn't see a journal accepting
9 ChemRisk's examination of Zhang's results?

10 MR. TATRO: Objection. Lacks context, it's overly
11 broad, vague and ambiguous.

12 THE WITNESS: Around that time we had different
13 discussions, me and Dr. -- and also with several phone
14 calls with Dr. Zhang and maybe with Mr. Brent Kerger, we
15 have different discussions of what is -- what can be
16 done if some of the data are not -- if some of the
17 information are not -- are -- are not exact. It's
18 not -- we have different discussion on that.

19 At one point of time I may have said one thing
20 or the other saying that well, this is -- may not be
21 reasonable estimation for me. But at one point of time
22 in one scenario I may say such sentence, but you have to
23 put such sentence back into the context, because -- and
24 I don't know when did I say that.

25 If I said that in August before I have this

1 population number in September, then my statement is --
2 certainly cannot be used to judge my position in
3 September or in November of 1995.

4 BY MR. PRAGLIN:

5 Q So you didn't have some concern that a journal
6 might not accept the publication because of the lack of
7 cancer death rate data?

8 A Again, that's not my impression. I don't
9 recall that.

10 Q Let's attach as Exhibit 30 a memo from you to
11 Bill Butler, Brent Kerger and Gwen Corbett dated
12 August 4, 1995 regarding your summary of your
13 conversation with Dr. Zhang on August 3, Bates stamped
14 from your file TY 24 through 26.

15 (Plaintiffs' Exhibit 30 was
16 marked for identification, a copy of
17 which is attached hereto.)

18 THE WITNESS: Sure.

19 BY MR. PRAGLIN:

20 Q Do you have Exhibit 30 in front of you, Mr. Ye?

21 A Yes, I do, Mr. Praglin.

22 Q You wrote that memo, didn't you?

23 A It's stated from me. I believe so.

24 Q Look down at item number 1 at the bottom of the
25 first page, please.

1 A Yes, I do.

2 Q Would you read that entire paragraph into the
3 record, please, what you wrote on August 4, 1995?

4 A Sure.

5 "Dr. Zhang said that he had no records on the
6 number of cancer deaths or on the number of subjects
7 used to calculate the cancer mortality rates presented
8 in the manuscript that he provided to us. Thus,
9 ChemRisk does not have the number of cancer deaths
10 (numerator) or the number of people (denominator) for
11 each suburb or for each village. (Note from Butler:
12 Not having at least one of these quantities prevents us
13 from performing statistical analyses on the cancer death
14 rates. Without such analyses, ChemRisk can only present
15 descriptive materials on the rates (as presented in
16 Dr. Zhang's manuscript). Without some 'raw' data and
17 statistical analyses (even if it is only approximate), I
18 do not see a journal accepting our examination of
19 Zhang's results. However, even without the raw data,
20 these results are still very useful for the ADR."

21 Q What is ADR?

22 A I don't know.

23 Q You must have known at the time, right?

24 A I may know at the -- around the time.

25 Q This was a memo that you sent to your bosses,

1 right?

2 A As I just read, this entire -- including the
3 ADR part, is a note from Butler.

4 Q Are you sure?

5 A I'm not sure but it's appear on this document,
6 it does appear to be the case to me.

7 Q Look at the top line of Exhibit 30. Doesn't it
8 say to Bill Butler, Brent Kerger, Gwen Corbett, from
9 Tony Ye?

10 A That's stated on this piece of paper, yes.

11 Q Doesn't it mean that you wrote Exhibit 30?

12 A Actually, this is something I need to clear.

13 Around that time as assistant scientist, I may
14 draft a report, contains all my -- some of my thought on
15 a research project. I normally will go down to
16 Bill Butler's office, which is just four office from my
17 office, I normally will show him my draft version and
18 Bill Butler will make certain comments or notes into the
19 draft.

20 Although he may -- he already seen this, he
21 already made a note into it, in the draft according
22 to -- in the memo, I still state it to Bill Butler from
23 Tony Ye, even though he saw it and he make a note. In
24 this case, I think the note is from him. It's stated in
25 this document "Note from Butler." I didn't take his

1 credit.

2 Q You're saying that the second page of
3 Exhibit 30, the second line --

4 A Uh-huh.

5 Q -- references a note from Butler, correct?

6 A Hold on for a moment.

7 The -- the second line start with a parentheses
8 and the parentheses was not ended until the last line of
9 this paragraph.

10 Q So you're saying that all of that parentheses
11 is a note from Butler?

12 A I don't recall but it's very likely, yes.

13 Q So you're really not sure whether you wrote
14 Exhibit 30, are you?

15 A I wrote -- well, I'm -- given what you just
16 said, I'm not sure. They are -- Exhibit 30 at least
17 contains some of Butler's notes. In this case, I know
18 these few lines are -- clearly stated in the document
19 are Mr. Butler's notes.

20 Q So a document that you're looking at,
21 Exhibit 30 that's in English --

22 A Uh-huh.

23 Q -- with your name as the author, you're not
24 even sure whether you wrote it; is that right?

25 A I won't say that way.

1 Q So are you sure that you wrote it?

2 MR. CASAS: Objection. It's argumentative, it's
3 been asked and answered.

4 THE WITNESS: I describe how this happened. I
5 described to you that when I write something, if
6 Dr. Butler make comments on my writing, normally he
7 would make a -- in parentheses; so, presumably, other
8 part of this document which is not in parentheses saying
9 Butler notes, then should be me or would be me.

10 BY MR. PRAGLIN:

11 Q If you turn the page to page 3 of Exhibit 30 --

12 A Yes.

13 Q -- this is item number 6 --

14 A Yes.

15 Q -- in the memo that says it's from you.

16 A Yes.

17 Q It says, "Dr.Zhang (sic) said that he can find
18 the rates of cancer death (including lung cancer and
19 stomach cancer death rate) during 1973 to 1975 for
20 LiaoNing province, which is a broader area containing
21 JinZhou."

22 Have I read that correctly?

23 A You did.

24 Q I want to make sure I understand this.

25 A Sure.

1 Q The broader area is LiaoNing?

2 A Yes.

3 Q Within that is a smaller area known as JinZhou?

4 A Yes.

5 Q And within JinZhou there were six villages?

6 MR. TATRO: Objection.

7 MR. CASAS: Objection.

8 THE WITNESS: To my knowledge, JinZhou refer to --
9 possibly refer to two things. One is the greater
10 JinZhou -- JinZhou area, including the villages,
11 including the suburb. Some people also refer JinZhou as
12 the downtown city of JinZhou; so JinZhou can mean a
13 smaller and a little bit broader places.

14 But either way, JinZhou along with the suburb,
15 included in the general province of LiaoNing.

16 BY MR. PRAGLIN:

17 Q And the villages that are contained in Table 1
18 of the Zhang article reside within JinZhou; is that
19 right?

20 A It's a suburb of JinZhou.

21 Q Okay. So I drew a little diagram and I'm going
22 to mark it as Exhibit 31, and let's see if I have
23 correctly conceptualized the relationship between
24 LiaoNing, JinZhou and the villages.

25 A Yes, I can help you.

1 Q And if I'm wrong, you can tell me.

2 A I hope I can tell you, yes.

3 MR. PRAGLIN: Mark it as Exhibit 31.

4 MR. TATRO: I'm going to object to your
5 characterization of, quote, the villages as being vague
6 and ambiguous because of the number and identification
7 information being omitted.

8 MR. CASAS: I'm going to also object to the
9 exercise. It's akin to a translation.

10 There must be a map, some official map that
11 shows where these towns are located within JinZhou.

12 MR. PRAGLIN: Okay. Well, let's just see if my
13 conceptual understanding is correct.

14 Can we mark that, please?

15 (Plaintiffs' Exhibit 31 was
16 marked for identification, a copy of
17 which is attached hereto.)

18 MR. CASAS: If you feel comfortable in doing this
19 without a map, some kind of an official map in front of
20 you, that's fine.

21 THE WITNESS: Only based on my general knowledge of
22 the geographic region in China, just like anyone may
23 be -- may be wrong in geographic regions in the United
24 States, I could be wrong in China -- in the China -- on
25 the China map as well. But to my best knowledge, I

1 will -- I will try to --

2 BY MR. PRAGLIN:

3 Q We can agree Exhibit 31 is not a map of China,
4 can't we?

5 A We do. This is your conceptual map.

6 Q Right. I knew you understood.

7 So is it true that the LiaoNing province is the
8 larger area?

9 A Of JinZhou?

10 To my knowledge, it is. Just your outside
11 circle.

12 Q And then within the outside circle I drew
13 another circle which I've labeled "JinZhou." You see
14 that?

15 A Correct.

16 Q And that would be the region that would at
17 least contain some of the villages; is that right?

18 MR. CASAS: Objection. Misstates his testimony.

19 MR. TATRO: Same objection that I made earlier
20 regarding the use of the phrase, quote, the villages.

21 And also, now that I have an opportunity to
22 look at 31, I have no idea if that is scale or not scale
23 or, you know, the way you have it drawn is LiaoNing is
24 very nearly a circle and JinZhou is very nearly a circle
25 and there's six villages that are circles of various

1 sizes. I don't know if --

2 MR. CASAS: This must be his ideal community.

3 MR. TATRO: Apparently. Planned unit development.

4 THE WITNESS: Well, if I understand your map
5 correctly, I will say your second circle here
6 representing JinZhou is a general JinZhou area,
7 including downtown and suburb -- suburbs of JinZhou.

8 BY MR. PRAGLIN:

9 Q Okay. And then within the general JinZhou area
10 including downtown and suburbs would be some villages
11 that Dr. Zhang studied; is that right?

12 A I -- I think some of the city -- some of the
13 villages represented by you in the small circles you can
14 say conceptually those are Dr. Zhang's villages that he
15 presented in the 1997 JOEM article.

16 Q So isn't it true that there were no cancer
17 rates available for the villages themselves?

18 A Other than -- nothing I know of other than what
19 Dr. Zhang told me.

20 Q And isn't it true that there were no cancer
21 rates available for the JinZhou province itself?

22 A JinZhou is not a province, it is a region or a
23 city.

24 Q I'll restate my question.

25 Isn't it true that there were no cancer rates

1 available for the JinZhou region itself?

2 A I -- I don't --

3 MR. CASAS: Objection. Calls for speculation.

4 If you know.

5 THE WITNESS: I do not. I do not know.

6 BY MR. PRAGLIN:

7 Q You never saw any, did you?

8 A If I saw it, I probably forgot because it's

9 never registered into my mind. I just don't know.

10 Q And so in the '97 Zhang article --

11 A Uh-huh.

12 Q -- on page 316 --

13 A 316. Okay.

14 Q -- under the "Results" section, the right-hand
15 column, the sentence then says, "The rates for three of
16 the above-mentioned regions are comparable to the 1973
17 to 1975 rate of 66.1 per 100,000 for Liaoning province,"
18 that rate corresponds to the largest area drawn on
19 Exhibit 31, correct?

20 A Corresponds to Liaoning, yeah.

21 Q That was a yes?

22 A That's a yes.

23 Q And the regions that are mentioned --

24 A Yes.

25 Q -- in the '97 article --

1 A Yes.

2 Q -- on page 316 --

3 A Yes.

4 Q -- the Nuer River Region, the ZhongTun Region,
5 the GuoShu Region --

6 A Uh-huh.

7 Q -- the West Suburb Region, the XueJia Region --

8 A Yes.

9 Q -- and the North Suburb Region --

10 A Yes.

11 Q -- those are not the same areas that are in
12 Table 1 in the '97 article, are they?

13 A They are in Figure 1.

14 Q They're not in Table 1, are they?

15 MR. CASAS: Objection. The document speaks for
16 itself.

17 THE WITNESS: Well, they include the villages in
18 Table 1. How's that?

19 BY MR. PRAGLIN:

20 Q Let's stick with my question.

21 Isn't it true that those areas are not included
22 in Table 1? They're not listed, are they?

23 A They're --

24 MR. CASAS: Same objections.

25 THE WITNESS: They're not listed.

1 BY MR. PRAGLIN:

2 Q They're different, aren't they?

3 A They include the villages in Table 1.

4 Q Isn't it true that the '97 article doesn't
5 point out that the regions that are discussed in the
6 "Results" column are different than the villages that
7 are in Table 1 on the next page of the '97 article?

8 MR. CASAS: Same objections.

9 THE WITNESS: I -- to be honest, I -- I don't know
10 how to answer your question. The "Result" section here
11 printed on the same page with Figure 1, which is this
12 map.

13 BY MR. PRAGLIN:

14 Q We're talking about Table 1, Mr. Ye.

15 A Which is the --

16 Q I'll restate the question.

17 A Which is on the second page.

18 I think for a reader who reads this article, if
19 I'm a reader now, I will say I'm going to find those
20 places on this map first. Do I? They're on the same
21 page. Does that make sense to just look for it? Make
22 perfect sense to me.

23 Q Where does the '97 article discuss a comparison
24 of cancer death rates for the five villages in Table 1
25 compared to the LiaoNing province? It doesn't, does

1 it?

2 A Well --

3 MR. CASAS: Same objection. It speaks for itself.

4 THE WITNESS: Actually, not only it's discussed,
5 it's right on the first page.

6 BY MR. PRAGLIN:

7 Q Show me.

8 A In the first page, in the italics letters,
9 which is summary, I assume people will read summary
10 first, in the summary there is a sentence saying, "In
11 our previous report, we stated that a significant excess
12 of overall cancer mortality was observed in five
13 chromium (VI)-contaminated villages combined."

14 I think these five villages are -- are -- refer
15 to the five villages in Table 1. And stated clearly,
16 they are -- they are higher. They are higher. They are
17 higher than compared to --

18 Q That's a reference to the '87 article, isn't
19 it?

20 A I think so.

21 Q It's not a reference a reference to Table 1 in
22 the '97 article, is it?

23 A It's reference to the five villages in the --
24 in the article, yeah. Sure. It's -- it's a reference
25 to the five villages in Table 1. And this article has

1 not saying that these five villages combined is -- is
2 indeed different than the previous reports.

3 There are -- I -- by reading this report,
4 reading this article, they're still higher. And we --
5 we are saying that this -- this article is saying that
6 it is significantly higher. That's clear to me.
7 They're higher.

8 Q At Brent Kerger's suggestions, you made edits
9 to Table 1 before the '97 article was published, didn't
10 you?

11 A I believe I did.

12 Q And you changed some of the numbers for cancer
13 mortality in that table, didn't you?

14 A I made some changes but I don't know -- I don't
15 recall which exact column I changed. It's probably
16 produced in my material here if you allow me to look up.
17 Or if you already did, then just let me know.

18 Q Would you look at Exhibit 1, please --

19 A Yes.

20 Q -- page TY 448.

21 A 448 it is. Yes.

22 Q You wrote this memo, didn't you?

23 A I believe so.

24 Q It says "From Tony Ye," doesn't it?

25 A It says that.

1 Q And it says "To Brent Kerger and Bill Butler,"
2 doesn't it?

3 A It said it, yes.

4 Q And it's dated September 6, 1995, isn't it?

5 A Yes.

6 Q Doesn't that memo tell you that you wrote it?

7 A Yes.

8 Q Would you read what you wrote, please?

9 A Sure.

10 MR. CASAS: Out loud or to himself?

11 MR. PRAGLIN: Out loud, please.

12 THE WITNESS: "According to the suggestion from
13 Dr. Kerger on September 5, 1995, I made the following
14 edit to the draft."

15 BY MR. PRAGLIN:

16 Q Could you read a little louder, please, and
17 maybe start over because I can barely hear you.

18 A Oh, sure.

19 "According to the suggestion from Dr. Kerger on
20 September 5, 1995, I made the following edit to the
21 draft."

22 Am I loud enough?

23 Q Thank you.

24 A "I add a collum (sic) in the table which shows
25 the range of average death rate of provinces in China.

1 A more relevant alternative is the range of LiaoNing
2 province, where JinZhou is belong to. Unfortunate, we
3 do not have that information. We only have the average
4 of LiaoNing province which is lower than the smallest
5 value in the table.

6 "According to my conversation with Dr. Zhang, I
7 make some edits in the 'Results' section. Please make a
8 note of it."

9 Q So you used in Table 1 the average of LiaoNing
10 and not the range, right?

11 A No, that's not what this statement -- this
12 document said. This document said it's take the -- in
13 China, just like -- China has probably 30 province. You
14 can -- you can think of 50 states in the United States.
15 For the 30 province, each province has a cancer
16 mortality rate. Some of them higher, some of them are
17 lower.

18 So the range of the 30 province from the high
19 to the low, to my understanding, is what presented or
20 what edits I was asked to make in this -- on this
21 exhibit.

22 Q Let's look at what you actually wrote --

23 A Uh-huh.

24 Q -- on page TY 448 on September 6, 1995.

25 A Yes.

1 Q The fifth line down --

2 A Uh-huh.

3 Q -- you wrote, "Unfortunate, we do not have that
4 information."

5 A Yes.

6 Q "We only have the average of Liaoning province
7 which is lower than the smallest value in the table."

8 You wrote that, right?

9 A I did.

10 Q So you only had the average of Liaoning
11 province; isn't that true?

12 A At that time I -- I think that's true.

13 Q And isn't it --

14 A It's documented by this piece of paper.

15 Q And isn't it true that in the "Results"
16 section --

17 A Uh-huh.

18 Q -- of the '97 article on the right column --

19 A Uh-huh.

20 Q -- the eighth line down --

21 A Uh-huh.

22 Q -- you say, "The rates for three of the
23 above-mentioned regions are comparable to the 1973 to
24 1975 rate of 66.1 per 100,000 for Liaoning province,"
25 but you don't say that that was an average?

1 A Well, the results of the rates of the three
2 above-mentioned regions are comparable to the person --
3 of the three 66.1 person per 100,000 is not average.

4 Q You don't say it's an average in the article,
5 do you?

6 A I do not read -- you -- in this paragraph I --
7 I did not find that the word "average" in here, no. But
8 I -- I think that anyone reading that will assume that
9 this is average, don't you think?

10 Q And you don't use the average rate for the
11 LiaoNing province in Table 1 in the '97 article, do
12 you?

13 A I agree that the average was not presented in
14 Table 1 for LiaoNing.

15 Q And in fact, in Table 1 of the '97 article you
16 only use a range of average rates for all of China;
17 isn't that true?

18 A That's a range for all of the China. I think
19 so. It's -- it's labeled as such, too. "Range of
20 Average Rates in China."

21 Q And Brent Kerger approved of Table 1, didn't
22 he?

23 A I will say yes, either Brent Kerger or
24 Bill Butler, one of them.

25 MR. PRAGLIN: Let's mark as Exhibit 32 a document

1 from Bill Butler's file Bates stamped 71 through 85.

2 (Plaintiffs' Exhibit 32 was
3 marked for identification, a copy of
4 which is attached hereto.)

5 MR. CASAS: We just had 30. Did I miss 31?

6 MR. PRAGLIN: 31 was that cool little map of China.

7 MR. CASAS: Oh, the cool map.

8 MR. PRAGLIN: I'm being facetious.

9 MR. CASAS: Thank you.

10 MR. TATRO: You're on 33 now?

11 MR. PRAGLIN: Yes.

12 MR. TATRO: I screwed up my numbering.

13 THE REPORTER: It's 32.

14 MR. TATRO: That's the summary and critique
15 document?

16 THE REPORTER: Yes.

17 MR. CASAS: Do you have another 32?

18 MR. PRAGLIN: You know, I don't. And I only have
19 one question about this.

20 Q Did you write this?

21 A Sitting here, I don't know. I don't know.

22 Q Could you look it over and tell me if you wrote
23 it.

24 A I -- it's a long document. Want me to read
25 it? Sure.

1 Q No. I mean, can you look at it and recognize
2 whether it was written by you?

3 A Around that time there were a lot of document
4 and in English and in Chinese I write and other people
5 wrote. It's vary sometimes -- the language are
6 sometimes very similar, too, because it's on the same
7 subject, chromium research.

8 But I can -- per your request, I will just
9 brief look at this and I'll just tell you my
10 impression. How about that?

11 Q Why don't you skim it, to use a phrase.

12 A Okay. I still cannot tell. This could be
13 written by me but it's also likely to be written by
14 Bill Butler. If you found this in Bill Butler's file,
15 you may have his previous page other than WB 71. In the
16 previous page other than WB 71, you may have a cover
17 page saying that this is a memo to file from Bill Butler
18 or from whom, I really don't -- just by reading the page
19 you gave me from Butler's file, I -- I cannot tell one
20 way or the other that -- whose -- who wrote this thing.

21 Q I'll give you the previous pages from
22 Mr. Butler's production --

23 A Okay.

24 Q -- going all the way back to WB 62, just so
25 that you can confirm the document --

1 A Okay.

2 Q -- from which Exhibit 32 came.

3 A Thank you.

4 I saw it. Okay. Thank you.

5 Q It comes from an analysis by ChemRisk, doesn't
6 it?

7 A Correct.

8 Q Written in approximately September of '95,
9 correct?

10 A August.

11 Q Thank you. August.

12 And did you receive a copy of this?

13 MR. TATRO: "This" is Exhibit 32?

14 MR. PRAGLIN: Yes.

15 MR. TATRO: Then --

16 THE WITNESS: I will say at one point in time I may
17 have received this, I -- I don't recall one way or the
18 other. I may have.

19 MR. TATRO: Gary, I'm sorry. Was it his testimony
20 that Exhibit 32 was written in September of '95 --

21 MR. PRAGLIN: No, he said August.

22 THE WITNESS: The document speak for itself.

23 MR. CASAS: 32.

24 MR. TATRO: So Exhibit 32 is written before the
25 document that it came from? Is that --

1 MR. PRAGLIN: You know what, maybe you should
2 clarify it with him when you ask questions.

3 MR. TATRO: I'm trying to figure out your questions.

4 BY MR. PRAGLIN:

5 Q Do you remember that ChemRisk was doing an
6 analysis of Dr. Zhang's work in the months of, say, May
7 to December of '95?

8 A I'll say from my participation into this
9 project, which is around May to November, end of
10 November, ChemRisk was working on this chromium
11 research. Whether ChemRisk has a separate critique than
12 this 198- -- 1997 article from JOEM -- to JOEM from
13 Dr. Zhang, I -- I don't know. I don't know how to try
14 to do that.

15 MR. PRAGLIN: We need to change tapes so we'll take
16 a short break.

17 THE WITNESS: Okay. I'll be back.

18 THE VIDEOGRAPHER: This marks the end of videotape
19 number six in the deposition of Tony Ye. We're going
20 off the record. The time is 2:40.

21 (Off the record.)

22 THE VIDEOGRAPHER: We're back on the record. Here
23 marks the beginning of tape number seven in the
24 deposition of Tony Ye. The time is 2:47. Please begin.

25 BY MR. PRAGLIN:

1 Q Mr. Ye, yesterday we marked a document as
2 Exhibit 14. Would you go back to that, please.

3 A Certainly.

4 Yes, I'm right on the -- I'm right on the
5 document. Exhibit 14.

6 Q This is the memo that Tom Flahive sent to you
7 with the letter that he drafted for your name to be sent
8 to JOEM's publisher under your signature block on plain
9 white paper with no signature, correct?

10 A That's what I believe, yes.

11 Q And that letter is attached as the second page
12 of Exhibit 14, right?

13 A Yes.

14 Q And you saw this letter before Mr. Flahive had
15 it mailed out without a signature on plain white paper,
16 didn't you?

17 A I saw this paper. I -- I saw this piece of
18 paper as of the date on this fax, certainly. But
19 whether it was before or after he mailed it, I -- you
20 have to confirm with his side because he mail it, not
21 me.

22 Q And Mr. Flahive worked for ChemRisk, right?

23 A That's my belief, yes.

24 Q So you think he might have mailed it without
25 you seeing it first?

1 A I don't know.

2 Q Now --

3 A I have no personal --

4 How do you say it? Other than in doing this
5 project, I have no other contact with Mr. Flahive, so I
6 do not have a basis to say one way or the other.

7 Q When you saw this letter, whenever you saw
8 it --

9 A Uh-huh.

10 Q -- were you concerned that the journal or the
11 journal's publisher was going to be misled?

12 MR. CASAS: Objection. Asked and answered I believe
13 yesterday.

14 THE WITNESS: I -- no, that's not -- I -- that's not
15 any of my concern.

16 BY MR. PRAGLIN:

17 Q Did you think that maybe the journal was being
18 misled about the reason for asking for a waiver of the
19 \$350 publication fee?

20 A No. I didn't think of that that way.

21 Q You thought that the reason given was true?

22 A I thought that no one wants to pay the 350 --
23 the \$350. That's what it indicated to me. No one wants
24 to pay for it; so see if the whether journal can waive
25 it. That's it.

1 Q But the letter gives as a reason the fact that
2 it would be an imposition of a substantial financial
3 burden on Dr. Zhang who is retired and living in China,
4 doesn't it?

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

6 You know, Counsel, we went through this
7 yesterday ad nauseam. I mean, if this is all that we
8 have left --

9 MR. PRAGLIN: It's not.

10 MR. CASAS: -- to go over, this fee --

11 MR. PRAGLIN: This is foundational.

12 MR. CASAS: He's asked and answered your questions.

13 BY MR. PRAGLIN:

14 Q Isn't it true that's what the letter says?

15 A That's what the letter says, yes.

16 Q And the statement that Dr. Zhang is retired,
17 that was false, wasn't it?

18 MR. CASAS: Objection. That question has been asked
19 and answered yesterday.

20 THE WITNESS: No. He was retired but -- at this
21 time.

22 BY MR. PRAGLIN:

23 Q Wasn't he working in Southeast Asia in
24 Malaysia?

25 A Well, my understanding is that even if you

1 retire, you can still have some activities, right?

2 Many -- many retired people here do the same thing.

3 Q Wasn't he still trying to earn money with a
4 business in Malaysia as of that point in time?

5 A I -- I do not know. This is a question you
6 asked me yesterday. I -- my understanding were -- at
7 least Dr. Zhang represented to me was he was invited to
8 Malaysia for a international research on some
9 contamination work or research. But I -- I -- my
10 impression is not his own company or he trying to open a
11 company with another guy. He didn't tell me that until
12 you said it yesterday. I -- that's not my impression.

13 Q And you didn't receive correspondence or send
14 correspondence to Dr. Zhang about his business
15 activities in Malaysia?

16 A I know -- I knew he went to Malaysia. But
17 again, my impression was he went to Malaysia in a --
18 academic setting, which is a research based rather than
19 business based.

20 Q So the statement in Exhibit 14 that Dr. Zhang
21 was living in China, that was false, wasn't it?

22 A How that be false? Because as of the date of
23 February 26th, I think Dr. Zhang was in China.

24 Q Can you show me a document to prove that?

25 A I do not. I -- I may be able to. I don't know

1 one way or the other where he was around February of
2 1997.

3 My understanding is Dr. Zhang travel to
4 Malaysia only on a short term; so Dr. Zhang I think
5 considered himself permanent regular residence still in
6 China.

7 Q Would your definition of a "short term" be
8 three years?

9 A No. I think that three months would be a short
10 term, not three years.

11 Q What country did Dr. Zhang die in?

12 A I do not know. I do not know he was -- he died
13 before this -- before this deposition.

14 Q Was he working for McLaren/Hart-ChemRisk when
15 he died?

16 A I don't know.

17 Q Never heard anything about that?

18 A No. Only a few days ago I heard the news he
19 died.

20 MR. PRAGLIN: Let's mark as Exhibit 33 a memo from
21 Mr. Butler's file, Bates stamped WB 117 through 122.

22 (Plaintiffs' Exhibit 33 was
23 marked for identification, a copy of
24 which is attached hereto.)

25 THE WITNESS: Yes.

1 BY MR. PRAGLIN:

2 Q Did you receive a copy of this memo?

3 A Let me have a brief review.

4 I don't think so. I don't think so.

5 Q Look at the second page, please.

6 A That's where I'm looking at right now.

7 Q Do you see the section marked "Approximate
8 Budget"?

9 A Yes, I saw that.

10 Q It says, and this is Mr. Butler writing this,
11 "I believe that this amount will be" --

12 I'm sorry, I'll start over.

13 He writes, "I believe that this amount will
14 fund the writing the first draft of the first report
15 (pending edits from you, Paustenbach, Finley and others)
16 and probably the second as well."

17 You weren't aware that there were at least two
18 drafts planned by ChemRisk?

19 A I was not.

20 Q Do you see your name in that budget?

21 A Yes.

22 Q It has you down there for 75 hours at \$90 an
23 hour for a total of \$6,750, correct?

24 A That's right.

25 Q Does that sound like the amount of work that

1 you did on the Zhang project?

2 A I would say I probably spent more than
3 75 hours.

4 Q And then there's a section there marked
5 "Secretary," and it budgets for word processing, right?

6 A I saw that, too, yes.

7 Q Secretaries at ChemRisk did word processing on
8 the Zhang article, didn't they?

9 A They certainly typed them in English, sure.

10 Q There's a section marked "Graphics," and it
11 says "Maps for JinZhou; Cancer Atlas Maps for China and
12 LiaoNing," correct?

13 A That's right.

14 Q Budget item \$900, right?

15 A I saw it. Yes, I see it.

16 Q ChemRisk did graphics work on the Zhang '97
17 article, didn't it?

18 MR. TATRO: Objection. The question is vague and
19 ambiguous, lacks foundation.

20 THE WITNESS: ChemRisk --

21 Go ahead, sorry.

22 ChemRisk prepared the printout of -- of the
23 graphics, I believe so.

24 BY MR. PRAGLIN:

25 Q The top item on the budget says "Butler."

1 That's your boss, Bill Butler, right?

2 A Yes, he is.

3 Q And he bills or he budgets 60 hours at \$225 an
4 hour for a total of \$13,500 for project coordination,
5 requests to Zhang, interpret data and write reports;
6 isn't that true?

7 A That's what this document stated. I -- I have
8 no reason to believe it's not true.

9 Q And there's an item there that says 3 percent
10 c-o-m-m fee, correct?

11 A Correct.

12 Q Do you know what that's for?

13 A I think c-o-m-m stands for communication.

14 Q Is that for you for translating?

15 MR. TATRO: Objection. Calls for speculation, lacks
16 foundation.

17 THE WITNESS: I -- I don't know. I don't know. I
18 don't know how the budget was worked out in -- in
19 ChemRisk. I was never involved in any budgeting or
20 invoice at all. My -- my position at ChemRisk was
21 not -- that's not part of my responsibility.

22 BY MR. PRAGLIN:

23 Q The money wasn't part of your responsibility,
24 right?

25 A In -- generally, no.

1 Q And then it says Zhang --

2 A Uh-huh.

3 Q -- and it says research assistants for \$1,600,
4 correct?

5 A I saw that, yes.

6 Q There's no mention of Zhang writing on this
7 budget, is there?

8 MR. CASAS: Objection. The document speaks for
9 itself.

10 THE WITNESS: The document stated in this way. I
11 will just respect this --

12 Same as you. You can read this document. I'm
13 reading this document. I don't remember I ever saw this
14 document; so we are on the same page here.

15 BY MR. PRAGLIN:

16 Q Do you see a reference to Dr. Zhang writing an
17 article on Exhibit 33?

18 MR. CASAS: Objection. Document speaks for itself.

19 THE WITNESS: On its -- well, on Exhibit 33, there
20 are a few pages but on page second enter Dr. -- next to
21 Dr. Zhang the description is "Research assistance,"
22 that's all.

23 BY MR. PRAGLIN:

24 Q And then there's a section that says 20 percent
25 markup. Do you see that?

1 A Yes, I do.

2 Q What was that all about?

3 MR. TATRO: Objection. Calls for speculation, lacks
4 foundation.

5 THE WITNESS: Again, I don't know. I was never
6 in -- participated in budgeting at all.

7 BY MR. PRAGLIN:

8 Q Was there some time constraint on getting the
9 Zhang article written at ChemRisk?

10 MR. TATRO: Objection.

11 MR. CASAS: Objection. Asked and answered.

12 MR. TATRO: And assumes facts not in evidence.

13 THE WITNESS: I don't know. I don't remember anyone
14 told me that you have to finish or we have to finish
15 this by what -- what time. No one communicated that to
16 me.

17 But in general -- generally speaking, it's
18 certainly ChemRisk working ethics that whenever you
19 assign a project, you try to finish the project on time
20 and finish that project with -- by not wasting any time.
21 I would put it this way.

22 BY MR. PRAGLIN:

23 Q Do you have Exhibit 11 in front of you?

24 A I can find Exhibit 11 in my file.

25 Yes, I do have. Yes, I do.

1 Q This is the package that came to you from
2 Archives of Environmental Health in 1996, correct?

3 A Yes, I see it.

4 Q And the second page is the comment from the
5 reviewer, which included a comment including "Many
6 details are lacking, including a break down of cancer
7 rates per year," correct?

8 A That's one of the reviewers said it.

9 Q After reviewing those comments from the
10 reviewer, were you concerned that a deeper study of
11 death records was needed?

12 MR. CASAS: Objection. Asked and answered
13 yesterday.

14 THE WITNESS: It was not -- I -- the answer -- I did
15 not put my mind into this because around this time, in
16 1996, I was only providing my service to ChemRisk as a
17 professional courtesy. I would leave to ChemRisk
18 scientist to concern or to make decisions based on this
19 review; so I send this to Brent Kerger's office and
20 that's all I did.

21 BY MR. PRAGLIN:

22 Q Well, didn't you also write to Dr. Zhang in
23 August of '96 to express your concern that it was
24 necessary to make a deeper study on the death records?

25 A In '96 --

1 MR. CASAS: Objection. Misstates the testimony and
2 the record.

3 Go ahead.

4 THE WITNESS: In 1996 Dr. Zhang contact me a couple
5 of times, inquire -- inquiring of the status of the
6 article. And to -- as a response to him, I reported to
7 him status of the submission. And in my -- doing my
8 report with him, I don't recall exact wording I used,
9 but doing my contact with him I may -- again, everything
10 I knew, I may have communicated to him.

11 BY MR. PRAGLIN:

12 Q Did you translate the reviewers' comments that
13 we've marked as Exhibit 11 for Dr. Zhang in writing?

14 A I don't know. I don't recall. It was probably
15 not in my file, because when I prepare this file I did
16 not find a translation of this particular page, but I
17 may at that point of time translated either in writing
18 or verbally to him.

19 Q Let's mark as Exhibit 34 page 544 from
20 Exhibit 1, which is your production in this case.

21 And I apologize for the copy, the Bates stamp
22 got smeared, I think, but it's 544 and you can check it
23 against my original if you like.

24 A Okay. 544 then.

25 Q Or check it against your copy.

1 (Plaintiffs' Exhibit 34 was
2 marked for identification, a copy of
3 which is attached hereto.)

4 BY MR. PRAGLIN:

5 Q Is Exhibit 34 a copy of page 544 from Exhibit 1
6 to your deposition?

7 A This appears to look like one, yes.

8 Q Now, you wrote Exhibit 34 on the letterhead of
9 Environmental Risk Analysis, correct?

10 A Yes.

11 Q That's where you were working at the time,
12 right?

13 A That's right.

14 Q And the Chinese writing --

15 A Yes.

16 Q -- is yours; is that right?

17 A I think so.

18 Q And this letter is addressed to Dr. Zhang,
19 right?

20 A Yes.

21 Q We've circled a sentence --

22 A Okay.

23 Q -- on Exhibit 34 toward the bottom of the
24 text. Do you see that?

25 A I see a circle here, yes.

1 Q Isn't it true that that circled sentence says
2 words to the effect, as for how to develop the study on
3 the issue of chromium pollution in JinZhou, China,
4 personally I think it is necessary to make a deeper
5 study on the death records?

6 A Well, just briefly reading this Chinese without
7 word-to-word translation, I think that you found a
8 translator who translated for you. That's in --
9 generally speaking, my -- my position around that time.

10 Q Did you write that in response to the
11 reviewers' comments, Exhibit 11?

12 A I don't recall.

13 Q Did Dr. Zhang respond to this letter,
14 Exhibit 34?

15 A He may have. I -- I don't recall.

16 In his communication back to me around that
17 time, he -- he may have made certain suggestions but
18 I -- I -- they are -- maybe in my document, probably you
19 already reviewed many of them. So he may. He may have.

20 Q Did you produce that for us?

21 A If I have that in my file, I would have.

22 Q You didn't see it in looking through the
23 925 pages that you produced for us, did you?

24 A I -- when I prepare this document, I certainly
25 didn't read all of the 900 or so pages, but I don't

1 recall I saw -- I -- I don't recall I -- in even looking
2 through this, I didn't see at all.

3 Q Do you have any training on the ethics of
4 publishing scientific journal articles?

5 A I don't think I have.

6 Q You never took a course on that in college, did
7 you?

8 A No, I did not.

9 Q Did you have any in-service training at
10 ChemRisk on that subject?

11 A No, I did not.

12 Q Have you ever read any publications on it?

13 A Not before 1995, 1997.

14 MR. PRAGLIN: Mr. Casas, you told us today, and I
15 think it was on the record, that the document that was
16 withheld was the Wang article?

17 MR. CASAS: Yes.

18 MR. PRAGLIN: Do you have a copy of that for us?

19 MR. CASAS: Here it is, it's got a fax cover sheet
20 as well.

21 MR. PRAGLIN: Thanks.

22 Q Mr. Ye, I'm going to attach this Wang article
23 that I'm getting from you now for the first time as
24 Exhibit 35.

25 And I'll ask that at a break we'll get a copy

1 of it. We'll just use this for now because obviously I
2 can't read it all now. It's about 10 or 12 pages.

3 A Sure.

4 Q I'll ask you some superficial questions.

5 A Sure. If I can help.

6 MR. PRAGLIN: Let's mark it first. Exhibit 35,
7 please.

8 (Plaintiffs' Exhibit 35 was
9 marked for identification, a copy of
10 which is attached hereto.)

11 BY MR. PRAGLIN:

12 Q If you turn to the second page of Exhibit 35 --

13 A Yes.

14 Q -- in the upper right do you see that star that
15 I described as the ChemRisk star?

16 A Yes, you described the star yesterday.

17 Q And in the lower right do you see a sequence of
18 Bates stamp numbers that are "HPG" and then a series of
19 numbers?

20 A Yes, I saw that.

21 Q Do you know what that stands for?

22 A I do not.

23 Q If I tell you Hinkley PG&E, does that ring a
24 bell?

25 A It could stand for that. This is my first time

1 seeing "HPG."

2 MR. TATRO: Objection. Lack of foundation, calls
3 for speculation.

4 BY MR. PRAGLIN:

5 Q May I see Exhibit 35?

6 And where did you get Exhibit 35?

7 A I -- first, I do not -- this is a -- a copy
8 that Mr. Casas just gave to you. I do not remember I
9 ever saw HPG 01-0299. I -- I do -- when I produced this
10 document, I remember I saw a copy of this article in my
11 holding, in my pile of paper; so I just gave that to my
12 attorney.

13 MR. CASAS: He's just asking who you received it
14 from and where you got it.

15 THE WITNESS: Okay. Then I misinterpreted your
16 question.

17 BY MR. PRAGLIN:

18 Q Where did you get Exhibit 35 from?

19 A I think originally this was a fax sent to me
20 from Kathy, first name Kathy, I don't know the last
21 name.

22 Q Where does Kathy work?

23 A According to the phone number on here, I
24 think -- no, according to this cover fax page, it's from
25 Irvine office of -- ChemRisk Irvine office.

1 Q Did you ever have contact with any of the
2 lawyers for PG&E at either the law firm of Haight,
3 Brown & Bonesteel or Sedgwick Detert Moran & Arnold?

4 A In '95 and '96, I don't think so.

5 Q What about since then about the Zhang article?

6 A I don't think so.

7 Q What about since then about the Wang article?

8 A I don't think so.

9 Q So you don't know those two law firms; is that
10 your testimony?

11 A Correct.

12 Q And did you write to Dr. Wang?

13 A After I received this fax, which is Exhibit 35,
14 per the request from Brent Kerger, I did. I think I
15 did.

16 Q Was there a reason given to you why you should
17 write to Dr. Wang?

18 A The reason was ChemRisk are interested in
19 clarifying certain details of when this article started
20 and like to talk with the original author; so --

21 Q Did you ever reach Dr. Wang?

22 A I remember I send letters according to this one
23 article where he worked, but I never got anything back
24 from my inquiry.

25 Q Did you ever speak to anyone associated with

1 the Wang article?

2 A No.

3 Q Let's mark as Exhibit 36 a page from your file,
4 TY 365.

5 (Plaintiffs' Exhibit 36 was
6 marked for identification, a copy of
7 which is attached hereto.)

8 MR. TATRO: Do you have a copy of that?

9 MR. PRAGLIN: I do.

10 Q What is Exhibit 36?

11 A This looks like a English version of a Chinese
12 letter I sent to Dr. Wang in September -- on
13 September 29th of 1995.

14 Q This letter, Exhibit 36, has your name in the
15 signature block, right?

16 A Yes, it does.

17 Q Who drafted Exhibit 36?

18 A I don't recall. I don't remember.

19 Q You didn't draft it, did you?

20 A I don't remember. I don't remember drafting
21 this letter.

22 Q And was this letter signed or was it sent out
23 without a signature?

24 A I think a version of this letter in Chinese was
25 sent out, rather than this letter was sent out. In the

1 Chinese version. Either signed or not, I don't
2 remember, but --

3 Q So you translated it into Chinese; is that
4 right?

5 A I think so.

6 Q So nothing was ever done with regard to
7 follow-up of the Wang study; is that your testimony?

8 A Nothing I -- nothing I remember substantially
9 was done. I don't remember I ever really talk with
10 Mr. Wang or anyone that's author of this Wang article in
11 that time.

12 Q Did ChemRisk write an analysis of the
13 Wang article?

14 A Not that I know of.

15 Q Could I have Exhibit 35 back, please, and we'll
16 get a copy of that now.

17 A Certainly.

18 Q Thank you.

19 Is that okay with everyone?

20 MR. CASAS: Yes.

21 MR. PRAGLIN: We'll get a few.

22 Q Mr. Ye, would you look at Exhibit 1,
23 Bates stamp 366, please?

24 A 366. Sure. Yes.

25 Q Is that a copy of the letter that you sent to

1 Dr. Wang in Chinese?

2 A I think so.

3 Q It has the McLaren/Hart-ChemRisk letterhead in
4 the upper left, doesn't it?

5 A Yes, it does.

6 Q And it lists your name at the bottom with the
7 McLaren/Hart address, phone number and fax number,
8 doesn't it?

9 A Yes, it does.

10 Q So your procedure with regard to writing to
11 Dr. Wang in Chinese was different than your procedure in
12 writing to Dr. Zhang; isn't that true?

13 MR. TATRO: Objection.

14 MR. CASAS: Objection. Misstates the testimony,
15 misstates the record.

16 Go ahead.

17 THE WITNESS: Not that I can recall. I -- I don't
18 recall the procedure are different. I think the
19 procedure are the same.

20 BY MR. PRAGLIN:

21 Q With Dr. Zhang you always used letterhead on
22 ChemRisk paper; is that right?

23 MR. TATRO: Objection. The question is overly broad
24 as to the use of the term "always."

25 MR. PRAGLIN: I'll rephrase it.

1 THE WITNESS: Uh-huh.

2 BY MR. PRAGLIN:

3 Q When writing to Dr. Zhang, is it your testimony
4 that you always used McLaren/Hart-ChemRisk letterhead?

5 A No. Actually, the answer to your question is
6 no. It's not always because only when -- using
7 letterhead, I -- to me, is kind of a -- a formal kind of
8 a formal introduction.

9 Working with Dr. Zhang, when I participated in
10 Dr. Zhang's study, Dr. Zhang already established
11 cooperation with ChemRisk.

12 So there's no -- so a lot of material was --
13 sent back and forth with Dr. Zhang were fax. We just do
14 not go through the trouble of putting on letterhead. We
15 just put on blank page and then tell him that here is
16 some question we have and just send him.

17 Q But a formal letter like Exhibit 36 where you
18 say to Dr. Wang, please let me introduce myself, your
19 first contact with him, you would use letterhead for
20 that; is that your testimony?

21 A Well, you -- to Dr. Wang, I used the ChemRisk
22 letterhead, yes, to introduce -- as the first time
23 introduce myself, yes.

24 Q So why not use ChemRisk letterhead in your
25 introductory letter to the journals enclosing

1 Dr. Zhang's articles?

2 MR. CASAS: Objection.

3 BY MR. PRAGLIN:

4 Q Isn't that because you wanted to conceal
5 ChemRisk's involvement?

6 MR. TATRO: Objection.

7 MR. CASAS: Objection. Argumentative, misstates the
8 record, generally misleading.

9 Go ahead.

10 THE WITNESS: We discussed this yesterday. And a
11 couple facts I'd like to restate.

12 Number one is letter was not draft by me. And
13 I agree with everything stated on -- on the letter.

14 Secondly, it's -- by the time I was assigned as
15 the contact person for Dr. Zhang and sent the article,
16 either to Archive or to JOEM, I was no longer working
17 for ChemRisk, I work in a company of Environmental Risk
18 Analysis. I do not have stationery paper from ChemRisk.

19 So when the letter sent to me to say from -- I
20 think from Tom Flahive from Brent Kerger's office saying
21 Tony, could you just send it out, per their request I
22 did what they asked for. I don't feel -- I don't think
23 there is anything wrong with that letter at all.

24 BY MR. PRAGLIN:

25 Q But if you had already left ChemRisk, why were

1 you still billing ChemRisk for the work that you were
2 doing?

3 MR. CASAS: Objection. Misstates the record and the
4 testimony.

5 He wasn't billing anybody.

6 BY MR. PRAGLIN:

7 Q Wasn't your time billed to ChemRisk for your
8 work done with Dr. Zhang after you left ChemRisk?

9 A You have to ask Bill Butler. Bill Butler in
10 charge of the time of the Environmental Risk Analysis.

11 As requested by ERA, Environmental Risk
12 Analysis, I need to document my time, how my time spent
13 during eight hours of my working day. But I -- I do not
14 know one way or the other my time was charged to
15 ChemRisk at all.

16 Q You never talked to Bill Butler about that four
17 doors down from your office?

18 A Again, I was not in charge of time. I -- I
19 don't normally raise questions like that.

20 Q No. The question is with Mr. Butler four doors
21 down from your office --

22 A Yeah.

23 Q -- is it your testimony that you and he never
24 discussed the fact that your time spent with Dr. Zhang
25 at ERA was being billed to ChemRisk?

1 MR. CASAS: Objection. Argumentative.

2 Whether he's 4 doors or 40, he's given you the
3 answer.

4 THE WITNESS: I don't remember ever discuss with
5 him.

6 MR. PRAGLIN: Let's mark as Exhibit 37 a document
7 from Mr. Butler's production, Bates stamped BUTLER 41
8 through 45.

9 (Plaintiffs' Exhibit 37 was
10 marked for identification, a copy of
11 which is attached hereto.)

12 BY MR. PRAGLIN:

13 Q Have you ever seen Exhibit 37 before?

14 A Give me one moment.

15 I think that when I page through -- when I
16 prepare my material for you, I think I saw similar pages
17 like this. I don't know whether it's exact same copy as
18 this document because this document that you produced is
19 from Butler's file; so to make sure I have the same
20 copy, I probably have to look into my file and compare
21 page by page. But I -- I can tell you that I probably
22 saw similar things in my 900 or so pages.

23 Q Your 900-plus page file that you produced for
24 me --

25 A Uh-huh.

1 Q -- did you keep it at home or at the office?

2 A At the office.

3 Q Did you have file folders there?

4 A File folder?

5 Yes, I do.

6 Q And you copied those file folders for us and
7 produced those as well, didn't you?

8 A File folders? I don't -- we may not. I may
9 not.

10 The file folder has no -- it's just a -- I will
11 say file hanger is more clearly. It's in my cabinet
12 with file hangers and these pages of document are in
13 those hanged sections; so I just take all this document
14 and give to you. That's the procedure I did.

15 Q Didn't you have file folders that appeared
16 like the file folder copy on the face page of
17 Exhibit 37?

18 MR. CASAS: Objection. Vague and ambiguous.

19 If you can understand it, you can answer it.

20 THE WITNESS: I -- I don't recall I have, no.

21 The way I keep my file is I just keep all the
22 paper in file cabinet, and the file cabinet was -- was
23 hanged -- you know, hang section and all my paper just
24 stuck in those sections. I just take them out and give
25 that to you. That's all I did.

1 BY MR. PRAGLIN:

2 Q So you didn't have a folder on Dr. Zhang
3 chromium?

4 A I don't recall having folder.

5 Q And you didn't have a folder --

6 A If I have a folder, you -- if you call the file
7 hanger the folder. There's no label on the folder.

8 Q Why don't you look at Exhibit 1, Bates stamp
9 TY 712.

10 A 712. Yes.

11 Q What's that?

12 A It's a copy of a folder cover called "Chromium
13 Dr. Zhang."

14 Q Is that your handwriting?

15 A It looks like mine.

16 Q You produced that for us, didn't you?

17 A I did.

18 Q Did you have some materials in that folder at
19 your office pertaining to Dr. Zhang?

20 A This -- you have what you have. I mean,
21 everything in my file I produced for you. And if there
22 is any written things on this folder, I -- I consider
23 this folder as part of the document, I just gave the
24 folder to my attorney, he will make a copy for you.
25 Sure.

1 Q So you had some materials in that folder?

2 A I think so. I think so.

3 Q Do you know which materials were in that
4 folder?

5 A Probably the page of 713, 714, 716 and all of
6 the pages -- some of the pages follow -- follow that. I
7 don't know. I don't know exact which page to stop and
8 say here is the pages in this folder. I just don't
9 know.

10 Q Why don't you look at Exhibit 1, TY 687.

11 A Yes.

12 Q What is that?

13 A Called "Paper: Dose Response."

14 Q It's also a copy of a folder, isn't it?

15 A It's a copy of a folder, yes.

16 Q And is that your writing on the folder?

17 A Looks like my writing, yes.

18 Q So you had a folder on dose response; is that
19 right?

20 A Correct.

21 Q What was in that folder?

22 A I think it's the material on page 688 at least,
23 but how far it goes, I don't know, whether it goes all
24 the way to page 711 or 703, I -- I don't -- I don't
25 know. But it's likely to be some of this material were

1 in the folder.

2 Q So did you have a folder, then, that was named
3 "Summary & Zhang's comments to Sedgwick, Deter, Morad,
4 Anal."?

5 A I don't remember I have such folder.

6 Q Look at Exhibit 37, please.

7 A 37? Okay.

8 Q You see that folder on the first page, don't
9 you?

10 A I do not know this is the folder. I know this
11 is the material from Butler's file. That's all I know.

12 Q Did you know Mr. Butler had a file separate
13 from you on the Zhang article?

14 A Oh, sure. Sure. Sure. He has his own
15 collection. I have my material. And he certainly would
16 have his own.

17 Q Did you have any materials concerning Dr. Zhang
18 at your home?

19 A No.

20 Q Everything was at the office; is that right?

21 A To my knowledge, yes.

22 Q Have you seen this document, Exhibit 37,
23 before?

24 A Again, I remember I saw similar things in my
25 production of the -- without this cover page from

1 Butler, but the -- from the second page of the
2 Exhibit 37, I think I saw some similar wording or
3 similar document as this, yes.

4 Q Who wrote Exhibit 37?

5 A Sitting here, I don't know. Could be Butler or
6 could be me.

7 Q What was the purpose of this document?

8 MR. CASAS: Objection. The document speaks for
9 itself.

10 THE WITNESS: I don't recall. I -- I -- sitting
11 here, I don't know. I -- I could read this document and
12 try to see what the point made by this document.

13 But I will say in general -- generally
14 speaking, that they are documents like this. We were
15 documenting -- documenting our understanding of
16 Dr. Zhang's article or manuscript. Yeah.

17 BY MR. PRAGLIN:

18 Q On page WB 44 --

19 A Yeah.

20 Q -- under section (c) --

21 A Yes.

22 Q -- the last sentence says, "Dr. Zhang mentioned
23 he has the contamination data for each village each
24 year, which may be a useful measure for the chromium
25 contamination."

1 Do you see that?

2 A Actually, no. Can you just tell me where is
3 that again?

4 Q Sure. Your lawyer is pointing it out to you.

5 A Okay. Actually, yes.

6 Q Do you see where it says "Dr. Zhang mentioned
7 he has the contamination data" --

8 A Uh-huh.

9 Q -- "for each village each year, which may be a
10 useful measure for the chromium contamination"?

11 A I saw that sentence, yes.

12 Q Who wrote that, you or Mr. Butler?

13 A Either me or Butler. I -- I don't recall, but
14 I --

15 Q You --

16 A -- remember at one point in the conversation
17 Dr. Zhang mentioned that he has contamination data.

18 Q The '97 Zhang article doesn't include the
19 contamination data for each village for each year, does
20 it?

21 A Actually, at a later --

22 This was what I remember. At a later point of
23 time, after this exhibit you showed me, Exhibit 37, I
24 remember in the conversation with Dr. Zhang we asked --
25 we asked Dr. Zhang to search for his data on the

1 contamination measurement each year, each village, and I
2 think that in my produced document to you there are
3 pages that Dr. Zhang wrote back to us to say that
4 information has lost, I do not have them at all.

5 So what Dr. Zhang later time said was
6 inconsistent with this statement in this document. And
7 that's -- I remember.

8 Q So to answer my question, isn't it true that
9 the '97 Zhang article doesn't include contamination data
10 for each village for each year?

11 MR. CASAS: Objection. The document speaks for
12 itself.

13 MR. TATRO: It's also been asked and answered.

14 THE WITNESS: My understanding of the 1997 JOEM
15 article is it does not contain contamination each year,
16 each village.

17 BY MR. PRAGLIN:

18 Q And the statement in Exhibit 37 --

19 A Uh-huh.

20 Q -- on page WB 44 that "Dr. Zhang mentioned he
21 has the contamination data for each village each
22 year" --

23 A Yeah.

24 Q -- "which may be a useful measure for the
25 chromium contamination," that statement had to come from

1 you because you would have had to have translated it
2 from Dr. Zhang; isn't that right?

3 A Dr. -- Dr. Zhang mention part, whatever he
4 mentioned, probably from me.

5 MR. PRAGLIN: Let's attach as Exhibit 38 a document
6 from Mr. Butler's file, WB 15.

7 (Plaintiffs' Exhibit 38 was
8 marked for identification, a copy of
9 which is attached hereto.)

10 BY MR. PRAGLIN:

11 Q Have you seen Exhibit 38 before?

12 A Yes, I believe I saw this page before.

13 Q Is this a translation of a letter from
14 Dr. Zhang to Dr. Kerger by you?

15 A I believe so.

16 Q And this was apparently a letter that Dr. Zhang
17 sent on June 10, 1995, correct?

18 A That's appear on this page, yes.

19 Q And this is where Dr. Zhang encloses ten
20 pictures taken ten years ago in the contamination area,
21 correct?

22 A It's mentioned in this document, yes.

23 Q So that would mean that Exhibit 4 to your
24 deposition, the photographs, were taken in roughly 1985;
25 is that right?

1 A I don't know. I don't know the -- I don't know
2 the photos in -- there are only one photo section you
3 sent -- you gave to me yesterday in exhibit. I don't
4 know the Exhibit 4 is indeed the pictures mentioned in
5 Exhibit 38.

6 Q Well, there wasn't more than one set of photos
7 from Dr. Zhang, was there?

8 A I do not know, because this -- this was a
9 letter Dr. Zhang sent to Kerger, not sent to -- in
10 Irvine, not in Alameda office to me or to Bill Butler.
11 I was given this letter to translate. That's what I
12 did.

13 Q In the fourth paragraph down, Dr. Zhang writes,
14 as you translated --

15 A Uh-huh.

16 Q -- "I also enclosed ten pictures taken 10 years
17 ago in the contamination area. Those pictures are the
18 only copy I have. Please send it back to me
19 afterwards," correct?

20 A Yes, I saw that.

21 Q Did anyone ever return his photos?

22 A I don't know. I don't know which photo he
23 was -- this letter was referring to.

24 Q You never wrote a letter returning his photos,
25 did you?

1 A I do not remember I did.

2 Q And then Dr. Zhang says in that last paragraph,
3 "I'd like to know your study progress in U.S.A. and
4 Mexico."

5 Do you see that?

6 A Okay. Yes, I saw that.

7 Q You translated that, right?

8 A I believe I did.

9 Q So you did talk to Dr. Zhang about the Mexico
10 investigation that ChemRisk was doing, didn't you?

11 MR. TATRO: Objection. Asked and answered.

12 THE WITNESS: I don't know.

13 The reason for that is when I -- I remember
14 when I translate this letter, this was one of the first
15 few translation I made in Dr. Zhang's -- related to
16 Dr. Zhang. I was given his letter from Brent Kerger; so
17 the event, how Dr. Zhang knew about Mexico, probably
18 happened before I participated, probably in the
19 conversation with Dr. Brent Kerger.

20 MR. PRAGLIN: Let's mark as Exhibit 39 a document
21 from Mr. Butler's file Bates stamped WB 51 through 60.

22 (Plaintiffs' Exhibit 39 was
23 marked for identification, a copy of
24 which is attached hereto.)

25 BY MR. PRAGLIN:

1 Q Have you ever seen Exhibit 39 before?

2 A Just give me a moment. Have a look at this
3 document.

4 Not the entire -- you gave me probably ten
5 pages here. Just looking at the first couple of pages,
6 I think I saw a very similar paragraph like this in my
7 production for you. And -- but the -- but the WB 58,
8 just briefly looking at it, this doesn't look like -- I
9 don't remember I saw WB 58 in my document.

10 Q Okay.

11 A Okay. Fair enough?

12 Q Fair enough.

13 A Okay.

14 Q At the top of the first page of Exhibit 39 it
15 says, "Data we need to get from Dr. Zhang," right?

16 A Which page?

17 Q First page.

18 A Yes. "Data we need to" --

19 Q And the "we" refers to ChemRisk, right?

20 A I believe so.

21 Q And this lists nine items on the following
22 pages, correct?

23 A There are sub -- there are sub items within the
24 nine, but -- but the numbers goes up to 9, yes.

25 Q And did you on the following pages ask those

1 questions in those nine items of Dr. Zhang and then
2 create answers, his responses?

3 MR. TATRO: Your question is too confusing to
4 answer. It's vague and ambiguous.

5 THE WITNESS: You mean next page --

6 Which page are you referring to?

7 BY MR. PRAGLIN:

8 Q No, I said the next pages.

9 A Next pages.

10 Q If you look at page WB 54 you see there's some
11 Chinese writing there?

12 A Correct.

13 Q That's yours, isn't it?

14 A I believe so.

15 Q And there's some notes at the bottom, right?

16 A Yes.

17 Q Handwritten notes, right?

18 A Yes, they are.

19 Q That's your writing, isn't it?

20 A I don't think so. I don't know.

21 Q No?

22 A I don't think so.

23 Q You're not sure?

24 A I -- I think it's --

25 MR. TATRO: Objection. Asked and answered.

1 THE WITNESS: Actually, I don't think that those are
2 my handwriting, other than there are a couple of Chinese
3 letters look like mine, because that's whole number 4.
4 The English, those are -- that doesn't look like my
5 handwriting.

6 BY MR. PRAGLIN:

7 Q How did ChemRisk get the information in answer
8 to these nine items on Exhibit 39 starting with WB 54
9 through WB 56?

10 MR. CASAS: If you know.

11 THE WITNESS: I --

12 MR. TATRO: Well, I'm going to object as to which
13 nine items you're talking about, because on pages 54
14 through 56 there's a lot more than nine items.

15 BY MR. PRAGLIN:

16 Q Did you ask questions of Dr. Zhang to get the
17 information that is included on pages WB 54 through 59
18 of Exhibit 39?

19 A Although without going through every single
20 item here, I believe that in general, yes, those items
21 were covered in some conversation or conversations with
22 Dr. Zhang.

23 Q And wasn't all of this information needed by
24 ChemRisk so that ChemRisk could write the Zhang
25 article?

1 MR. CASAS: Objection.

2 MR. TATRO: Objection.

3 MR. CASAS: Calls for speculation.

4 MR. TATRO: Misstates the witness's prior
5 testimony.

6 THE WITNESS: I do not know. I was -- I do not
7 know.

8 BY MR. PRAGLIN:

9 Q So you asked questions of Dr. Zhang without
10 knowing why you were asking?

11 MR. CASAS: Objection. Misstates the testimony, the
12 previous two days.

13 Go ahead.

14 THE WITNESS: Mr. Butler and Mr. Kerger and maybe
15 other senior staff in ChemRisk used my language ability
16 to say can you ask Dr. Zhang this. I would say yes.

17 Do I know exact purpose of all -- all the
18 purpose of -- of -- of each question? I -- I -- I do
19 not. I don't think I do.

20 MR. PRAGLIN: Let's mark as Exhibit 40 two pages
21 from Mr. Butler's files, WB 129 and 130.

22 (Plaintiffs' Exhibit 40 was
23 marked for identification, a copy of
24 which is attached hereto.)

25 BY MR. PRAGLIN:

1 Q Have you seen Exhibit 40 before?

2 A I think I saw this and I think I saw this in --
3 also in my production for you.

4 Q Okay. This is information that was obtained as
5 a chronology of the operation of the JinZhou alloy
6 plant, correct?

7 A Looks like that way, yes.

8 Q And to get this information you would have
9 needed to ask questions of Dr. Zhang, right?

10 A Or you need to rely upon his published -- his
11 document or his manuscripts. Either way.

12 Q But the information was obtained from one of
13 those two sources, right?

14 A I -- there's no reason for me to believe there
15 are other sources, no.

16 Q And so the information would necessarily have
17 needed to be translated by you, right?

18 A I will say in general, yes.

19 Q On the first page of Exhibit 40 --

20 A Uh-huh.

21 Q -- under the 1965 time frame --

22 A Yes.

23 Q -- the sixth line in, it says, "In the
24 discharge sewage, chrome (VI) concentration was
25 20 milligrams per liter," correct?

1 A I saw that, yes.

2 Q And that's information that you got from
3 Dr. Zhang either verbally or in writing; is that right?

4 A I -- I have to check the document of the
5 manuscript of Dr. Zhang but -- but if this document
6 states so, I believe this document reflect what
7 Dr. Zhang either verbally or in writing communicated to
8 us around that time.

9 Q In the next section down --

10 A Yeah.

11 Q -- "1965 After noticing the Chromium (VI)
12 contamination," the third line down, it says, "The
13 original ore residue was 1500 ton. Now it is
14 300,000 ton. The original dump site has been buried in
15 the center of the stack of ore residue," correct?

16 A I saw that, yes.

17 Q And that information would have had to have
18 come from either Dr. Zhang verbally or in writing; is
19 that right?

20 A Likely, yes.

21 Q And the ore residue is referring to
22 chromium (VI) ore residue, isn't it?

23 A I --

24 MR. CASAS: Objection. Calls for speculation.

25 THE WITNESS: I don't know. Could be.

1 BY MR. PRAGLIN:

2 Q And the '97 article does not reference the
3 magnitude of the chromium waste discharge, does it?

4 MR. CASAS: Objection. The document speaks for
5 itself.

6 THE WITNESS: Well, if you want me to read the 1997
7 article again, sure. But my impression is it didn't
8 describe this detail.

9 BY MR. PRAGLIN:

10 Q Your impression is that the '97 article doesn't
11 describe the magnitude of the chromium contamination,
12 correct?

13 A I'm not saying magnitude. I'm saying 1997
14 article, my impression is this doesn't include the
15 sentence you just quoted, which is 15 ton or 300 ton. I
16 don't remember I saw a sentence in 1997 article
17 mentioned the -- the size of the ore residue --
18 residue.

19 Q Exhibit 40 doesn't say 300 tons, it says
20 300,000 tons, doesn't it?

21 A That's what's stated on this page, sure.

22 Q It's a thousand times difference, right?

23 MR. CASAS: Objection. Argumentative.

24 THE WITNESS: No, I --

25 MR. CASAS: We'll stipulate that it's 300,000.

1 MR. PRAGLIN: Great. Thank you.

2 THE WITNESS: Okay.

3 MR. PRAGLIN: Let's mark as Exhibit 41 a page from
4 Mr. Butler's production, WB 253.

5 Gentleman, I'm one short on this. If you don't
6 mind sharing. It's just a few lines.

7 (Plaintiffs' Exhibit 41 was
8 marked for identification, a copy of
9 which is attached hereto.)

10 BY MR. PRAGLIN:

11 Q Have you seen Exhibit 41 before?

12 A I don't recall. This may be in my file but
13 I -- I don't recall I've seen this letter.

14 Q Is the writing at the bottom, the
15 handwriting --

16 A Yes.

17 Q -- yours?

18 A It doesn't look like mine.

19 Q Could it be that you've never seen Exhibit 41
20 before?

21 A I just don't recall seeing that -- that I saw
22 this letter before; so either way. Could be.

23 Q You have no recollection of ever having signed
24 a copy of this letter, Exhibit 41, before, do you?

25 A I don't recall.

1 Q Now, this is a letter that says it's from you
2 to Elizabeth Popper, the managing editor at JOEM, which
3 is the journal that published the '97 Zhang article,
4 right?

5 A Looks like that way, yes.

6 Q And there's no address to Ms. Popper, is
7 there?

8 A There's not.

9 Q Did you mail any letters without an address?

10 A I -- not on this particular letter, but in
11 general -- generally speaking, I may do that.

12 What I normally do is if I know Ms. Popper is a
13 Journal of Occupational and Environmental Medicine and
14 we have that address on the envelope of the letter,
15 that's all I need normally to send a letter. I do not
16 need to repeat the address in the letter. At least to
17 my knowledge sometimes I do that.

18 Q Did someone at ChemRisk draft Exhibit 41 for
19 you?

20 A Again, I don't recall seeing this letter. I
21 don't recall how this letter -- I -- I don't know
22 whether this letter in my file.

23 Q I don't think it is.

24 A I do not know. I check -- I -- I have to look
25 page by page for 900 or so pages to find it. But if you

1 already did, it's not in my file, it's not in my file;
2 so I do not remember seeing this page. This could be I
3 saw this at one point of time, I just don't have that
4 memory.

5 Q Now, this letter has an address for you,
6 right?

7 A Yes.

8 Q Is that your home or work?

9 A That's my home address.

10 Q And it has a phone number, right?

11 A Yes.

12 Q Is that your home or work?

13 A My home. My home.

14 Q And so on this letter --

15 A Uh-huh.

16 Q -- correspondence to JOEM --

17 A Yeah.

18 Q -- you're using your home address and phone,
19 right?

20 A Again, this page use home -- my home number and
21 my home address, but I -- I don't remember I send this
22 letter or I saw this letter. I may have, but I just
23 don't recall.

24 Q The letter is short. Would you read into the
25 record what it says, please, to Ms. Popper.

1 A Sure.

2 Do I start with the contents of the letter
3 or --

4 Q Start with "Thank you."

5 A Okay.

6 "Thank you for your informing me of the
7 acceptance of Dr. Zhang's paper. I talked with
8 Dr. Zhang the other day. He was very glad that his
9 manuscript is going to be published.

10 "Per your request, I confirmed Dr. Zhang and
11 Dr. Li's degree. Both of them are M.D. (Medical
12 Doctor). Enclosed please find a floppy disk which
13 contains a copy of the WordPerfect file of the
14 manuscript and an EXCEL file of the chart. The graphic
15 of the map is made by AutoCAD. The AutoCAD file is also
16 included in this diskette.

17 "I am looking forward to hearing from you.
18 Please notice that me address has changed."

19 Q It's probably "my address," isn't it?

20 A It should be. I think so.

21 Q And then it's signed "yours sincerely, Tony
22 Ye," right?

23 A Correct.

24 Q Now, this reference to AutoCAD --

25 A Yes.

1 Q -- that's a computer program used to draw
2 graphics, isn't it?

3 A My understanding is it is.

4 Q The AutoCAD that's referenced was ChemRisk's
5 AutoCAD that was used to write the Zhang article, isn't
6 it?

7 MR. CASAS: Objection.

8 MR. TATRO: Objection. Lacks foundation, calls for
9 speculation.

10 THE WITNESS: I -- I -- I think the AutoCAD was the
11 software used to plot the map that published in 1997
12 article.

13 BY MR. PRAGLIN:

14 Q But that plotting took place at ChemRisk,
15 didn't it?

16 A My recollection is it is.

17 Q And the floppy disk that you enclosed --

18 A Uh-huh.

19 Q -- containing a copy of the WordPerfect file of
20 the manuscript and an Excel file of the chart, those
21 were electronic media that also came from ChemRisk;
22 isn't that true?

23 MR. TATRO: Objection. Assumes facts not in
24 evidence, calls for speculation, lacks foundation.

25 THE WITNESS: I -- I do not know. Again, I just saw

1 this page and -- and I don't recall around that time
2 what happened on this page or what material happened
3 this page mentioned.

4 BY MR. PRAGLIN:

5 Q You don't remember that ChemRisk used Excel to
6 do Table 1 of the '97 article?

7 A I think Excel was used to -- I think Excel was
8 used to --

9 Actually, I -- I -- I will say I really don't
10 know. I -- Excel is a common software that when I
11 worked -- work at ChemRisk, I used Excel a lot; so it
12 makes sense that any table contains number would be in
13 Excel. I'll -- I can say that, but I -- I really don't
14 recall that -- how the Table 1 and who made that Excel
15 table. Okay.

16 Q Now, you see that the first line of
17 Exhibit 41 --

18 A Uh-huh.

19 Q -- to Ms. Popper says "Thank you for informing
20 me of the acceptance of Dr. Zhang's paper," right?

21 A Yes.

22 Q How is it that you wrote that to Ms. Popper on
23 June 13, 1996 when she wrote to you on January 22, 1997
24 telling you that the manuscript had been accepted for
25 publication?

1 And that's Exhibit 13 to your deposition.

2 MR. TATRO: Well, I'm going to object to that
3 question as being larded with unfounded assumptions and
4 misstatements of the record, and a deliberate attempt to
5 mislead Mr. Ye about the record.

6 THE WITNESS: Let me restate -- let me state the
7 fact again.

8 I -- this piece of paper I don't think was in
9 my file and I don't know, I don't recall I saw this
10 piece of paper, number one.

11 Number two is even I'm reading this piece of
12 paper, I do not consider there is a contradiction. The
13 reason for that I remember -- before the January 22nd of
14 1997, I remember when I talked with Popper, Elizabeth
15 Popper, I remember what the news was, what she told me
16 it was, at different time was it's likely -- at the very
17 beginning certainly the article was in the review. The
18 later time she said well, this seems fine, the review
19 seems to be of a positive review on this letter -- on
20 this manuscript, it's likely to be published.

21 So I think this is what I vaguely remember. I
22 think that before January 22nd of 1997 I already knew,
23 informed by Elizabeth Popper that this article will be
24 published.

25 BY MR. PRAGLIN:

1 Q So you remember talking with her before
2 January 22, 1997 about the fact that the Zhang paper had
3 been accepted?

4 A I remember talking with her before 1997, and I
5 really don't recall about when the news came to me the
6 article was accepted.

7 Q Well, when did you first notify Dr. Zhang that
8 the paper had been accepted?

9 A I think that as soon as I received some good
10 news from either journal, I would have told him.

11 Q Very promptly, right?

12 A Would be.

13 Q And do you have --

14 A Yeah.

15 Q -- any evidence in the 925 pages that you
16 produced to us that you ever wrote to Dr. Zhang telling
17 him that the paper had been published?

18 A I -- I don't know. I have to look into the
19 900 pages. But earlier we discussed a page that I told
20 Dr. Zhang that the current status was the paper -- I
21 think earlier you showed me a exhibit, I told -- I -- I
22 reported -- I reported to Dr. Zhang the status; so
23 that's the type of document that I would -- I will be
24 looking for in this 900 pages. But it's also likely I
25 just talk to him, give him some good news.

1 Q But when you got the good news that his article
2 had finally been published, that would be something that
3 you'd want to communicate promptly because it had been a
4 long time since submission in 1995; isn't that true?

5 A That's generally my impression, I would -- I
6 would tell him.

7 Q Generally what I just said would be true?

8 A Generally what you said would be true, that I
9 wanted to tell him that the good news.

10 Q You're not aware of any correspondence between
11 you and Dr. Zhang in the year 1996 where you discuss
12 that the article had been accepted by JOEM, are you?

13 MR. CASAS: Any written correspondence?

14 MR. PRAGLIN: Let's start with that.

15 THE WITNESS: There might be, there might be not. I
16 just don't recall.

17 BY MR. PRAGLIN:

18 Q Do you remember that you had a conversation
19 with Dr. Zhang during 1996 where you told him good news,
20 the article has been accepted?

21 A I don't recall, because around that time
22 Dr. Zhang called me or faxed me a couple of times to say
23 what's the status? And on each one of that, whenever I
24 received such requests, I would try to contact him to
25 tell him status; so if around that time there is a -- I

1 would -- it will not surprise me that I told him good
2 news when I receive good news.

3 Q Do you have Exhibit 34 in front of you, please?

4 A 34. Sorry. Okay.

5 Q Exhibit 34 is the August 9, '96 letter that you
6 sent to Dr. Zhang, right?

7 A Yes.

8 Q And the sentence that we circled which we
9 talked about before was where you said that you think
10 it's necessary to make a deeper study on the death
11 records, or words to that effect, right?

12 A My personal view around that time.

13 Q Doesn't that --

14 A My personal view.

15 Q -- mean, sir, that the article had not been
16 published, agreed to be published, as of August 9,
17 1996?

18 A No, I would not say so. No.

19 Q So you would have been saying that you thought
20 a deeper study of the death records was needed, even
21 after the article had been accepted for publication?

22 A Certainly. Because my personal -- in this
23 sentence I -- I -- I put emphasize on my personal view.

24 My personal view is I like to do -- I like to
25 see more story being conducted in JinZhou region, a

1 longer time study, more death records be collected in
2 JinZhou study. Personally, I like to see that.
3 Regardless whether a article published or not, I'd like
4 to see that, yes.

5 Q Let's mark as Exhibit 42 --

6 And we're almost done here, Mr. Ye.

7 A Okay. Thank you.

8 Q -- a page from Mr. Butler's file, Bates stamped
9 WB 226.

10 (Plaintiffs' Exhibit 42 was
11 marked for identification, a copy of
12 which is attached hereto.)

13 BY MR. PRAGLIN:

14 Q Have you ever seen this document before?

15 A I believe so. And actually, this good for you
16 to find this document. Actually, I just wish one point.

17 The second paragraph of this document -- of
18 this document stated "Elizabeth Popper," who is the
19 managing editor of JOEM, "said that she had talked with
20 the editor regarding the short communication. She said
21 she was pretty sure that the paper had been accepted."

22 And this was May 1996. So my earlier
23 impression of before January of 1997, some point in '96
24 I heard the news, the good news.

25 Q So why did it take so long, from May '96 to

1 January '97, to have a letter issued indicating that the
2 paper had been accepted for publication?

3 MR. TATRO: Objection.

4 MR. CASAS: Objection. Calls for speculation, lacks
5 foundation.

6 THE WITNESS: I do not know.

7 BY MR. PRAGLIN:

8 Q If Elizabeth Popper told you this in May of
9 '96, that she was pretty sure that the paper had been
10 accepted, weren't you anxious to find out whether, in
11 fact, the paper had been accepted for publication?

12 A I'm just not saying I'm anxious but I -- I
13 certainly like to receive her letter at any time after
14 May. I like to receive that in June, in July. You can
15 say that I anticipated such letter during that period of
16 time.

17 Q Now, the first paragraph of Exhibit 42
18 indicates that at least as of May of 1996, Brent Kerger
19 of ChemRisk asked you to call both journals, JOEM and
20 Archives of Environmental Health, right?

21 A That's what this paragraph stated.

22 Q So as of May of '96 the paper had been
23 submitted to two journals, hadn't it?

24 A Yes.

25 Q And isn't it true that you were concerned about

1 the fact that the paper had been submitted to two
2 journals and you thought it was better to make a
3 decision to continue to pursue publication in one
4 journal as soon as possible?

5 A That's my -- actually stated on this document,
6 I -- that's generally my belief. I -- I -- generally my
7 belief, or -- although I didn't publish any article
8 myself, but it is generally my belief that you don't
9 want to waste some people's time when you finally
10 decided you will go with one journal instead of the
11 other journal. So you don't want to -- generally, you
12 do not want to -- want multiple peoples to review your
13 article but you do not -- you're not sure that -- which
14 journal you finally want to publish.

15 Q So it would be false to say that a few days
16 after the submission of the Zhang article to Archives of
17 Environmental Health, ChemRisk had the article withdrawn
18 for publication, wouldn't it?

19 A Beg pardon? Why don't you --

20 MR. CASAS: Objection. Ambiguous.

21 BY MR. PRAGLIN:

22 Q Wouldn't it be false to say that a few days
23 after submission to Archives of Environmental Health,
24 you or ChemRisk took steps to have the article withdrawn
25 from submission?

1 A I can say for myself I did not withdraw. I
2 don't know ChemRisk.

3 Q Well, did ChemRisk have some contact with the
4 journals that the article had been submitted to?

5 MR. TATRO: Objection. Calls for speculation.

6 THE WITNESS: I --

7 MR. TATRO: Lacks foundation.

8 THE WITNESS: I do not know.

9 BY MR. PRAGLIN:

10 Q You're not aware of any, are you?

11 A There are a lot of things ChemRisk may have
12 done without telling me.

13 MR. PRAGLIN: Subject to questions that we've marked
14 and this issue about the documents, I don't have any
15 other questions for you now, Mr. Ye. Thank you. You've
16 been very patient.

17 THE WITNESS: Thank you.

18 MR. PRAGLIN: As I review my notes, I may have a
19 question or two, but I'm going to pass the ball to
20 Mr. Tatro now.

21 MR. TATRO: I think I've got enough questions where
22 it's going to make sense to change places.

23 MR. PRAGLIN: Sure.

24 THE VIDEOGRAPHER: Going off the record. This
25 marks the end of tape number seven in the deposition of

1 Tony Ye. The time is 4:02.

2 (Off the record.)

3 (Whereupon Mr. Praglin exits the
4 deposition proceedings.)

5 THE VIDEOGRAPHER: We're back on the record. Here
6 marks the beginning of tape number eight in the
7 deposition of Tony Ye. The time on the video monitor is
8 4:10. Please begin.

9

10 EXAMINATION

11 BY MR. TATRO:

12 Q Mr. Ye, do you have Exhibit 27 and Exhibit 2 in
13 front of you?

14 A Yes, I do.

15 Q Calling your attention in Exhibit 2, that
16 portion of Exhibit 2, which is the Zhang article, and in
17 the second column on page 316, you and Mr. Praglin had
18 an exchange there about the 1973 to 1975 rate of
19 66.1 per 100,000 for the LiaoNing province. Do you
20 remember that exchange?

21 A I remember that exchange.

22 But for my record, it's on the third column of
23 the page 316.

24 Q Yes, I apologize for the misstatement.

25 Mr. Praglin accused you and ChemRisk of

1 fabricating that number of 66.1. Do you recollect that
2 exchange?

3 A Not --

4 MR. BEILKE: Objection. Mischaracterizes anything
5 Mr. Praglin said, it's argumentative.

6 THE WITNESS: I remember Mr. Praglin asked me a
7 question on the 66.1 of LiaoNing province rate. I will
8 state that in that way.

9 BY MR. TATRO:

10 Q And he asked you questions about where that
11 number came from, correct?

12 A He did.

13 Q Would you turn your attention to Exhibit 27,
14 please.

15 A Yes.

16 Q Okay. And can you identify for us what
17 Exhibit 27 is?

18 A Exhibit 27 was a copy from a book, I believe
19 the book name is "Atlas of Cancer Mortality in the
20 People's Republic of China." And this is a copy of a
21 few pages from that book.

22 Q Okay.

23 A And Exhibit 27, first page appear to me a list
24 of cancer mortality -- age-adjusted cancer mortality
25 rates for 30 provinces in China.

1 Q Okay. And the first page, which is WB 263 of
2 Exhibit 27, that's the age-adjusted mortality rate for
3 all malignant neoplasms by province, correct?

4 A That's what --

5 MR. BEILKE: Objection. The document speaks for
6 itself.

7 BY MR. TATRO:

8 Q Are the --

9 A It's stated in that way.

10 Q And go to line 7 of the first page of
11 Exhibit 27, or line numbered 7 on the first page of
12 Exhibit 27 if you would, please. Tell me when you're
13 there.

14 A Yes. Yes, I'm there. Yes.

15 Q Okay. Do you see the age-adjusted rates there
16 for males for LiaoNing of 79.04 and the age-adjusted
17 rates for females of LiaoNing of 53.18?

18 A I saw those two numbers just mentioned, yes.

19 Q And if you average those two numbers do you
20 know what that rate comes out to be?

21 A I -- I have to calculate it either by hand or a
22 calculator right here.

23 Q Okay. Would you accept my representation that
24 the arithmetic average of those two numbers, 79.04 and
25 53.18, is 66.11?

1 MR. BEILKE: Objection. Incomplete hypothetical,
2 calls for speculation.

3 THE WITNESS: Actually, we can try to -- give me
4 15 seconds.

5 BY MR. TATRO:

6 Q I will do that because I think it's an
7 important point in putting Exhibit 2 in context; so go
8 ahead.

9 A Give me 15 seconds. I think that -- although
10 I'm not very good in -- in calculating, but I -- I think
11 I can find the average of these two number.

12 One is 79.04, one is 59 -- 53.18. If I sum
13 them up I would have -- well, 122.22. That's the sum of
14 these two numbers.

15 Q 132.22?

16 MR. BEILKE: Objection. Misstates his testimony.

17 MR. CASAS: 122.

18 THE WITNESS: I'm sorry. Hold on for a moment.

19 132. Sorry, I misspoke. 132.22.

20 If I divided 132.22 by 2, which is average of
21 these two numbers, it would be 66.11.

22 Is that number you just stated?

23 BY MR. TATRO:

24 Q That's the number that I stated.

25 A Okay. Then I will say that's average to 66.11.

1 Q And is that where the number on the third
2 column, the 66.1 in the third column of page 316 of
3 Exhibit 2, the Zhang article, derived from?

4 MR. BEILKE: Objection. Lacks foundation, calls for
5 speculation.

6 THE WITNESS: I -- I -- I don't -- I don't recall
7 how exactly the 66.1 calculated but I -- it's reasonable
8 to -- since I have to start in the beginning of my file,
9 it's reasonable to -- for a statistician to calculate in
10 this way to arrive this -- to derive the 66.1 on the
11 1997 JOEM article.

12 BY MR. TATRO:

13 Q Now, the documents that you produced in
14 connection with the subpoena have been attached to your
15 deposition as Exhibit 1, documents numbered TY 1 through
16 TY 925; is that correct?

17 A That's correct.

18 Q Okay. Or 926, I'm sorry.

19 A Sorry. Okay.

20 Q And the question that I'm going to ask you, I'm
21 going to talk only about those documents which comprise
22 TY 1 through 926 of Exhibit 1.

23 With respect to that group of documents, TY 1
24 through 926, are those documents that were either
25 prepared by you or received by you in the ordinary

1 course of business at or about the time that they are
2 dated, after having been prepared by a person with
3 knowledge?

4 MR. BEILKE: Objection. The question is overly
5 broad, the documents speak for themselves and not
6 otherwise.

7 THE WITNESS: Those are the documents in my file and
8 the -- the -- to respond to the subpoena, that's what I
9 produced.

10 BY MR. TATRO:

11 Q The documents, TY 1 through 926, those were
12 documents that you received in the ordinary course of
13 business or documents that you sent in the ordinary
14 course of business?

15 MR. BEILKE: Same objection.

16 THE WITNESS: I -- I would -- I would say so, sure.

17 BY MR. TATRO:

18 Q And you either sent them or received them at or
19 about the time that they're dated, correct?

20 A Yes.

21 Q Okay. And you then kept and maintained those
22 documents in your files in the ordinary course of
23 business, correct?

24 MR. BEILKE: Same objections.

25 THE WITNESS: I will say those files are kept in

1 my -- in my file in just general manner, sure.

2 BY MR. TATRO:

3 Q In the ordinary course of your business?

4 A I agree with that.

5 Q Okay. Now, you mentioned yesterday that you
6 spoke to Dr. Zhang in the tens of hours over the course
7 of this project. Do you generally remember that
8 testimony?

9 A I generally remember I talked with Dr. Zhang,
10 yeah, around that amount of time during that time.

11 Q And on some of those calls were only you and
12 Dr. Zhang on the phone together?

13 A Some of the calls, yes, we are. I will tell
14 you one scenario and reason for that.

15 The U.S. time zone and the China time zone are
16 substantially different. Actually, they're different by
17 16 hours, China is 16 hours earlier than what we are; so
18 I will give you a interpretation on that.

19 My working hour in the office from 8:00 to
20 5:00, corresponding to China hour from midnight,
21 12:00 midnight to about 9:00 a.m. So if I -- some of
22 the conversation I had with Dr. Zhang at my time in the
23 afternoon, like 4:00 p.m. or 5:00 p.m. or -- or
24 6:00 p.m. corresponding to Dr. Zhang's morning hour,
25 8:00, 9:00 or 10:00. Because sometimes it's just

1 inconvenient for him to talk in the morning, so he
2 probably prefer to -- I talk to him in his afternoon
3 time or even nighttime, which requires me to call him at
4 my midnight time.

5 And for those conversation, I -- I would make
6 the call probably from my home because I do not -- I do
7 not stay in the office that long; so some of the
8 conversations I had with Dr. Zhang were performed by
9 myself to him.

10 Q And some of the conversation with Dr. Zhang
11 also involved other ChemRisk personnel; is that
12 correct?

13 A Yes.

14 Q What are the names of the other ChemRisk
15 personnel who, from time to time, participated in calls
16 with Dr. Zhang?

17 A I -- based on my memory, I certainly don't
18 recall all the conversations all the time but from time
19 to time Bill Butler was on the phone, and I remember at
20 least a couple of times Brent Kerger was on the phone,
21 either Brent Kerger physically in Alameda office or I
22 remember once he was on a conference call, called
23 ChemRisk from his office in Irvine, I remember this
24 conversation probably happened in Bill Butler's office;
25 so with Bill Butler -- Bill Butler sitting in front of

1 me, I was the translator, I know probably Kerger was --
2 I know Kerger was on the conference call, and we dialed
3 the number to talk with Dr. Zhang.

4 Q Okay.

5 A So I -- I remember two of them being on the
6 phone call. Whether there are other members of ChemRisk
7 that have been on the phone call, I don't recall. There
8 might be.

9 Q When there were other ChemRisk people involved
10 in the conversation, would you translate their comments
11 to Chinese and Dr. Zhang's comments to English while
12 everybody was there and present?

13 A Yes, I was trying to. And I -- I told
14 ChemRisk, my scientist, including Bill Butler, that I
15 was not a trained translator so my translation may be
16 off, can be off, and can have a -- multiple
17 interpretations. But it seems like that they -- they --
18 they are fine with it.

19 Q Okay. In the various phone conversations over
20 the tens of hours that you had with Dr. Zhang involving
21 you and sometimes other ChemRisk personnel, can you just
22 tell me generally what was the nature of the discussions
23 that you had?

24 MR. BEILKE: Objection. The question is overly
25 broad, lacks foundation, calls for speculation.

1 THE WITNESS: Well, in general, that's all related
2 to this 19- -- year 1995, a research of chromium
3 contamination relationship with human health. In
4 general, that's the nature of that -- all the phone
5 conversation.

6 And the -- they are a couple of times that this
7 is what I reported in this two days, that there are some
8 times of discussing other mistreated issues, but also
9 mistreated issues related to this project.

10 BY MR. TATRO:

11 Q From time to time in the conversations, was
12 Dr. Zhang asked to provide information?

13 A Oh, sure, a lot of times.

14 Q And did he do so?

15 A He always -- I would say he always give some
16 insert or he make some effort, report those effort. It
17 was not always successful for him to look for the
18 information that ChemRisk asked for because a lot of
19 those information were just not maintained, and I
20 understand it's quite hard.

21 Because in Dr. Zhang's time in China, my
22 understanding in 1960 and 1970, Dr. Zhang never had a
23 computer. All of this information were handwriting and
24 he's -- handwriting documents in his holding and --
25 and -- and I -- I was quite a -- impressed by how much

1 document he still maintained.

2 Q Can you tell me the types of information which
3 Dr. Zhang provided you?

4 A Oh, that's a very broad statement. I -- I can
5 make my best effort to tell you some of them.

6 Q Please do.

7 A But I -- I -- my statement is if you take my
8 statement as a representation of all of the documents he
9 produced to me, I -- I don't think that's -- that would
10 be a right interpretation of my statement I'm going to
11 make.

12 But from time to time I remember he provided us
13 with cancer mortality rates, either for villages or for
14 regions or for province or for China. From time to
15 time, we also asked -- asked him of chromium
16 measurement. He provided some of the chromium
17 measurement at some point of time. And also there
18 required -- request that we want more information on the
19 chromium measurement, I think he made effort and he
20 reported the document was lost. And also he provided
21 information, I think, on population figures.

22 While population figures for China certainly
23 are easy to obtain, but the population number for each
24 of the study region, the study village, I don't think we
25 in the U.S. are easily find those information. I think

1 Dr. Zhang provided those information for the study
2 region and for the study villages.

3 That's some of his reporting number. Sitting
4 here, that's what I can remember.

5 Q When Dr. Zhang provided these types of
6 information to ChemRisk, what did ChemRisk do with the
7 information that it then got?

8 MR. BEILKE: Objection. The question is overly
9 broad, lacks foundation, calls for speculation.

10 THE WITNESS: Well, for some of these number,
11 ChemRisk would, if possible, do some verification to see
12 in general whether that makes sense. Then these numbers
13 are used, based on the discussion with Dr. Zhang, to try
14 to prepare or try to -- first try to use those numbers
15 to understand what Dr. Zhang's manuscript was about
16 before 1995, then I think some of those numbers are used
17 in this 1997 JOEM article.

18 BY MR. TATRO:

19 Q And who did that work that you just described,
20 who at ChemRisk did that work?

21 A Digesting his number?

22 Q Digesting, verifying, understanding the
23 information that he provided you with.

24 A I will say it's a group effort led by --
25 probably led by Mr. Butler. I participated. Maybe

1 other scientists also participated.

2 Q And is it fair to say that the information that
3 Dr. Zhang provided to the ChemRisk people is accurately
4 summarized and represented in the 1997 article?

5 MR. BEILKE: Objection. The question lacks
6 foundation, calls for speculation.

7 THE WITNESS: I would say so, based on my
8 experience. Based on my reading of 1997 article, I
9 would say so.

10 BY MR. TATRO:

11 Q Did you observe the ChemRisk personnel in your
12 workings with Dr. Zhang to be making an effort to
13 develop and present good science?

14 A Oh --

15 MR. BEILKE: Objection. The question "good science"
16 or the phrase "good science" is vague and ambiguous.
17 The question lacks foundation, calls for speculation.

18 THE WITNESS: While I work at ChemRisk my -- I
19 respect Mr. Butler, who is still my current boss. And
20 I -- and I respect him and other scientists in -- in
21 ChemRisk. I think that is a -- my impression is it is a
22 company culture to pursue the, as you say, good in
23 science or best in science but to pursue the science, to
24 find the answer.

25 So yes, my impression is ChemRisk did good

1 science, although I -- based on my limited half a year
2 working there, but that's my impression.

3 BY MR. TATRO:

4 Q Okay. Was it your impression that in the work
5 that culminated in the 1997 article, that Dr. Zhang was
6 also pursuing good science?

7 MR. BEILKE: Objection. Lacks foundation, calls for
8 speculation, vague and ambiguous.

9 THE WITNESS: I would say so. I respect Dr. Zhang,
10 personally and professionally.

11 BY MR. TATRO:

12 Q You mentioned yesterday that there was one
13 table from Dr. Zhang's prior work which was the basis
14 for one of the tables in the 1997 article. Do you
15 remember that testimony?

16 A Well, you have to tell me which table in the
17 1997 article you are talking about.

18 Q It was not specific in your testimony, and
19 that's why I wanted to try and figure out which table
20 was based on his prior work and where in that prior work
21 I would find it.

22 A Okay. I -- as I read of 1997 JOEM article --

23 Q Yes.

24 A -- there is only one table.

25 Q Yes.

1 A Okay?

2 Q Yes.

3 A There is only one table. Not --

4 I take that back.

5 Q Well --

6 A There is -- there is one table and the two
7 figures.

8 Q Figures, right.

9 A Okay. There's a -- I remember yesterday I was
10 asked for questions on Figure 2, which is some of the
11 contamination levels. And my statement, I remember, is
12 I remember Figure 2 was based on a table containing
13 number that Dr. Zhang provided. And I said if given
14 me -- give me some time, I can find it in my document.

15 Q Okay. How much time do you think you would
16 need to find that in your documents now?

17 A Tell you what, if you give me 30 seconds, if I
18 find it in 30 seconds, I find it. If 30 seconds I can
19 still not find it, it may take 30 minutes then; so --

20 Q Okay. Let's go for the first step and see if
21 we're successful.

22 A Let's give it a try.

23 Q Go ahead.

24 A I believe I found it. I believe I found it. I
25 will tell you the page.

1 Q Great.

2 A If you go to my Exhibit 299, page 299 to
3 page 300.

4 Q That's in Exhibit 1?

5 A Correct.

6 Q So it's TY 299 through 300?

7 A Correct.

8 Q Okay.

9 A And I --

10 Before I go on, can you have a look of TY 298?

11 I will wait for you to --

12 Q Thank you. Okay.

13 A Okay. TY 298 to -- I believe to TY -- to --
14 TY 298 to TY 313, I believe is a Chinese translation --
15 is an English translation of TY 314 through TY 323.
16 This is English translation I made around that time for
17 this Chinese version in the page 313 to 3- --

18 What did I say?

19 MR. CASAS: '23.

20 THE WITNESS: 323.

21 So we can just for now just read this English
22 version because I don't want to translate on the spot
23 for you.

24 BY MR. TATRO:

25 Q Right.

1 A In the English version, if you go to the
2 page TY 299 to page TY 300 --

3 Q Yes.

4 A -- this is Dr. Zhang reported of concentration
5 of chromium (VI) in water wells in 1965. You see that
6 title in English, don't you?

7 Q Yes.

8 A I will direct your attention to page TY 300.

9 Q Yes.

10 A You find the village on the right -- on the
11 left most column called JinChangBao --

12 Q Yes.

13 A -- you see the number 123 at the very
14 beginning?

15 Q I do.

16 A This refers to 123 water wells. And it's
17 breaked down by four numbers, 73, 35, 7 and 8, although
18 I do not hand calculate here but I think those four
19 numbers sum up to 123.

20 The 73, if you also read the title in the --
21 of this table on page 299, there are 73 water wells has
22 a concentration of undetectable or zero. That's my
23 understanding of the first zero means.

24 And 35 next to the 73 means the concentration
25 level was larger than zero but less than 0.05.

1 So on seven of the water wells it is larger
2 than 0.05, less than 0.1. Eight of them is larger than
3 0.1, less than 0.5.

4 Okay. That's what this table in English
5 stated.

6 If --

7 MR. BEILKE: Go ahead.

8 THE WITNESS: If now we go to 1997 JOEM article,
9 into Figure 2, into the top of Figure 2, the first
10 chart, we call this histogram in statistics, there are
11 four -- this is for a village called JinChangBao, which
12 is a -- just the village I -- we discuss of this page --
13 of this number 120 -- of this number 123 or 73 or
14 35 related to.

15 In the JinChangBao there are four numbers on
16 the JOEM 1997 article. The first number labeled as "NO"
17 I think -- no. "ND." "ND." I think it's "ND" I -- on
18 my copy. It seems like "ND" or not -- I think that's --
19 that stands for not -- not detective or not detectable.

20 And the bar -- the height of that bar in
21 statistics is trying to represent a number. The height
22 of this bar represent -- representing a number from
23 60 to 80, because it's past halfway through of 60, I
24 think this represents some number a little bit more than
25 70. I don't exactly sure what's number on this chart.

1 But if you tell me this number is 73 or someone told me
2 this number is 73, make perfect sense to me.

3 The second number which the detection level
4 between 0.001 to 0.05, that number is between 20 to 40.
5 I do not know exact number plotted but if you told --
6 tell me this is 35, I think that's very easy to believe;
7 so on and so forth for the 7 and 8.

8 So I think that in this table on TY -- on this
9 page TY 300 for JinChangBao Village, the four numbers
10 73, 35, 7 and 8 are the four numbers -- look like the
11 four numbers presented on the JOEM article Figure 2 top
12 chart.

13 Do you want me to go on?

14 BY MR. TATRO:

15 Q Is the same --

16 MR. BEILKE: I'm going to interject an objection
17 right here.

18 Through page 219, line 10, I'm going to move to
19 strike as there's no question pending, all of his
20 previous answers through that point.

21 But go ahead.

22 BY MR. TATRO:

23 Q Mr. Ye, is the answer that you just gave your
24 explanation of how Figure 2 in the 1997 article derives
25 from --

1 A Zhang's number?

2 Q -- TY 299 and forward of Dr. Zhang's Table 1?

3 A I would say that with one caveat, with one
4 difference.

5 Q Yes.

6 A Look on the second chart of the JOEM article
7 Figure 2 --

8 Q Yes.

9 A -- which is the Nuer River. Look into the
10 Table 1 or TY 300 --

11 Q Yes.

12 A -- under the village below Nuer River, below
13 JinChangBao is a Nuer River Village.

14 Q Yes.

15 A It has 170 water wells.

16 Q Yes.

17 A The breakdown of the 170 water wells is a 7, 1,
18 5, 27, 17, 76, 37 on -- in this table.

19 Q I see that.

20 A Now, when I read the JOEM article on the
21 Figure 2, the second chart for Nuer River Village, I
22 think the number appeared on the second page of
23 Nuer River Village was not -- I don't think it's -- I
24 don't know whether it's wrong, but it was not
25 representing the number I just read to you from my

1 TY 300. I don't think those number match.

2 I do not read this part as 7, 1 -- 7, 1, 5, 27,
3 17, 76, 37.

4 Certainly there is no number 37 presented in
5 the chart; so I think that part, I don't know how the
6 number been generated on this chart for Nuer River
7 Village.

8 Q Okay. With that exception, though, then
9 YangXing, ShiLiTai and WenJiaTun would follow the
10 methodology that you described for transferring
11 information from TY 299 and 300 into the JOEM article?

12 A I believe so. I believe that logic applies,
13 that the logic or the steps I described for JinChangBao
14 when we start this conversation, I think that apply to
15 YangXing, ShiLiTai, WenJiaTun.

16 Q Did Dr. Zhang provide you with information or
17 provide ChemRisk with information on which the JOEM
18 information for the Nuer River Village well
19 concentration was derived?

20 A Actually, on my TY 300, I think this is the one
21 place Dr. Zhang provided concentration information for
22 Nuer River. At different point he may have provided
23 different concentration information. I don't know
24 whether those information are plotted on this Figure 2
25 of JOEM.

1 Q Okay.

2 A I know JOEM number is different from my
3 page 300. But other than Nuer River, all the other data
4 just -- I think I can find and I -- I -- the -- my
5 TY 300 represented those number.

6 Q Okay. All right. In your various phone calls
7 with Dr. Zhang, did you discuss dose-response
8 relationship with him?

9 A Yes, more than once. I remember more than
10 once. It's not I discuss. It's Bill Butler discuss
11 that with him. I was the translator.

12 Q How many times do you think your conversations
13 with Dr. Zhang involved a discussion of dose response?

14 A Oh, wow. I -- it's -- I don't recall exact
15 number of times. I will say -- well, it's certainly
16 more than once. It's certainly multiple times.

17 Q And can you summarize for us the substance of
18 the conversations involving Dr. Zhang regarding dose
19 response?

20 A The substance was a observation from a
21 ChemRisk, from Bill Butler or Brent Kerger, saying that
22 Dr. Zhang, do you know that there is no dose-response
23 relationship -- positive dose-response relationship
24 means the closer to the site of the contamination, the
25 higher the cancer rate.

1 Dr. Zhang's -- I remember even in the first
2 couple of conversations, he said yeah, I knew that. And
3 it's documented in one of my manuscript. Then we
4 translated those manuscript.

5 And then in later discussion again that came
6 up, say when you observed such negative dose --
7 non-positive dose-response relationship, Dr. Zhang, is
8 that kind of a cast out in your mind that you -- your
9 contamination data here do not show a causation, that
10 cancer rating in this region was not caused by
11 chromium? Dr. Zhang said well, that's one of my
12 questions that I try to answer.

13 So in general comments, that was -- the exact
14 wording, I -- the exact wording I cannot -- I don't
15 remember. But if you ask me just pretty general, that's
16 general -- generally what he said.

17 Q And did he acknowledge up to your last
18 conversation with him that the dose-response
19 relationship involving this area that he studied did
20 reflect a negative dose-response relationship? That is
21 to say, the closer to the contamination, the lower the
22 rate, and the further away you got, the higher the
23 rate?

24 MR. BEILKE: Objection. Assumes facts not in
25 evidence, lacks foundation, calls for speculation.

1 THE WITNESS: As I recall, that conclusion was made
2 and was not changed since sometime in 1995.

3 BY MR. TATRO:

4 Q Okay. So at no time in any of your
5 communications did Dr. Zhang ever say to you or anybody
6 from ChemRisk that, in fact, he had concluded that there
7 was a positive dose-response relationship?

8 A No, not -- not that I recall because that's so
9 apparent in the data, I think he knew the data tells him
10 that's a negative dose-response relationship.

11 Q Okay. Now, you were involved in discussions
12 between Dr. Zhang and ChemRisk regarding his prior
13 studies, right?

14 A I involved in -- as a translator, yes, I did.

15 Q Okay. And can you summarize the substance of
16 your discussions with Dr. Zhang on those prior studies
17 as you've done on some of these other topics for us?

18 A I'll --

19 MR. BEILKE: Objection. It's overly broad, lacks
20 foundation, calls for speculation.

21 THE WITNESS: I -- I'll -- I -- to put a summary of
22 all these points would be hard but I -- I'll just do
23 it -- make a try.

24 BY MR. TATRO:

25 Q Thank you.

1 A The conversation was based on his previous --
2 his prior study, prior to 1995 was a series of study
3 documenting a contamination from alloy -- a alloy plant
4 located in the -- in the suburb of JinZhou. And the
5 contamination was -- according to him, was started from
6 19- -- early 1960s, but in 1965 people reported it to
7 him when he was only his job as a antiepidemic station
8 manager.

9 He received reports saying that oh, some of the
10 water -- some of the drinking water -- drinking wells,
11 the water just doesn't look right, it's yellowish; so he
12 went down to those water wells and take some samples
13 from the water wells and measure what are the
14 contamination level, and he determined that there are
15 some chromium contamination in that region, along with
16 other contaminations, actually.

17 He mentioned a sulfate as one source of
18 contamination, too, but he said well, just in that
19 period of time he observed -- or he received report from
20 people saying that in those regions there are
21 contaminations.

22 And as a -- probably his job duty, probably his
23 interest in improving people's health, he was thinking
24 of oh, there's a contamination here, there might be some
25 negative impact on human health; so he was -- put his

1 reason -- one of his research interest was in this
2 particular region, whether there is a higher dens- --
3 cancer rate, he monitors the cancer rate from year to
4 year in a period of time and then he was trying to see
5 whether the cancer rate was in any way related to the
6 chromium contamination.

7 He was -- his research method was identify
8 cancer deaths by village and identify population in each
9 village, then calculate what we call age standardized
10 cancer mortality rate for village.

11 We asked -- I remember at a point of time we
12 asked -- we asked him regarding of why it's reasonable
13 to use village as a starter unit. I think he gave an
14 answer, I may be able to find the answer in here if you
15 allow me to find the time. But I think he said it's
16 reasonable to -- to -- to use the village because
17 village are where the people concentrated, living in the
18 village, and the village also are where the drinking
19 water wells are located.

20 So he used the village mortality to study
21 the -- each village cancer mortality rate in the
22 relationship of the chromium concentration of the
23 village water wells from the plant.

24 But I think that out of one point of time it's
25 a conclusion from him by discussions with ChemRisk where

1 his conclusions, I forgot whose conclusion it is, is the
2 data that he had at one point of time, measurement of
3 water wells concentration year -- by year and by village
4 was lost, he did not find those information; so the next
5 best measurement of the concentration or exposure to
6 chromium is just the distance from each village to the
7 alloy power plant.

8 So his study was then focused on a
9 relationship between the village to the power plant to
10 the cancer mortality rate of each village. And I recall
11 there was one conclusion or one statement in his
12 document. He said in general, the closer a village to
13 the power plant, to the contamination source, the higher
14 the concentration level of chromium in the drinking
15 water.

16 So generally speaking, using distance as a
17 surrogate measure of the exposure is a valid approach, I
18 believe, and that's a point of view that's held by more
19 senior scientists from ChemRisk and held by Dr. Butler
20 and Dr. Zhang.

21 So he started this relationship between the
22 distance and the cancer mortality rate, and his
23 conclusion was there was a negative dose-response
24 relationship in the five villages around -- along the
25 contamination path. And since there is such a negative

1 dose-response relationship, that make him to suspect
2 that chromium was not the cause of the higher cancer
3 rate in this whole region combined but maybe some other
4 regions.

5 But he -- by the time I departed from ChemRisk,
6 I -- I know he was interested in conducting further
7 analysis in that region, and is always one of my
8 interests if that can be in any way funded or in any
9 other manner, but I just -- so, that's -- so he still
10 have -- by the time I -- last conversation I had with
11 him, I think he still have interest in going back to
12 redo some of this analysis.

13 Q Mr. Praglin in his questions, I think, tried to
14 create the impression that you either misled or did not
15 accurately represent --

16 A Yeah.

17 Q -- to Dr. Zhang the contents of the JOEM
18 article.

19 A No.

20 Q Did that happen?

21 MR. BEILKE: Objection. Argumentative,
22 mischaracterizes Mr. Praglin's questions, compound,
23 lacks foundation, calls for speculation.

24 THE WITNESS: I -- I don't know what Mr. Praglin's
25 intention is, but if anyone said that to me or portrayed

1 this as that way, I totally disagree, because this study
2 was conducted between -- or there are so many
3 communications between ChemRisk and Dr. Zhang in 1995, I
4 think Dr. Zhang -- I will say Dr. Zhang is totally aware
5 of everything wrote in this article.

6 So saying that we -- I misrepresent to him
7 what's in this article that he not aware of, that's a
8 contradict to even some paper copies that I have in my
9 file.

10 BY MR. TATRO:

11 Q Did anybody ever instruct you or try to induce
12 you to mislead Dr. Zhang or misrepresent to Dr. Zhang
13 what the JOEM article said?

14 MR. BEILKE: Objection. The question is vague and
15 ambiguous, it calls for speculation.

16 THE WITNESS: As I stated earlier in my deposition,
17 either today or yesterday, my impression from ChemRisk
18 was if there is anything I knew, I would tell Dr. Zhang
19 without any reservation. I am still staying with that
20 statement to you, which is everything I know, including
21 JOEM article, including all aspect of this article, I
22 would have told him.

23 I was not under any impression that I should
24 withhold any information.

25 BY MR. TATRO:

1 Q You had both written and verbal communications
2 with Dr. Zhang regarding the JOEM article; is that
3 correct?

4 A Yes. In general speaking, yes.

5 Q Okay. Now, you said that you had sent one
6 Chinese version of the 1997 article which was identified
7 and discussed in this deposition. Is it your belief
8 that more than one Chinese language version of that
9 article existed at some point in time?

10 MR. BEILKE: Objection. The question is vague and
11 ambiguous, calls for speculation.

12 THE WITNESS: In -- I -- I certainly don't recall
13 exactly which version but just like I stated earlier on,
14 come up with a final version of a document, either in
15 English or in Chinese, requires multiple translation
16 versions.

17 You can see that the English translation from
18 Chinese to English documented in my document here,
19 although you can't read, there are multiple versions
20 of -- of the same thing. There are certainly multiple
21 versions of the Chinese version at different times,
22 I -- I -- although I -- I may not have the piece of
23 paper anymore. But in general speaking, that's true.
24 There must be multiple versions.

25 BY MR. TATRO:

1 Q Okay. And Dr. Zhang sometimes provided written
2 comments in Chinese regarding the JOEM article; is that
3 correct?

4 A In generally speaking, yes, because he wrote a
5 lot of things regarding of different aspect of this
6 article; for example, cancer rate for the population,
7 for example. Sure he did.

8 Q Okay. And the comments that Dr. Zhang provided
9 both orally and in writing regarding the drafts of the
10 JOEM article, were those comments incorporated into the
11 article?

12 A Yes. And -- and I think I have evidence to
13 show that, too.

14 The document that you just mentioned, the
15 Chinese version document, I remember after Dr. Zhang
16 wrote on the document and sent it back and there are
17 edits and changes in the conclusion or in the
18 description part of the -- of this communication where
19 you can call finally leads to this article, maybe --
20 maybe yes.

21 Q Would it be your testimony that all revisions
22 of any aspect of the 1997 article were reviewed by
23 Dr. Zhang, discussed with Dr. Zhang and approved by
24 Dr. Zhang?

25 A Well, I can say that any edits that was any

1 substantial change or any substance change was
2 communicated and back and forth with Dr. Zhang. Some of
3 the changes which are purely editorial, I don't know.

4 Q Okay. And when you say "purely editorial,"
5 what do you mean?

6 A Purely editorial, for example, to say "These
7 five villages is a contamination area," I -- just
8 hypothetically. Or you say well, that's certainly
9 wrong. You should say "These villages are a
10 contamination area." I -- I -- those are editorial
11 changes that I -- I refer to; so I -- it's probably
12 impossible to translate every single editorial and every
13 single time right on the spot to Dr. Zhang. It's
14 just --

15 Q Okay. So focusing, then, on the substantive
16 revisions to the 1997 article, is it your testimony that
17 all substantive revisions were reviewed by Dr. Zhang,
18 discussed with Dr. Zhang and approved by Dr. Zhang?

19 A Yeah, all the substance matter, yes.

20 Q Okay. Did Dr. Zhang ever tell you that he
21 disagreed with the conclusions of the JOEM article as
22 put into its final form and published?

23 A No, neither before '95 nor after '95, nor in
24 '96 or in '97. No.

25 Q If you would look in Exhibit 1 and just take a

1 look at TY 42 --

2 A Yes.

3 Q -- is TY 42 a document that you authored?

4 A It --

5 TY 42?

6 Q Yes.

7 A Yes. The page was in my writing, handwriting.

8 Q Okay. And can you tell me, in terms of the
9 actual document that comprises TY 42, through what page
10 number does that go?

11 A This fax will go up to --

12 Let me read it. Four pages would be TY 45.

13 Q Thank you.

14 Was TY 42 and attachments something that you
15 actually sent?

16 A Yes. Actually --

17 Yes, sure.

18 Q Okay. Then if you would go to TY 51 in

19 Exhibit 1 --

20 A Oh, yes. Sure.

21 Q -- can you tell me how many pages made up the
22 document that starts with TY 51, just so I know where
23 the endpoint is on that document?

24 A I think five pages. That will lead us to
25 TY 55. TY 55.

1 Q 65 or 55?

2 A 55.

3 Q 55, okay.

4 And of the handwriting on the document that
5 commences on TY 51 and concludes on TY 55, is any of
6 that handwriting yours?

7 A Hold on for a moment. I have to -- I have to
8 briefly have a look at that.

9 Actually, on the page TY 55, I think that some
10 of the handwriting are mine.

11 Q Can you tell us what sections are yours?

12 A TY 55, you see that on the right -- you see
13 that on the right most column --

14 Q Yes.

15 A -- there are two arrows --

16 Q Yes.

17 A -- starting from it, I think that those are --
18 part of those are mine.

19 Q Can you identify any more specifically what
20 part is yours?

21 A Sure. If I -- if you allow me to circle it.

22 MR. CASAS: Why don't you highlight it.

23 BY MR. TATRO:

24 Q Why don't you highlight it and we'll ask our
25 court reporter to break that out separately and give us

1 a color copy of that. Okay. Thank you.

2 So the portions that you've highlighted, then,
3 on TY 55, that's your handwriting; is that your belief?

4 A That looks like my handwriting.

5 Q Do you know where you got the information which
6 is identified on the highlighted portion of TY 55?

7 A The highlighted portion here is -- that's in
8 here I don't know, but it's -- it looks like I -- I -- I
9 have to identify them from Dr. Zhang's manuscript or by
10 conversations with Dr. Zhang. I don't recall.

11 Q That was my question.

12 A Yeah.

13 Q Did you get it from his writings or from his
14 conversation or you can't remember?

15 A I can't remember either way.

16 Q And the portions of TY 55 that are your
17 handwriting --

18 A Uh-huh.

19 Q -- did you send those back to Dr. Zhang at some
20 point?

21 A I -- I don't know. I'm -- I may have talked to
22 him, I may send back to him one way or the other.

23 Q If you would take a look at TY 66, please.

24 A 66, yes.

25 Q Can you tell me how many pages comprise the

1 document that commences on TY 66?

2 A Only one page. Only this page.

3 Q Okay. Is the handwritten portion of TY 66 in
4 your handwriting?

5 A It looks like mine, yes.

6 Q And that's a document that you prepared on or
7 around October 4, 1995?

8 A Yes.

9 Q And sent to Dr. Zhang?

10 A Yes.

11 Q Would you --

12 A Actually, there's one more thing I'd like to
13 bring to your attention.

14 Q Yes.

15 A On the TY 66 --

16 Q Yes.

17 A -- I -- although I -- I -- it's obviously in
18 Chinese so I'm not going to translate for you, but on
19 the second line of the message section it's not hard for
20 you to recognize the English part of "Brent Kerger" or
21 at the end of the sentence "PG&E."

22 I testified earlier, yesterday and earlier
23 today, that I disclosed all the information I knew of;
24 so if there's any accusing me saying I knew PG&E was the
25 funder but we didn't tell Dr. Zhang, this is the right

1 document to say that's wrong.

2 Q Can you look at TY 87 in Exhibit 1, please.

3 A 87, yes.

4 Q Can you tell me what that is?

5 A I -- I remember this is a -- a letter we sent
6 along with the JOEM article -- sent along with the
7 submission to JOEM. It's both in English and in
8 Chinese.

9 The English is a translation of the Chinese,
10 or the Chinese is a translation of the English, either
11 way to say it.

12 And this document was given to Dr. Zhang, and
13 that was Dr. Zhang's signature on the bottom of this
14 page.

15 Q Do you know whose handwriting that is below
16 Dr. Zhang's signature there?

17 A Below Dr. Zhang's signature?

18 Q I'm sorry, I've confused it.

19 There's an English version that says
20 J. D. Zhang --

21 A Uh-huh.

22 Q -- and then below that there's some Chinese
23 figures.

24 A Yes.

25 Q Is all of that in Dr. Zhang's handwriting?

1 A I believe so, yes.

2 Q Okay.

3 A Including the date.

4 Q Okay. So TY 87 was a document that you sent to
5 Dr. Zhang, he signed and then sent back to you?

6 A Correct. He sent it back twice. Once I think
7 he sent it back by fax, another time he sent it -- the
8 original signed.

9 Q Okay. Would you go to TY 113, please.

10 A Yes.

11 Q And I am not sure how many pages follow TY 113
12 as part of the same document. Do you know or can you
13 identify that?

14 A I will try.

15 Q Okay.

16 A I think it go up to TY 119.

17 Q All right. Then with respect to TY 113 through
18 119, can you tell me what that is?

19 A I -- I don't remember. I -- although this is
20 in my document, I don't remember I wrote this document.
21 My impression of this document was -- is a -- either a
22 summary or a -- of the understanding of Dr. Zhang's
23 material or a -- contains some critique of Dr. --
24 Dr. Zhang's material.

25 Q TY 113 is not a draft of the JOEM article, is

1 it?

2 A I -- I don't know but I don't think so. This
3 doesn't appear similar to JOEM article in any way.

4 Q In the last couple of hours of questioning by
5 Mr. Praglin, there were some questions about, and let me
6 get the exhibit numbers out, Exhibit 32.

7 A Okay. Let me get 32 out. We're all organized.
8 Okay. Thank you.

9 Yes, I'm -- I'm on this page.

10 Q And I was a little confused because there were
11 some questions as to where Exhibit 32 came from or what
12 it was based on, and I think that there was at least
13 the --

14 Let me see if I can find the actual document
15 here. Give me a moment. Sorry.

16 A Take your time.

17 Q Well, I thought it was marked as a separate
18 exhibit.

19 But as I understood the testimony, and I want
20 to make sure to try and clarify this, I think the way
21 the record now reads is that Exhibit 32, which carries a
22 date of July 31, 1995, is based on a September 1995
23 document which I believe resembled TY 113, and I
24 couldn't figure out how that could be --

25 A No. No.

1 Q -- and so I thought the record must be
2 confused. Can you clarify that?

3 A First, again, this -- this document that --
4 TY -- Exhibit 32, that Mr. Praglin gave me, is produced
5 from Mr. Butler's file; so I don't recall this was a
6 document I ever found in my file. So for me to -- or
7 for Mr. Praglin or you to question me on this document,
8 I -- I -- a lot of details I just don't know. I -- I
9 don't know what's on this document. It's better just to
10 pose the question to Dr. Butler rather than to me.

11 Q Okay. All right. So is it your testimony,
12 then, that you don't know what Exhibit 32 is based on,
13 if anything?

14 A No, I do not recognize this document. Better
15 just to ask Mr. Butler for it.

16 MR. TATRO: Why don't we take a short break because
17 I'm trying to get through a lot of the documents and I
18 think we're substantially there, but I don't need to
19 have you sit here while I do this, and hopefully we can
20 get you out of here fairly quickly.

21 MR. CASAS: Okay.

22 THE VIDEOGRAPHER: Going off the record. The time
23 is 5:14.

24 (Off the record.)

25 THE VIDEOGRAPHER: We're back on the record. The

1 time is 5:27. Please begin.

2 BY MR. TATRO:

3 Q Okay. Mr. Ye, I'm handing you Exhibit 43.

4 (Defendant's Exhibit 43 was
5 marked for identification, a copy
6 of which is attached hereto.)

7 BY MR. TATRO:

8 Q Can you identify that document?

9 I'm not going to ask you to translate it, I
10 just want to know if you're familiar with that document.

11 A I've seen this document before, yes.

12 Q Did you receive that document from Dr. Zhang?

13 A Yes.

14 Q On or about what date?

15 A On November 18th of 1995. That's the date it's
16 dated on this document.

17 Q All right. I'm handing you now Exhibit 44.

18 (Defendant's Exhibit 44 was
19 marked for identification, a copy
20 of which is attached hereto.)

21 BY MR. TATRO:

22 Q Have you seen Exhibit 44 before?

23 A I remember I saw this one before.

24 Q Okay. Did you receive Exhibit 44 from
25 Dr. Zhang?

1 A Yes, I did.

2 Q On or about what date?

3 A On January 8th of 1996.

4 Q Handing you now Exhibit 45.

5 (Defendant's Exhibit 45 was
6 marked for identification, a copy
7 of which is attached hereto.)

8 BY MR. TATRO:

9 Q Do you recognize Exhibit 45?

10 A Yes, I do.

11 Q Is Exhibit 45 a document that you received from
12 Dr. Zhang?

13 A Yes, I believe it is.

14 Q On or about what date?

15 A The date on -- date Dr. Zhang dated is
16 February 26th of 1996.

17 Q Do you recognize Exhibit 46?

18 (Defendant's Exhibit 46 was
19 marked for identification, a copy
20 of which is attached hereto.)

21 THE WITNESS: Yes.

22 BY MR. TATRO:

23 Q What is Exhibit 46?

24 A 46 I believe is the letter sent from Dr. Zhang
25 to Brent Kerger.

1 Q Is that a letter that you received in the
2 course of your duties at ChemRisk?

3 A This is a letter I translated for
4 Brent Kerger --

5 Q Yes.

6 A -- at a later time.

7 Q Okay. I'm handing you now Exhibit 47.

8 (Defendant's Exhibit 47 was
9 marked for identification, a copy
10 of which is attached hereto.)

11 THE WITNESS: Yes.

12 BY MR. TATRO:

13 Q Can you tell me what that is?

14 A This is a fax, appear to be I sent to
15 Gwen Corbett --

16 Q Okay.

17 A -- reporting a conversation with Dr. Zhang on
18 July 18th.

19 Q Okay.

20 A Yes. On July 18th it says on the second page.
21 Yes.

22 Q All right. I'll hand you Exhibit 48.

23 (Defendant's Exhibit 48 was
24 marked for identification, a copy
25 of which is attached hereto.)

1 BY MR. TATRO:

2 Q Do you recognize Exhibit 48?

3 A I do.

4 Q And what is that?

5 A It's a -- I believe a -- on top of the page 48
6 is a blowup version of a map, printed map. On the
7 bottom of page -- Exhibit 48 is a direction -- is some
8 sort of indication of wind direction or direction of
9 underground water movement.

10 Q Okay.

11 A That's what's stated.

12 Q Did you receive Exhibit 48 in the course of
13 your duties at ChemRisk?

14 A I saw this page at one point of time.

15 Q Okay. I'm going to hand you Exhibit 49.

16 A Yes.

17 (Defendant's Exhibit 49 was
18 marked for identification, a copy
19 of which is attached hereto.)

20 BY MR. TATRO:

21 Q Do you recognize that document?

22 A This appear to be a memo I wrote -- I wrote.

23 Q Okay. And approximately when did you write
24 that memo?

25 A This is a July 20th -- I believe, although no

1 year on that, but I believe this is 1995, July 20th.
2 I -- this memo is -- title of this memo is -- this is a
3 memo of the phone conversation with Dr. Zhang at
4 8:10 p.m. on July 20th.

5 (Defendant's Exhibit 50 was
6 marked for identification, a copy
7 of which is attached hereto.)

8 BY MR. TATRO:

9 Q Okay. Can you tell me, what's Exhibit 50?

10 A It looks like a fax I send to Gwen Corbett on
11 July 28th, which is a memo of my conversation with
12 Dr. Zhang on the July 27th.

13 Yeah, there are a lot.

14 (Defendant's Exhibit 51 was
15 marked for identification, a copy
16 of which is attached hereto.)

17 BY MR. TATRO:

18 Q Hand you Exhibit 51. Can you tell me what that
19 is, please?

20 A This appear to be a fax I sent to Gwen Corbett
21 on August the 3rd, I believe the year is 1995, although
22 the year does not appear on this document. Message on
23 the cover page said, "Hi Gwen: this is a memo of
24 Dr. Zhang's fax in this morning (actually midnight).
25 Any questions? Please feel free to call me."

1 Q Is Exhibit 51 a document you, in fact, sent?

2 A I believe so, yes.

3 Q Okay. I'm going to hand you Exhibit 52.

4 (Defendant's Exhibit 52 was
5 marked for identification, a copy
6 of which is attached hereto.)

7 BY MR. TATRO:

8 Q Tell me what that is, please.

9 A Oh, okay. This is another fax I sent to
10 Gwen Corbett on August 4, 1995, containing eight pages.
11 Message is, "Hi Gwen: Here is a memo of my conversation
12 with Dr. Zhang yesterday," which I believe is
13 August 3rd. That's appear to be a report of a
14 conversation I had with Dr. Zhang.

15 Q All right. Exhibit 53, please. Can you tell
16 me what that is?

17 (Defendant's Exhibit 53 was
18 marked for identification, a copy
19 of which is attached hereto.)

20 THE WITNESS: Sure. This appear to be a
21 document -- 15-pages document sent to Gwen Corbett dated
22 August 10th without year, but I believe it's 1995. But
23 in this document that you gave me, I only found four or
24 five pages; so indeed in the cover letter it says
25 15 pages. Okay? 15 pages I sent to Gwen Corbett.

1 BY MR. TATRO:

2 Q Exhibit 53, can you tell me what that is,
3 please?

4 THE REPORTER: 54.

5 THE WITNESS: 54.

6 MR. TATRO: I'm sorry, I lost a step there.

7 (Defendant's Exhibit 54 was
8 marked for identification, a copy
9 of which is attached hereto.)

10 THE WITNESS: Okay. This looks like a fax I sent
11 to Dr. Brent Kerger, five pages, on August 24th of the
12 year 1995. Here's -- I -- message briefly is,
13 "Dr. Kerger: Enclosed is a paper draft we talk about on
14 Tuesday," and followed by some sentence.

15 BY MR. TATRO:

16 Q Can you tell me what Exhibit 55 is, please?

17 (Defendant's Exhibit 55 was
18 marked for identification, a copy
19 of which is attached hereto.)

20 THE WITNESS: Yes. This -- on the cover page of 55
21 is the fax report confirmation page, confirmed is on
22 September 1st of 1995 four pages were sent. And on the
23 second page of this exhibit, it looks like my
24 handwriting, I date it August 1st, I believe that's the
25 year 1995, and this is addressed to Mr. Zhang. And

1 the -- the -- including is dated -- briefly I can tell
2 you this looks like including a article that we
3 discussed.

4 BY MR. TATRO:

5 Q All right. I'm going to hand you now what
6 we've marked as Exhibit 56.

7 (Defendant's Exhibit 56 was
8 marked for identification, a copy
9 of which is attached hereto.)

10 BY MR. TATRO:

11 Q Do you recognize that document?

12 A This appear to be a document I sent to
13 Gwen Corbett on September 29th of the 1995, five pages.

14 Q Did you, in fact, send it?

15 A Yes, I think so.

16 Actually on the second page of -- of this
17 Exhibit 56 is a fax confirmation number -- fax
18 confirmation report printed; so yes, I did, sure.

19 Q Tell me, what is Exhibit 57, please?

20 (Defendant's Exhibit 57 was
21 marked for identification, a copy
22 of which is attached hereto.)

23 THE WITNESS: 57 is a -- looks like a fax I sent to
24 Kathy Depotor, including two pages. I sent it on
25 September 29th of 1995.

1 BY MR. TATRO:

2 Q And what is Exhibit 58?

3 (Defendant's Exhibit 58 was
4 marked for identification, a copy
5 of which is attached hereto.)

6 THE WITNESS: 58 addressed to me, it says Mr. Ye,
7 and the date on the top of this page printed on
8 September 5th of 1995. It looks like a fax sent to me
9 from Dr. Zhang.

10 BY MR. TATRO:

11 Q And did you, in fact, receive it?

12 A Yes, because the printed statement on top is
13 the -- what I believe was a fax --

14 Yes, I -- I think I receive it.

15 (Defendant's Exhibit 59 was
16 marked for identification, a copy
17 of which is attached hereto.)

18 BY MR. TATRO:

19 Q Can you tell me, what is Exhibit 59, please?

20 A 59 looks like a fax sent to me from -- on
21 September 6, 1995 from Dr. Zhang, including some maps.

22 Q Did you receive Exhibit 59?

23 A Yes, I recall I received this.

24 (Defendant's Exhibit 60 was
25 marked for identification, a copy

1 of which is attached hereto.)

2 BY MR. TATRO:

3 Q Okay. Exhibit 60, what is that?

4 A This looks like another fax Dr. Zhang sent to
5 me on September 11th of 1995, addressed to me.

6 Q Did you receive Exhibit 60?

7 A I remember I receive this thing.

8 (Defendant's Exhibit 61 was
9 marked for identification, a copy
10 of which is attached hereto.)

11 BY MR. TATRO:

12 Q Tell me, what is Exhibit 61, please.

13 A This look like another fax sent to Dr. Zhang
14 from me addressed to Mr. Ye on September 6th of 1995.

15 Q Did you receive Exhibit 61?

16 A Yes. Yes.

17 MR. CASAS: Tony, on that exhibit, did you say the
18 fax was sent to you or by you?

19 THE WITNESS: Sent to me from Dr. Zhang.

20 MR. CASAS: Okay.

21 BY MR. TATRO:

22 Q I'm going to hand you Exhibit 62.

23 (Defendant's Exhibit 62 was
24 marked for identification, a copy
25 of which is attached hereto.)

1 BY MR. TATRO:

2 Q Tell me, please, what Exhibit 62 is.

3 A This looks like my handwriting and it's sent to
4 Brent Kerger, five pages, on August 24, 1995.

5 Q Is that, in fact, a document that you sent to
6 Dr. Kerger?

7 A I believe so, yes.

8 Q Okay. All right.

9 And what is Exhibit 63?

10 (Defendant's Exhibit 63 was
11 marked for identification, a copy
12 of which is attached hereto.)

13 THE WITNESS: Exhibit 63 looks like a fax sent to
14 me from Dr. Zhang on -- he dated October 2nd of 1995.

15 BY MR. TATRO:

16 Q Did you, in fact, receive that fax?

17 A Yes, I believe so.

18 Q Tell me, what is Exhibit 64, please?

19 (Defendant's Exhibit 64 was
20 marked for identification, a copy
21 of which is attached hereto.)

22 THE WITNESS: This looks like a fax sent to me from
23 Dr. Zhang on the date of October 13, 1995.

24 BY MR. TATRO:

25 Q Did you, in fact, receive Exhibit 64?

1 A I believe so.

2 Q I hand you Exhibit 65.

3 (Defendant's Exhibit 65 was
4 marked for identification, a copy
5 of which is attached hereto.)

6 BY MR. TATRO:

7 Q Tell me what that is, please.

8 A This looks like a fax sent -- addressed to me
9 from Dr. Zhang. The date Dr. Zhang dated is November 2,
10 1995.

11 Q And did you, in fact, receive Exhibit 65?

12 A Yes, I believe so.

13 Q I'm going to hand you Exhibit 66.

14 (Defendant's Exhibit 66 was
15 marked for identification, a copy
16 of which is attached hereto.)

17 THE WITNESS: Yes.

18 BY MR. TATRO:

19 Q Can you tell me what Exhibit 66 is, please?

20 A It is a -- a fax in my handwriting, a fax on
21 November 9th of 1995, a fax I send to Dr. Zhang.

22 (Defendant's Exhibit 67 was
23 marked for identification, a copy
24 of which is attached hereto.)

25 BY MR. TATRO:

1 Q Okay. And what is Exhibit 67, sir?

2 A This looks like my handwriting, a fax sent to
3 Brent Kerger, including three pages, dated November 13,
4 1995.

5 Q Did you, in fact, send that fax to Dr. Kerger?

6 A Yes, I believe so.

7 (Defendant's Exhibit 68 was
8 marked for identification, a copy
9 of which is attached hereto.)

10 BY MR. TATRO:

11 Q Exhibit 68, what is that?

12 A It's a fax page that I sent to
13 Dr. Brent Kerger on November 14th of 1995.

14 (Defendant's Exhibit 69 was
15 marked for identification, a copy
16 of which is attached hereto.)

17 BY MR. TATRO:

18 Q And what is Exhibit 69?

19 A This is a fax send to -- no. Either a fax or
20 a letter sent to me in Chinese from McLaren/Hart
21 Beijing (sic) office.

22 Q Did you, in fact, receive Exhibit 69?

23 A I have re- --

24 Yes, I did.

25 MR. BEILKE: I'm sorry, I didn't hear who it was

1 from.

2 THE WITNESS: From a McLaren/Hart Shanghai office.

3 MR. BEILKE: Anybody specific from there?

4 THE WITNESS: It didn't say. Just have office name
5 on it.

6 BY MR. TATRO:

7 Q I'm going to hand you Exhibit 70. I think that
8 may have gotten detached from Exhibit 69, but since I'm
9 a little rusty on my Chinese I can't confirm that.

10 (Defendant's Exhibit 70 was
11 marked for identification, a copy
12 of which is attached hereto.)

13 THE WITNESS: I cannot blame you.

14 Actually, this is a fax, looks like a two-page
15 fax sent from me to Gary Carton, stated, "Per request of
16 Brent Kerger, I am sending you a copy of letter we have
17 received from McLaren/Hart Beijing office this
18 morning."

19 BY MR. TATRO:

20 Q Did you, in fact, send Exhibit 70?

21 A I believe I did. It's on November 16, 1995.

22 Q All right. I've handed you Exhibit 71.

23 (Defendant's Exhibit 71 was
24 marked for identification, a copy
25 of which is attached hereto.)

1 BY MR. TATRO:

2 Q I'm not sure how many pages properly belong in
3 it, but if you could identify that document for me,
4 please.

5 A Actually, the Exhibit 71 you have including
6 multiple faxes. More than one --

7 Q Okay.

8 A -- fax.

9 Hold on for a moment. More than one fax. More
10 than one fax. I'll -- I'll show you the cover fax.

11 The cover fax is a fax addressed to Mr. Zhang I
12 sent to him on November 16th of 1995, which this fax
13 including two pages. And after the two pages is a fax
14 confirmation report. Indeed I sent it.

15 And also in Exhibit 71, there is another fax I
16 sent to Gwen Corbett on November 17th, including two
17 pages. So at least two faxes.

18 Q We've already done that one.

19 Okay. The documents which we have just gone
20 through --

21 THE REPORTER: 43 through 71.

22 BY MR. TATRO:

23 Q -- 43 through 71, are Exhibits 43 through 71
24 documents which you either sent or received in the
25 ordinary course of your duties at ChemRisk?

1 MR. BEILKE: Objection. Compound, overly broad,
2 lacks foundation, calls for speculation.

3 THE WITNESS: I would say so, yes, they are.

4 BY MR. TATRO:

5 Q On or about the date that the documents bear?

6 A Correct.

7 MR. BEILKE: Same objection.

8 BY MR. TATRO:

9 Q To the extent that 43 through 71 contain
10 reports of your conversations with Dr. Zhang, was it
11 your practice and effort to accurately report your
12 conversations in your written memos about them?

13 MR. BEILKE: Objection. Assumes facts not in
14 evidence, lacks foundation, calls for speculation.

15 THE WITNESS: Certainly.

16 BY MR. TATRO:

17 Q And to the extent that you performed a
18 translation, you made an effort to do that accurately
19 and truthfully?

20 A Certainly.

21 MR. TATRO: I need two minutes to pull out some
22 documents. There's two more documents that I want to
23 have Mr. Ye just confirm that he got from Dr. Zhang --

24 MR. CASAS: Okay.

25 MR. TATRO: -- and then I'll be finished.

1 THE WITNESS: Sure. Thank you.

2 THE VIDEOGRAPHER: Going off the record. The time
3 is 5:44.

4 (Off the record.)

5 THE VIDEOGRAPHER: We're back on the record. The
6 time is 5:50. Please begin.

7 (Defendant's Exhibit 72 was
8 marked for identification, a copy
9 of which is attached hereto.)

10 BY MR. TATRO:

11 Q Mr. Ye, do you recognize Exhibit 72?

12 A Yes, I do.

13 Q What is it?

14 A It's a document that Dr. Zhang sent to us.

15 Q And by "us," who do you mean?

16 A ChemRisk.

17 Q And you received that document from Dr. Zhang
18 in the ordinary course of your duties at ChemRisk?

19 A Yes.

20 Q Did you perform a translation of that
21 document?

22 A I believe I did. And it's in one of my -- it's
23 in my production.

24 Q I couldn't find it. That's why I'm doing this
25 crazy exercise.

1 A Oh, really?

2 Q Okay.

3 A Actually, if you want me to find it I probably
4 can find it, because this is a Chinese version, you may
5 not --

6 Q Right. And I just wanted to, what we're going
7 to do is I'm going to mark Exhibit 73 --

8 A Okay.

9 Q -- and then I might ask you to find the
10 translation versions in your documents.

11 (Defendant's Exhibit 73 was
12 marked for identification, a copy
13 of which is attached hereto.)

14 BY MR. TATRO:

15 Q If you can tell me, what is Exhibit 73?

16 A Certainly. This looks like a fax to ChemRisk
17 from Dr. Zhang.

18 Q And is that a fax that was received by ChemRisk
19 from Dr. Zhang, Exhibit 73?

20 A Yes.

21 Q In the ordinary course of ChemRisk's business?

22 A Yes. It's just sent to the office, sure.

23 Q Do you know approximately the date that that
24 fax was received by ChemRisk?

25 A 73?

1 Q Yes, sir.

2 A I -- I believe it was sometime in either July
3 or August of 1995.

4 Q Okay. And did you perform a translation of
5 73?

6 A Some of these letters were -- or the sentence
7 appear on 73, without reading the whole thing, looks
8 familiar to me, which means I -- I -- I at one point of
9 time read it and tried to convert it into English. I
10 have some impression of it.

11 Q All right. I don't want to burden you with
12 going through 900 pages at this point, but if you can
13 take a moment and see if you can locate your translation
14 of 72 in Exhibit 1 and if you, in the course of that
15 come across your translation of 73, I'd just like to
16 identify the right pages.

17 A Certainly. I --

18 Q Thank you.

19 A I'm --

20 MR. BEILKE: Rene, can I ask you, do you have a copy
21 of 72 and 73 or is that just one copy?

22 MR. TATRO: That's a one-copy thing, Jarod. Sorry.

23 THE WITNESS: I'll try to find it for you.

24 Actually, on my -- on my Exhibit 1 starting
25 from TY 197 was a -- was my production of the -- I think

1 the article that you show me in the Exhibit 72.

2 Although you do not do any in Chinese, but just from the
3 graphic similarity you may see that.

4 And the English translation of that, of this
5 article --

6 BY MR. TATRO:

7 Q Yes, sir.

8 A -- was in --

9 Give me one moment.

10 -- was in -- I identify from a TY 174. It's
11 that chromium contamination in the City of JinZhou. I
12 believe that's the translation of the Exhibit 72 that
13 you gave to me.

14 Q Okay.

15 A Okay.

16 Q All right. Last question or question or so;
17 yesterday you said that one of the maps in one of
18 Dr. Zhang's manuscripts was similar to the map in the
19 '97 JOEM article.

20 A Yes, I recall that. Yeah.

21 Q Are you able to locate the manuscript version
22 of that map or the --

23 A It exists. Where that be?

24 Give me 30 seconds, again, I'll find --

25 Q We'll try that.

1 A We'll try that. If I find it, I will show it
2 to you. How about that?

3 Q Okay.

4 A Oh. Have a look of my TY 251.

5 Q Yes.

6 A If you look at your Exhibit 2 of the JOEM
7 article --

8 Q Yes.

9 A -- I'm going to hold it in front of the camera,
10 although no one --

11 Do you see the similarity without comparing
12 letter to letter? Do you see the shape of these two
13 map?

14 This TY 251 -- this TY 251, although they are
15 in English, but what I remember what I did was they are
16 originally in Chinese, I just used a small piece of
17 paper, write the English and put on my -- cover the
18 Chinese letter on this map in my original production.
19 I -- I only have a copy. In your production, if you
20 hold to the light, you may see the Chinese letter still
21 under it. So --

22 Q Mr. Ye, would you be kind enough, you've held
23 those two maps up to the camera once before, and I
24 wasn't looking at the monitor; so if you would hold
25 those two up again so that I can just make sure that

1 they're accurately represented on the monitor, I'd
2 appreciate it.

3 A This is TY -- in my right hand is TY 251. In
4 my left hand here is the JOEM 1997 article. Can you see
5 them clearly?

6 Q Yes. Thank you.

7 A Okay.

8 MR. TATRO: I have no further questions of you at
9 this time, sir, and thank you very, very much for your
10 patience in staying so late on a Friday evening.

11 THE WITNESS: You're welcome.

12 MR. BEILKE: Mr. Ye, I just have a few follow-up
13 questions. I'm going to sit here since it's going to be
14 very few.

15 THE WITNESS: Sure.

16

17 EXAMINATION

18 BY MR. BEILKE:

19 Q Exhibits 43 through 73 that were just attached,
20 can you confirm that none of those were produced with
21 your Bates-stamp number; is that correct?

22 MR. CASAS: I object. That misstates his
23 testimony.

24 I think he said that they may be in his
25 production, he'd have to go through --

1 MR. BEILKE: That's not what I asked. I said
2 produced with his Bates-stamp number, the ones attached
3 as Exhibit 43 through 73.

4 MR. TATRO: Jarod, I --

5 MR. CASAS: That's the same objection.

6 MR. TATRO: I think just to clarify, I'm confident
7 some of those are in his Bates range, I just didn't pull
8 them out with his Bates stamps on them.

9 BY MR. BEILKE:

10 Q I'm not trying to get to that. I'm just saying
11 Exhibits 43 through 73 do not have your Bates-stamp
12 number on that; is that correct?

13 A I do not know. When I was shown the 43 to 73,
14 it was very quick. I did not --

15 MR. CASAS: I think he's just asking whether or not
16 the actual exhibits have been marked 43 through 73, do
17 those have a Bates stamp on them?

18 THE WITNESS: Just briefly looking at this, no.

19 MR. BEILKE: Okay.

20 Q Mr. Ye, at the time that you were working on
21 the 1997 Zhang follow-up study --

22 A Yes.

23 Q -- you were aware that PG&E was involved in
24 chromium contamination; is that correct?

25 MR. TATRO: Objection. This has all been asked and

1 answered.

2 MR. CASAS: Many times.

3 THE WITNESS: I -- PG&E -- I know PG&E interested in
4 chromium research, and I know PG&E is underlying clients
5 for ChemRisk. I do not know the litigation details at
6 all.

7 BY MR. BEILKE:

8 Q And PG&E paid Dr. Zhang and ChemRisk to do a
9 follow-up study on Dr. Zhang's 1987 study involving
10 chromium; is that correct?

11 MR. TATRO: Objection. This has been covered --

12 MR. CASAS: Misstates the testimony and repeats the
13 questions that have been asked and answered.

14 MR. TATRO: And I did not go into this.

15 I think this is just pure harassment at
16 6 o'clock on Friday night.

17 THE WITNESS: I will say I -- by that time I knew
18 ChemRisk is a paid consultant for PG&E, and I know their
19 money agreement from ChemRisk to Dr. Zhang. I did not
20 involve in billing or in -- my position was not like
21 that; so I do not know exactly how the contract
22 arrangement would be.

23 BY MR. BEILKE:

24 Q And I have one last question for you.

25 A Sure.

1 Q Mr. Ye, you agree that the 1997 study changed
2 some of Dr. Zhang's conclusions set forth in the 1987
3 study, correct?

4 MR. TATRO: I --

5 MR. CASAS: Objection. That misstates the prior
6 testimony.

7 We've gone over this ad nauseam.

8 MR. TATRO: Have you read the transcript, Jarod,
9 because that has been covered by the hour?

10 MR. BEILKE: Rene, if you've got an objection, make
11 it. If you've got an objection, make it. Let's get
12 through with this.

13 MR. TATRO: My objection is that is an outrageous,
14 harassing question at 6 o'clock on Friday night, that's
15 been asked multiple times by Mr. Praglin over the course
16 of two days, and I would urge that unless Mr. Ye has
17 something new to add to his prior testimony, given the
18 extensive nature of the testimony on that topic before,
19 that it is a fair response for him just to advise you
20 that he said everything he had to say on that topic in
21 his prior testimony.

22 I'm astounded at your harassment.

23 MR. BEILKE: I'll object as to your coaching and
24 just ask him --

25 MR. CASAS: Do you have anything to add?

1 THE WITNESS: No, I think I stated very clearly in
2 my testimony before.

3 MR. BEILKE: No further questions.

4 MR. TATRO: I have no further questions.

5 THE REPORTER: Same stip?

6 MR. BEILKE: Same stip. So stipulated.

7 MR. TATRO: Yes.

8 THE VIDEOGRAPHER: This marks the end of the
9 deposition of Tony Ye. The number of tapes used in the
10 deposition was eight. The original videotapes will be
11 retained by Biehl & Bell of Orange, California.

12 We're going off the record. The time is 6:01.

13 (Whereupon the stipulation from
14 the deposition of Valerie Nera regarding
15 Blue Ribbon Panel depositions taken
16 by plaintiffs was incorporated into
17 the record as follows:

18 "MS. ROBERTSON: Okay. I would
19 propose a stipulation. I think we
20 should use the one that we've been
21 using in these depositions. Essentially
22 what it is, we used it in Jerold Last's
23 deposition.

24 "So the original transcript will be
25 sent to our office. I'll then forward it to

1 you, Mr. Davidian. You can pass it on to
2 Ms. Nera to review and sign under the
3 penalty of perjury and notify us of any
4 changes within 30 days, and then you can
5 forward the original back to our office."

6 "MR. DAVIDIAN: That's fine."

7 "MS. ROBERTSON: I'll go ahead and
8 keep the original.

9 "If we're not notified of any changes,
10 then a copy can be used for all purposes."

11 "MR. WILKINSON: So stipulated.")

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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 2

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____

LAURIE HELD-BIEHL, CSR, RPR, CRR
CSR No. 6781

