THE DEVIL THEY KNEW: PFAS CONTAMINATION AND THE NEED FOR CORPORATE ACCOUNTABILITY, PART II

HEARING

BEFORE THE

SUBCOMMITTEE ON ENVIRONMENT

OF THE

COMMITTEE ON OVERSIGHT AND REFORM

HOUSE OF REPRESENTATIVES

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The documents entered into the record for this hearing are listed below, and are available at: https://docs.house.gov.

* Advanced Medical Technology Association Letter; submitted by Rep. Comer.

* 1961 Correspondence from Dorothy Hood; submitted by Rep. Tlaib.

* 1992 Dupont Study on Employee Cancer Rates; submitted by Rep. Tlaib.

* Billot Letter to FDA with Accompanying 3M Study; submitted by Rep. Speier.

* 1978 PFAS Navy Report; submitted by Rep. Wasserman Schultz.

* NDAA PFAS Letter signed by 162 House Members; submitted by Wasserman Schultz.

* Responsible Science Policy Coalition Presentation; submitted by Rep. Ocasio-Cortez.

* Richard Purdy Resignation Letter from 3M; submitted by Rep. Ocasio-Cortez.

* Questions for the Record: Chairman Rouda question to witness Rutherford, and responses.

* Questions for the Record: Rep. Keller's question to witness Roberts and DuPont officials, and responses.

THE DEVIL THEY KNEW: PFAS CONTAMINATION AND THE NEED FOR CORPORATE ACCOUNTABILITY, PART II

Tuesday, September 10, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND REFORM,
SUBCOMMITTEE ON ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:03 p.m., in room 2154, Rayburn House Office Building, Hon. Harley Rouda (chairman of the subcommittee) presiding.

Present: Representatives Rouda, Hill, Tlaib, Krishnamoorthi, Speier, Ocasio-Cortez, Comer, Gosar, Gibbs, Armstrong, Keller, and Jordan (ex officio). Also present: Representatives Dingell, Fletcher, Sarbanes, Wasserman Schultz, and Kildee.

Mr. ROUDA. The committee will come to order. Without objection, the chair is authorized to declare a recess of the committee at any time.

This subcommittee is holding our third hearing on PFAS contamination focusing on the need for corporate accountability.

I now recognize myself for five minutes to give an opening statement.

As I mentioned, this is the third hearing this subcommittee has held on the dangers of perfluoroalkyl and polyfluoroalkyl substances, the manmade toxic chemicals known by their acronym PFAS. It is the second hearing that focuses on the role of industry and the contamination of Americans drinking water, groundwater, air, and food supplies with these chemicals.

If the subcommittee's last two hearings haven't made it abundantly clear, we're dealing with a national emergency here. PFAS chemicals have been linked to serious adverse health outcomes in humans, including low fertility, birth defects, suppression of the immune system, thyroid disease, and cancer.

The EPA has issued a health advisory on two of the most well known PFAS chemicals, PFOA and PFOS, and is currently in the process of determining how these chemicals should be regulated. The current assistant administrator for the Office of Water at the EPA, David Ross, agreed that PFAS contamination was, quote, a national emergency.

Several states have already taken steps to regulate these chemicals on their own. My point is this is not a small or emerging or ambiguous problem. It is a full-blown crisis that our government

has already acknowledged. So our goal here today is to demand accountability for this crisis.

Our first witnesses are both attorneys, Lori Swanson, the former attorney general of Minnesota, who led a massive case against the 3M Company on behalf of the state of Minnesota for the company's role in damaging the environment with perfluoroalkyl chemicals, including PFOS and PFOA.

After eight years of litigation, 3M settled the case with the state of Minnesota last year for $850 million, which is the largest environmental settlement in the state's history. That money will be used to clean up the sites that have contaminated Minnesotan residents.

Our second witness, Robert Bilott—did I pronounce that correctly? Bilott. Excuse me.—Robert Bilott was one of the first lawyers to successfully sue DuPont on behalf of people who had been exposed to PFAS chemicals and have suffered greatly as a result, losing their livelihoods, their health, and their family members.

Bucky Bailey, a witness at the subcommittee's July 24 hearing was one of the people Mr. Bilott defended. In 2017, DuPont and its spinoff company, Chemours, agreed to pay $671 million for polluting the area around a DuPont manufacturing plant in Parkersburg, West Virginia, the same plant where Bucky Bailey's mother was poisoned when she was pregnant with him.

Representatives from 3M, DuPont, and Chemours are here with us today. And let me say, we are not here to relitigate the cases these companies have already settled or quibble over each company's degree of liability. This subcommittee is not a court, and I am not a judge. This subcommittee is here today because we want more than legal accountability. Though legal accountability is great too, we want ethical accountability.

I look forward to the first panel of witnesses which will help us explain to the subcommittee why and how these companies got away with poisoning people for more than a half century. Because make no mistake, that is exactly what happened.

The documentation is clear. As early as the 1950's, in-house scientists at 3M and DuPont began discovering that PFAS chemicals were bioaccumulative, meaning they buildup in the body, justifying their nickname "forever chemicals," and toxic. And yet despite these consensus among scientists within both companies, DuPont and 3M continue to deny the toxicity of long-chain PFAS chemicals.

I want everyone in the room to really think about what it must be like to live next to a toxic waste dump with your family, your kids, that you never knew was a toxic dump. Imagine drinking and breathing toxic chemicals that you never knew were toxic, because the companies who made them never told you and suppressed the research that confirmed just how toxic the chemicals were. And as we'll learn from the testimony, these extensive—there's extensive documentation that confirms that this is exactly what these companies did.

I'm not editorializing here. And this isn't faux outrage. I'm not being hard on these companies just for show. These are peoples' lives we're talking about. I hope everyone watching here today will go and read more about this issue, learn more about the extent of what has been happening over the past several decades, because

what these companies have done is deeply immoral and shameful, and there's no other way to put it.

So I hope we don't waste our time today on phony debates over the science. It's almost 70 years since research on the toxicity of these chemicals began.

The evidence is clear and convincing. Enough is enough. And after hearing this important testimony today, this subcommittee plans on using the information learned to press these companies to admit that they know these chemicals are toxic and acknowledge their past conduct of concealing important scientific studies regarding PFAS toxicity. We will also urge them to work together with Congress to address this national emergency, which includes designating PFAS as a hazardous substance under the Superfund.

I respect these companies' long and storied histories here in the United States. And I respect the fact that these companies have made products that Americans want to buy and have made American's lives easier. But I'm a compassionate capitalist. I don't think for one second that I won't hold these companies accountable when they screw up. And these companies with us here today have screwed up and we need to hold them accountable for doing so.

I hope the people representing those companies here today will admit their mistakes so that we can all move forward and achieve what I believe is our common goal: to clean up contaminated sites, stop exposing innocent people to toxic chemicals, and making sure that all Americans have clean water, clean air.

Thank you. And I now invite the ranking member of the subcommittee, James Comer, to give a five-minute opening statement.

Mr. COMER. Thank you, Mr. Chairman.

We're here today for the subcommittee's third hearing this year on the large group of chemicals collectively known as PFAS. I appreciate the willingness of today's witnesses to appear before us.

As I've said at each of our hearings, potential drinking water contamination is frightening for any community. And I look forward in particular to hearing from our second panel of witnesses, 3M, DuPont, and Chemours, about their efforts to mitigate and remediate any contamination and to develop and use alternatives.

It's important to remember the reason that PFAS substitutes became so prevalent in the first place. They provide strength, durability, and resilience in a broad range of applications from nonstick cookware to firefighting foams that save lives.

I'd like to submit for the record a letter recently sent to Congress by the Advanced Medical Technology Association expressing, quote, deep concern about provisions being considered in the National Defense Authorization Act that would circumvent normal regulatory processes and treat all 5,000 PFAS compounds as a single class of chemicals without the adequate scientific data to make such a determination.

Why does the medical technology industry care about these proposed actions? Because the medical devices made by these companies have, for more than 50 years, been made with fluoropolymers, a PFAS compound. Tens of millions of these devices have been used by patients without demonstrating any adverse health effects. In fact, they've achieved the opposite. They've kept patients alive and healthy.

As I've told you before, Mr. Chairman, I'm committed to working with my colleagues on solutions that will contain any existing damage from legacy PFAS substances and reduce the risk of future harm. But I also hope that we as a body make responsible evidence-based, science-driven decisions. Any legislative or regulatory actions we consider should be based on a solid scientific understanding of the toxicity of specific compounds.

I would also like to note some level of discomfort with today's hearing makeup. Our second panel today made up of private sector companies agreed weeks ago to appear voluntarily before the committee. Only very late in the game did the majority announce they would be joined today by attorneys involved with multiple ongoing lawsuits with those same companies. One of those trials is actually set to begin in November, less than two months from now.

I'm a firm believer in the broad authority of congressional oversight, but I've become very concerned when Congress uses the tools in ways that can interfere with or give the appearance of interfering with ongoing litigation.

Broad investigative letters to companies seeking documents and information relevant to ongoing cases and last-minute surprise invitations to hearings for attorneys involved in multiple lawsuits against those companies may raise questions for some about the true purpose of these hearings.

I hope this subcommittee will commit to doing its best to refrain from interfering or appearing to interfere with ongoing litigation as we move forward.

Today, I hope we will spend some time discussing EPA's PFAS Action Plan which the agency released in February of this year. In it, EPA outlined a number of short-and long-term actions to minimize risk, increase scientific knowledge about the broad range of PFAS substances, prevent exposure, and cleanup existing contamination. The Plan also outlines EPA's actions to coordinate with other Federal agencies in state, local, and tribal governments to address the issue.

I look forward to hearing from our second panel of witnesses what their view of the Action Plan is and what they think can be done to make it more effective.

Thank you, Mr. Chairman, for today's hearing. And thank you for the witnesses who appeared before us.

Thank you. I yield back.

Mr. ROUDA. Thank you.

Now I want to welcome our first panel of witnesses. Robert Bilott, partner, Taft Stettinius and Hollister LLP; Lori Swanson, former attorney general, state of Minnesota; and Matthew Hardin, commonwealth's attorney, Greene County, Virginia.

If the three of you would please stand and raise your right hands, and I will swear you in.

Do you swear or affirm that the testimony you're about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Please be seated.

Let the record reflect that the witnesses answered in the affirmative.

The microphones can be a bit sensitive, so please make sure you turn them on and—with that little button in front of you and that the microphone is close to you.

Without objection, your witness statement will be made a part of the record.

With that, Mr. Bilott, you are now recognized to give an oral presentation of your testimony.

STATEMENT OF ROBERT A. BILOTT, PARTNER, TAFT STETTINIUS AND HOLLISTER, LLP

Mr. BILOTT. Thank you.

Good afternoon. Thank you for the opportunity to testify today.

My name is Rob Bilott, and I'm a partner with the law firm of Taft Stettinius and Hollister out of their Cincinnati, Ohio, and Northern Kentucky offices. I've represented injured parties, parties injured by PFAS contamination, for more than the last two decades. But I'm not here today speaking on behalf of any client, but I'm here in response to a request from this subcommittee for information about a pending nationwide public health threat posed by PFOS chemical contamination.

The public may only now be realizing the scope of this problem, but the companies that manufactured these chemicals have been aware of the risks for decades but failed to alert the rest of us. I know because I spent the last 20 years of my career in litigation with these companies, pulling out of their own internal files what was already there and was already known about the risk of these chemicals.

For example, by the 1960's and 1970's, DuPont had data in its files from animal studies showing toxic effects in multiple species: rats, dogs, rabbits, monkeys. Multiple different types of organ systems: the liver, the testes, the adrenals.

By the end of the 1970's, DuPont knew that PFOS was building up in the blood of humans and staying there for long periods of time. By the 1980's, DuPont was concerned about liver damage and birth defects among its own PFOS-exposed workers. DuPont even classified PFOA as a confirmed animal carcinogen, possible human carcinogen, by 1988 after a rat study showed that the chemical caused testicular tumors.

A second study emerged only a couple of years later confirming again, not only testicular tumors, but this time also pancreatic and liver tumors. During the 1980's and 1990's, the company also monitored and was concerned about increased cancer rates among its own workers.

During the 1980's and 1990's, DuPont even found the chemical in the local public drinking water supply as early as 1984 and at levels above its own internal safety guideline, but did not alert local officials or any of the members of the public drinking that water.

As this troubling evidence continued to mount over the years, DuPont, rather than stop using this material, actually went forward and constructed its own PFOA manufacturing facility in North Carolina to continue using and releasing even more of the chemical, even after 3M announced that it would stop any further manufacture back in 2000.

When the community drinking this contaminated water outside of DuPont's plant in West Virginia finally learned of the problem, DuPont publicly denied that there was any evidence of harm, denied its own internal science.

In response, we actually ended up sitting down with DuPont and created an independent panel of scientists back in 2004 whose purpose was to look at all of the existing evidence and conduct new studies of the impacted community members to determine what the real risks of drinking this in the water were. These independent scientists, referred to as the C8 Science Panel, ended up analyzing data from over 69,000 people, conducted over a dozen completely new studies, some of the most comprehensive human health studies done on any chemical ever.

They not only looked at that new data from the new studies, they took all of the evidence. They weighed all of the evidence, all of the animal studies, all of the human data, all of the available data, weighed it all to make a conclusion as to whether or not there were scientific links between drinking this in the water and actual human disease. That took seven years, over $30 million, to find out what the answer to that was.

By 2012, this independent panel of scientists had concluded, yes, drinking this in the water was linked with six different serious diseases, including two types of cancer: kidney cancer and testicular cancer. The same type of cancer, by the way, that was found in the rat studies decades earlier.

This is independent scientists who weighed all of the evidence. That independent scientific review has occurred. Independent scientists have looked at this data, all of the data, and confirmed links with human disease.

Unfortunately, despite all of this data that now exists, after years of litigation to pull this information out and to make it public after gag orders, protective orders, et cetera, now that this information is finally there, unfortunately, EPA still has not acted.

I first warned EPA 18 years ago, and we are still here. We have more than enough evidence. It's time to move forward and act to protect the American public.

Thank you.

Mr. ROUDA. Thank you, Mr. Bilott.

Ms. Swanson, you are now recognized for five minutes.

STATEMENT OF LORI SWANSON, FORMER ATTORNEY GENERAL, STATE OF MINNESOTA

Ms. SWANSON. Thank you, Mr. Chairman, ranking member, members of the committee. I appreciate the opportunity and invitation to be here today.

In 2010, I was serving as attorney general of my state of Minnesota and filed a lawsuit against 3M Company for damaging my state's natural resources through its manufacture and disposal of PFAS. Our lawsuit alleged that 3M contaminated the aquifers that supplied drinking water to over 100,000 Minnesota residents.

The lawsuit settled last year on the morning the trial was to begin. The settlement required 3M to pay $850 million to the state of Minnesota to bring long-term clean drinking water solutions to my state and another $40 million in short-term solutions. I have

been told that it's the third largest natural resource damage recovery in the Nation's history.

The lawsuit lasted over seven years and involved the production of 27 million pages of documents, about 200 witness depositions, testimony of world-renowned scientists, and over 1,500 court filings. Public records and public trial exhibits in that lawsuit show that 3M knew but concealed information about the dangers of these chemicals for decades, some of which the public is just now discovering.

In many ways, Minnesota, my state, is ground zero, for the PFAS contamination that confronts the country. After the war, World War II, 3M bought the patent to develop PFAS and then started to manufacture these chemicals and ship them around the entire country. Unfortunately, 3M knew about the risks of the chemicals to the drinking water, the environment, and human health for decades but concealed its knowledge, subverted the science, and kept pushing the chemicals out the door.

In 2000, when it stopped making some forms of PFAS, 3M was making about one half a billion dollars a year from the products that were discontinued.

And what did 3M know about PFAS prior to the year 2000? I refer you to Exhibit A of my testimony. It shows that in 1997, 3M gave DuPont a material safety data sheet with the label that said: "Cancer: Warning: Contains a chemical which can cause cancer," citing 1983 and 1993 studies it conducted with DuPont. But 3M removed that label the same year and for decades sold PFAS without warning the public of its dangers.

We know that 3M told employees not to write things down about PFAS and to mark documents "attorney-client privilege," regardless of whether attorneys were even involved. We know that in 1998, a committee of 3M scientists recommended the company notify the EPA the chemicals were widely found in human blood, but a 3M executive overruled them.

Then in 1999, a 3M scientist blew the whistle on 3M. He resigned and sent his resignation letter to the EPA. And he said that 3M ecotoxicologists urged the company for two decades to perform ecological risk assessment of PFOS, but the company dragged its feet, and that the company misleadingly downplayed to regulators the presence of these chemicals through the food chain transference.

An issue in our lawsuit was what did 3M know and when did it know it. We know that throughout the 1950's, 3M's own animal studies found PFAS to be toxic. By the 1960's, it knew the chemicals don't degrade in the environment. In 1970, a company that purchased 3M's firefighting foam had to abandon a test of the product because all the fish died.

And then in 1975, two independent scientists, Dr. Warren Guy and Dr. Donald Taves, found fluorochemicals in blood banks throughout the country, and they called 3M to say we think your chemical is causing this. And 3M pled ignorance, in its words, claiming that Scotchgard didn't contain these chemicals, and concealing from the scientists who wanted a chemical footprint that information. In doing so, the company thwarted the broader scientific

community's understanding of the health impacts of these chemicals for a generation.

We know that 3M soon replicated the studies and confirmed that PFAS was found in human blood. In 1979, 3M's lawyers advised the company to conceal that PFOS was in human blood. We know that 3M concealed from the EPA for more than 20 years that PFAS was in human blood.

By 1976, 3M knew the chemicals were in the blood of workers at much higher levels but didn't make this public. By 1978, 3M knew the chemicals killed monkeys. We know that in 1981 the company knew that the chemicals caused abnormalities in pregnant rats. And by 1988, a company that purchased PFAS firefighting foam complained to 3M that it falsely claimed the product was biodegradable when it wasn't.

A few months later, a 3M employee wrote an internal memo that 3M should stop perpetrating the myth that these fluorochemical surfactants are biodegradable, but the company continued to sell them.

Testimony in our lawsuit showed that by 1993, 3M knew that there was some evidence that lactating goats transferred PFAS to their kids in milk and that it was likely that human mothers would do the same thing. But it wasn't until 23 years later that EPA issued a health advisory cautioning pregnant women and breastfed infants to avoid these chemicals out of concern that, just like with goats, a mother can transfer the chemicals to her fetus or baby through the placenta or breast milk.

Mr. Chairman, members, I appreciate the opportunity to be here today and talk about these issues, and look forward to Congress being part of the solution.

Mr. ROUDA. Thank you very much.

The next witness, Mr. Hardin, who was just added to the witness list yesterday, and I just received your opening statement an hour ago, please proceed with five minutes of opening testimony.

STATEMENT OF MATT HARDIN, COMMONWEALTH'S ATTORNEY, GREENE COUNTY

Mr. HARDIN. Thank you, Mr. Chairman and ranking member. Thank you as well to the members of the committee for inviting me to testify today.

My name is Matthew Hardin. And although I testify in my individual capacity, I currently serve as the chief prosecutor, which is called the commonwealth's attorney, in Greene County, Virginia. I was previously a litigator from 2014 to 2017, and I used federal and state freedom of information laws to obtain government documents nationwide.

I'm here today because many of the public records that I and my colleagues obtained detailed a campaign by plaintiffs' attorneys and activists to recruit, quote, a single sympathetic state attorney general or even grand juries convened by a district attorney, unquote, to subpoena records of private parties targeted by the tort bar.

This campaign was, in fact, successful, as headlines well document, and was followed by a coordinated effort by political donors, again with the assistance of activists, to enlist state law enforce-

ment apparatuses to investigate private parties and otherwise support a private agenda.

A report released by the Competitive Enterprise Institute and authored by Christopher Horner entitled, "Law Enforcement for Rent," details many of the documents I helped uncover. The lead plaintiff's attorney behind the effort to recruit attorneys general admitted the campaign's political nature in addition to its pursuit of financial settlements in an interview with The Nation Magazine.

Among other things, he said legislation is going nowhere, so litigation could potentially play an important role. Also, apparently recognizing the problematic nature of these collaborations, the same plaintiff's attorney worked with attorneys general offices against which I litigated, Vermont State and New York State, to mislead a reporter from The Wall Street Journal who called apparently to inquire about a separate issue entirely.

One Federal court noted this behavior asking: Does this reluctance to be open about collaborating with plaintiffs' attorneys and activists with a litigation agenda suggest that the attorneys general are trying to hide something from the public? My experience and the experience of others forced to litigate numerous open records requests to determine how public offices came to be used in this way suggests the answer is yes.

One public record I obtained in litigation in the Vermont courts was an agenda for a meeting among activists, prospective funders, attorneys general offices, and plaintiffs' lawyers titled "Potential State Causes of Action Against Major Carbon Producers." One academic hosting the meeting described it to attorneys general offices as a, quote, private event for staff from state attorney general offices, unquote, to pursue this agenda. One academic invited to address the gathering boasted in an email to a major donor to her institution and the host institution that this meeting was, quote, about going after climate denialism along with a bunch of state and local prosecutors nationwide, unquote.

It is difficult to imagine this being anything other than a national scandal and the subject of numerous Pulitzer Prize winning news stories if the players and agenda were different, which may be why so many media and constitutional watchdogs have chosen instead to avert their gaze. As such, this sort of behavior is becoming normalized and expanding to the point that congressional committees are apparently joining in.

Please note that if it is acceptable involving parties and issues you favor, it is also acceptable involving parties and issues you do not favor. If the growing use of public office to assist private litigants is permitted to stand here, what is the limiting principle dictating that the National Rifle Association, pro-life groups, or chemical and fossil fuel companies cannot also chair such use of law enforcement and otherwise use public office to support their end.

I come to this committee both as a prosecutor and to offer my experience on these matters as a civil litigator. I believe in the rule of law and that all citizens are entitled to participate in democracy and have their day in court, if they so choose. But I also appear today concerned that private donors and activist groups are seeking to thwart the fair and neutral workings of our democratic policy-

making and our litigation system, including our law enforcement apparatuses and court system.

Civil and criminal litigants are entitled to discovery under the rules of court that apply in their cases. The American system of justice is the envy of the world, and our courts are more than capable of applying those rules equitably.

But what I saw happening as a private litigator was a perversion of justice. Rather than filing suits and seeking their day in court like any other litigant, powerful special interests sought to enlist law enforcement to obtain public records seemingly to assist their tort litigation campaigns as well as to make policy through the use of law enforcement office. When tort lawyers teamed up with attorneys general using either common interests or succumbent agreements, the public showed an interest in what its government was up to, and many citizens and interested groups filed freedom of information or state-level equivalent requests. But those requests were frustrated over and over again as states attempted to hide these records.

The public has a potential interest or a substantial interest in learning how private law firms are recruiting elected officials to further private goals and what, if any, discussions these private attorneys have with the government.

I'm calling on this committee to let the justice system work the way it was intended to. Let's try civil cases in civil court, get prosecutors back in the business of prosecuting crime, and get Congress and this committee back focusing on its Article I responsibilities.

Thank you, Mr. Chairman.

Mr. ROUDA. Thank you, witnesses, for your opening statements.

At this time, the chair recognizes Representative Tlaib for questions.

Ms. TLAIB. Thank you, Mr. Chairman.

I really do appreciate, Mr. Bilott, that you're here at this subcommittee, and we really thank you for your important work that you've done to hold DuPont accountable for its decade of wrongdoing. I know from some of my own struggles to hold corporate polluters accountable in my own district that these are long, hard battles, and I appreciate the commitment you have made to our public health.

Michigan has the most PFAS sites in the country, at least 192 as of May 2019 out of at least 610 known sites across the country. Last year, when the state tested public water systems serving nearly 80 percent of our residents, 10 percent of those systems showed PFAS. And that PFAS in the water in our homes and our schools, in our workplaces showed up. In Melvindale, in my district, PFAS just oozed out of the ground into the roadway. And residents are still searching for answers about where it came from.

As construction began on the new international crossing, the Gordie Howe International Bridge, PFAS was found in the soil at the bridge site in Delray neighborhood in southwest Detroit right next to the Detroit River where drinking water is drawn from. This is a manmade crisis, and people like my residents back in the 13th District are the ones who suffer from it.

I want take some time here today and walk through some of the key documents that prove that DuPont knew of the dangers of

PFAS chemicals for decades and concealed this truth from Michiganders and all Americans, putting their greed over the public welfare.

First, Mr. Chairman, I would like to enter into the record a 1961 correspondence from Dorothy Hood, who had served as chief toxicologist for DuPont. In this correspondence, Ms. Hood states that PFAS should be handled, quote, with extreme care, and stated that animal studies conducted by DuPont found liver enlargement.

You have been engaged in extensive litigation against DuPont and have reviewed thousands, if not millions, of documents by the company. Based on your review of these documents, approximately when did DuPont become aware of the PFAS was toxic?

Mr. BILOTT. Thank you for your question, and thank you for the comments.

And, first of all, you know, you mentioned the fact that there has been such a widespread presence of PFAS detected in Michigan. That's because Michigan is one of the first states to comprehensively look for it and test. And unfortunately, I think what we are about to see is the same thing across the country as more places test.

Now, with respect to the information you mentioned from the DuPont files, it took many years to pull that information out of the DuPont documents. But what became very clear is that the company was well aware by the early 1960's, as reflected in that document you just referred to from 1961, that the chemical, PFOA in particular, was toxic and had various adverse effects. There were numerous laboratory studies going on within the DuPont Haskell Laboratory throughout the sixties and the seventies.

And what we tried to do, because there's so much information and so many documents from DuPont's own files, I submitted with my written testimony several court orders, actually, from a Federal court in Ohio where a lot of that evidence actually was presented to juries who reviewed all of that evidence, spent weeks going through all of this information. Tons of documents from within the DuPont files.

And those court orders, the reason I submitted them is because they give you a nice snapshot in summary of some of that key information, some of the key documents organized in chronological order that were reviewed by the court. And, in fact, when those documents were presented to juries in Federal court, those juries found that DuPont acted with conscious disregard of the risks that were reflected in those documents.

Ms. TLAIB. Any of those include documents—studies that they were aware of that PFAS was a health risk?

Mr. BILOTT. Oh, yes. Yes. There are plenty of documents within the files. Again, you're talking about documents that first started off with animal toxicity testing. And we know. We do the animal toxicity——

Ms. TLAIB. On top of your head, what are some of the things that they found in those studies? I know you submitted it for document—and, Mr. Chair, if I may, I'm going to submit a study that showed, in 1992, that showed that DuPont observed increasing cancer rates among DuPont employees at that time.

But in the process, I really want the public—for us to be, you know, very, very direct about what exactly was found in the studies specifically that was causing the cancer.

Mr. BILOTT. There were—the animal studies showed that PFOA actually caused cancer, liver tumors, pancreatic tumors, testicular tumors. DuPont had a corporate epidemiology department that actually tracked the incidence of cancer within the workers that were working at the plant handling PFOA. And repeatedly, the corporate epidemiology department found increases in cancers, including kidney cancers.

So there were animal study data that supported the risks to human health. And that's why the animal studies are done, to predict human health. And there was actual human data from the worker studies as well.

What was missing at that point in time was what it was doing in the community, which the science panel then filled in. So we have animal, worker, and community data.

Ms. TLAIB. Thank you so much.

Thank you, Mr. Chairman.

Mr. BILOTT. Thank you.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Comer for five minutes of questioning.

Mr. COMER. Thank you.

I'm very interested in this issue, like everyone on the panel. And I'm very passionate about having clean drinking water. And I think that, you know, the role should be to figure out how can we ensure that every American is protected from this and that we have clean drinking water. I think the next panel will do—will be a more productive discussion than the first.

But we have some attorneys. And, Mr. Hardin, I wanted to focus on litigation issues and the legal process, because I tend to believe that sometimes the trial attorneys make things last longer—make things take longer. You know, we've got a problem here that needs to be fixed, and I worry that sometimes the ongoing litigation tends to delay the process.

But, Mr. Hardin, we've seen a trend in state attorneys general contracting with outside law firms to conduct environmental litigations on the state's behalf against corporations, correct? On what basis are these outside law firms paid, typically? On a contingency fee basis or how?

Mr. HARDIN. We have seen a rise in contingency fee agreements nationwide. And I think that that's part of the problem, is I think that it incentivizes private gain and it takes these offices away from litigating truly in the public's interest and toward litigating in a pecuniary interest.

Mr. COMER. I'm curious. In your experience, have state attorneys general been forthcoming and transparent about their relationship with outside law firms in these matters?

Mr. HARDIN. I would say that it's significantly less than transparent. I think that when people file open records requests, they're consistently frustrated. And we've learned a little bit, but I'm sure there's more to come out.

Mr. COMER. Mr. Hardin, you spoke on your work as a litigator using the Freedom of Information Act to obtain government documents as it pertained to a campaign by plaintiffs' attorneys to recruit, quote, sympathetic attorneys general. And you spoke about, in your opening testimony, the findings in that report.

There are many ongoing civil suits and many more likely to come. Do you see similarities between what you found with state attorneys general partnering with plaintiffs' attorneys and Congress potentially involving itself in ongoing litigation?

Mr. HARDIN. Yes. And I think that this—it was already bad enough when law enforcement was teaming up with private attorneys, because you're sort of blending private and public power. And now when Congress is putting its thumb on the scale through the oversight process, I think that just further thwarts the normal working of the judiciary.

Mr. COMER. Mr. Bilott, you led the class action lawsuit against DuPont in the early 2000's, which ultimately settled in 2004. Is that correct?

Mr. BILOTT. That's correct.

Mr. COMER. It's been reported that you and your firm earned $21.7 million from that settlement. Is that correct?

Mr. BILOTT. You know, we're talking about litigation that actually started in 1999 and stretched over 20 years. You know, we're talking about litigation that our firm financed and had to actually, you know, push forward for 20 years on its own. And does the firm actually end up getting paid at some point? Yes, the law firm ended up getting paid.

But the only way we know about what we know right now about PFAS was from that litigation, from the community members coming forward and actually pursuing claims and digging this information out of the companies. We would not know any of this today if it hadn't been for that litigation and the 20 years that it took to pull this information out of those companies' files.

The companies took steps to prevent the disclosure of that information. DuPont tried to get a gag order to prevent me from even speaking to the EPA about the health risks of these chemicals. Back in 2001, 3M got a blanket protective order in litigation in Minnesota to prevent any public disclosure of its internal documents. They kept those documents secret——

Mr. COMER. Okay. You've made your point.

Have you earned attorney's fees in connection with any subsequent PFAS-related lawsuits?

Mr. BILOTT. I am a partner with a law firm. Our law firm——

Mr. COMER. I'm familiar with the law firm.

Mr. BILOTT. Our law firm receives compensation.

Mr. COMER. So can you give us a ballpark figure on those fees, out of curiosity?

Mr. BILOTT. You know, I can't.

Mr. COMER. Was it a million? Less than a million? I'm just trying to learn more about——

Mr. BILOTT. I believe all of the fee awards were awarded by a court. The court determines what fees are appropriate for the attorneys based on the number of years of litigation.

Mr. COMER. Last question. My time's up. Do you have a book coming out in a few weeks about your life and the PFAS litigation?

Mr. BILOTT. Yes, there is a book. And, in fact, you know, people have been asking me, how did this happen? How is it that all of this information could be known about these chemicals? All of this information could be—could be known. This contamination can occur on a nationwide——

Mr. COMER. And this last thing, and I have to yield back. So you'll receive royalties on that book, correct?

Mr. BILOTT. I guess that would depend on whether or not the book sells. But I'm not here to talk about a book. I'm here to talk about what these companies knew about this information. I'm not here to talk about me. I'd like to talk about what we learned from these companies and why there's now a public health threat.

Mr. COMER. Thank you.

Mr. ROUDA. Thank you.

The chair recognizes Representative Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

You know, we have a President of the United States whose had ghosts written many books on his behalf. I don't hear us asking him how much he's getting in royalties from that.

I'm astonished by the questioning that you were just presented with. If I'm not mistaken, we have companies here who deliberately chose not to reveal very—negative information about PFAS that they were selling and chose to hide it from the American people. And they did so and probably were gaining bonuses every year.

Are we asking them did they receive a bonus from hiding this from the American people? That's astonishing questioning that we just heard. And I apologize, Mr. Bilott, for the fact that you had to go through that. But that's the way we are these days.

Let's look at, not the reality, the fact that corporations continue to do this, like the tobacco industry continued to do that, hide it from the American people, and do so with the understanding that this is a cost of doing business. And if somewhere down the road, some 20 years later we get caught, we'll pay out a few hundred million dollars, but that won't affect our stock. It's a cost of doing business. It's shameful.

I understand you investigated a 2001 study sponsored by 3M. In a letter to the U.S. Food and Drug Administration, you characterized the study as confirming elevated levels of PFAS in the U.S. food supply. Is that correct?

Mr. BILOTT. Yes. In fact, 3M had completed a study looking at the presence of PFAS in a variety of different food, milk, vegetables, bread, in different cities across the country and found PFAS in milk, bread, etc., in 2001.

Ms. SPEIER. Mr. Chairman, I'd like to enter Mr. Bilott's letter as well as the 2001 3M study into the record.

Mr. ROUDA. Without objection, so moved.

Ms. SPEIER. So, Mr. Bilott, most people have been focused on the contamination in water. But in your letter, you reference levels of PFAS contamination in apples in Alabama, ground beef in Florida, and milk in Georgia, just to name a few examples. There are about 800 parts per trillion. Based on these numbers, it seems like PFAS contamination extends into our food supply.

Is there a red flag that should be going up in every household in America, that we are purchasing food products that contain PFAS that are going to have a deleterious effect on our families?

Mr. BILOTT. I have been trying to get the attention of the Federal agencies for over 18 years to look at this and to look at what's already known about what is out there. Where the PFAS being found. Not only in water but in food as well. And we now know wastewater treatment systems, for example, are taking waste in the water, consolidating this stuff, and they're ending up with very high levels of PFAS in biosludge that's given to farmers across the country, where this sludge is spread on agricultural fields which could be major sources of PFAS for intake by the crops and by the animals.

This is something I've been trying to get our Federal agencies to pay attention to for quite some time now, and that's why I'm very happy to be able to be here. I've had this situation before. I'm familiar with it with if you can't address the facts, try to attack the messenger. So I'm used to that. That's been going on for 20 years.

But that's not going to stop me from trying to at least elevate folks' attention to what we know about this health threat and what we ought to be doing about it, because this information goes back decades.

Ms. SPEIER. Ms. Swanson, you've shown extraordinary leadership, thank you, on behalf of the American people. I know you were representing your state in Minnesota.

Do you think anything would have happened if you hadn't sued 3M?

Ms. SWANSON. No, I don't. I think that our lawsuit brought to the public's attention a number of the documents we're talking about today. But for decades, 3M concealed information about the risks of these chemicals to the environment as well as to public health.

Ultimately, this was a major issue facing Minnesota, as it is a major issue facing the entire country. And it did take our litigation to get a significant recovery for the people of our state, and then through that, information about these documents.

You know, 3M began, after it stopped making some forms of PFAS, a campaign to create what they called defensive barriers to litigation and to command the science. They selectively funded outside research, and they got the right to review and edit scientific papers about a PFOS before they were published. And it even went so far to develop a relationship with the professor and editor of one half of the academic journals in this country about PFAS, where they paid him what we believe is at least $2 million. And in exchange, he was able to send these studies to 3M before they were even published so they could get an advanced peek at them. He made sure in his timesheets that there was no paper trail to 3M. And he even went so far as to advise 3M to keep bad papers of the literature, otherwise in litigation they can become a large obstacle to refute.

And so the company, unfortunately, engaged in a campaign to hide its own studies and to, in fact, shape the science through the funding of these other studies.

Ms. SPEIER. Now, that's shocking. Who is that journal editor?

Ms. SWANSON. The professor's name is Dr. John Giesy, and he was a professor out of Michigan.

Ms. SPEIER. My time's expired. But if you could provide the committee, and me in particular, any suggestions that you think we should contemplate in Congress to address that particular issue in general and accountability by corporations as well.

Thank you. I yield back.

Ms. SWANSON. I'd be happy to.

Mr. ROUDA. Okay. The chair now recognizes Representative Gibbs for five minutes of questioning.

Mr. GIBBS. Thank you, Mr. Chairman.

You know, I think if any companies out there hid things and didn't reveal things to the public and stuff, that should be sorted out in the courts, which I think has happened. Let the judicial system do that. We shouldn't relitigate. I don't think that's our role. That should be sorted out in the courts. And what our role should be, determining, moving forward, what research needs to be done to make sure we protect the public and get the facts straight.

And I guess I want to be clear. I see that last month, the Advanced Medical Technology Association wrote a letter to the Senate expressing deep concern about provisions in the NDAA Act that would circumvent the normal regulatory process that would treat all 5,000 PFAS compounds as single class of chemicals. And their concern is not with adequate data to make that such determination.

And I would go on to say I believe some of these PFAS, like fluoropolymers that have been used for like 50 years, that has some good medical benefits and hasn't demonstrated adverse health effects. So I guess my first question to the first two witnesses over here is, I'm trying to understand this a little better. There's 5,000 compounds that make up this category. Is it dangerous to categorize them all as one and go after them or has there been enough research, scientific data, to show what compounds might be hazardous and what might not be, or do you think the whole class of compounds should be?

Mr. BILOTT. Thanks for the question. I think what we do know is that it took this long to find out what the companies already knew about one of these chemicals, PFOA. It took many, many years to dig out what was already known about that chemical. And what we now know about PFOA is enough to know that is something that we really need to take action on.

And the scientific community, looking at what we know about PFOA and looking at the chemical similarity of these other chemicals in the class, that has raised enough red flags to say we need to be looking at this entire class of chemicals. Because we don't know what else—what other information is already out there that we don't know about.

We were told for years that PFOA was perfectly fine. There are no health effects. There's no evidence of harm.

Mr. GIBBS. That was the chemical company telling you? That wasn't FDA or EPA? What scientific research was there?

Mr. BILOTT. That's what I'm—when we first learned that PFOA even existed and that people were being exposed to it, 1999, 2000 timeframe, the companies were telling us, don't worry about it.

There's no health effects. There's no evidence that it hurts anybody. It took years of litigation to find out that was not true.

Mr. GIBBS. So what was the role of the regulators during that time?

Mr. BILOTT. I was doing my best, during that period of time, to funnel as much of the internal information, nonconfidential, from within the company files about the health effects of these chemicals to the regulatory agencies so they could take action. That's been going on for 18 years. Those agencies have more than enough information about PFOA, about the related chemistry to act.

Mr. GIBBS. Okay. I want to move on.

Ms. Swanson, you settled a lawsuit with 3M, $850 million. I guess, how much, do you know what the contingency fee was for the attorneys? Do you know?

Ms. SWANSON. Mr. Chairman, Member, I think it came to about 12.9 percent of the total settlement.

Mr. GIBBS. 125 million?

Ms. SWANSON. I think that's right.

Mr. GIBBS. Okay. So that leaves about 720 million left. Ended up with 739 million, because you got interest, because interest rates were higher back then.

Ms. SWANSON. Correct.

Mr. GIBBS. But apparently, the money is still sitting there. Minnesota hasn't used the money to do medical care, water testing, any remediation or anything. Is that true? Is the money still sitting there?

Ms. SWANSON. Mr. Chairman, Representative Gibbs, there was a working group formed under the settlement. And the working group, which concludes 3M and community leaders, local governments, are evaluating the best way to appropriate the moneys.

Essentially, the purpose of the settlement and the limitation——

Mr. GIBBS. This settlement was in 2010, right?

Ms. SWANSON. No. 2018. Just last year.

Mr. GIBBS. Okay. I missed that.

Ms. SWANSON. And, essentially, I didn't have authority to get medical injury damages or injury—recoveries for injured people, so the settlement was for damages to the state's natural resources. Under the settlement, the money is going to go to bring clean drinking water solutions to these hundred-and-some-thousand Minnesotans who have contaminated aquifers and contaminated private wells. And the working group compromised of local units of government and 3M and the state of Minnesota are trying to figure out the best ways to appropriate that money in order to bring these solutions.

If there's money left after the drinking water is dealt with, then it will go to clean up the natural resources and to deal with remediation of, you know, fishing habitats and wildlife and things of that nature.

Mr. GIBBS. Okay. My time is up, Mr. Chairman. I just want to reiterate that we should make sure we're not relitigating these cases, and working for how we should do more research and finding more answers to solutions to protect our drinking water and food supply.

I yield back.

Mr. ROUDA. Great. Thank you.

The chair now recognizes Representative Dingell.

Mrs. DINGELL. Thank you, Mr. Chairman. And I really thank you for your leadership on this issue.

This hearing is really important for so many ways, because we're trying to get to the truth. And we've got too many communities that are being impacted by this. We don't know how to clean it up. We don't know what the long-term effects are.

In order to properly address PFAS contamination in America, we've got to understand the full scientific history behind the health risks and its uses. What did corporations know and when did they know it, and where is this contamination and how are we going to clean it up?

Michigan has more sites than any state in the country right now, but that's because we're testing for it. We have more than 70 sites. And if other states begin to test, we're going to see more of these. It is in the water that some people are drinking, though our state is testing water to clean it up. It's in the fish we eat. And communities that rely on it are now being told the fish aren't going to be safe for five, ten, 15 years.

Foam's washing up. And if you're in my district, you're lucky enough now that the fire foam that we're going to—that people are convincing people not to use has to be destroyed or stored someplace. And people in my district may be getting that as well. So it's impacting Republican and Democratic districts. It's not a partisan issue.

I would like do direct my first questions to Attorney General Swanson. When did 3M scientists first learn that PFAS could enter our bodies through food?

Ms. SWANSON. Mr. Chairman, Representative Dingell, I don't have the answer on food, but I can tell you they first learned that it was in human blood in 1975. There were two doctors who came forward, independent scientists, and they were testing blood in blood banks as far away as New York and Texas. And they came forward and they said these chemicals are in the blood and we think it's your chemical in the blood.

3M pled ignorance. Said, you know, we're not going to admit that. And then the scientists said, could you give us a chemical fingerprint of these chemicals so that we can do more testing to show that it's your product chemical in Scotchgard causing this. And 3M said flat out, no, we're not going to cooperate and provide you with that information.

3M confirmed that the very next year that it was in human blood, but it took 20 years for them to tell the EPA and the public. In fact, 3M, in 2006, was fined $1.5 million by the EPA for failing to provide studies that were required to be filed under TSCA, and in many cases, for decades failed to provide studies.

Mrs. DINGELL. So I'm going to ask you some questions quickly, because we're down to two minutes, and they're some important ones.

Is it better for the health of the American people and our environment to address the PFAS crisis through continuing litigation or do we need to get some legislation to address this?

Ms. SWANSON. Mr. Chairman, Representative Dingell, I think it's going to be both. But I think it's very, very important that Congress act to help bring global solutions to this problem.

Mrs. DINGELL. How would designating PFAS as a hazardous substance under the Superfund program hold responsible parties accountable for the PFAS contamination that they've caused?

Ms. SWANSON. Mr. Chairman, Representative Dingell, it would be very helpful to call it a hazardous substance under CERCLA, because it will bring to bear known processes for cleaning up these chemicals in communities. It would also help deal with the cleanup around military institutions and bases where the military hasn't really been very quick to clean it up, and soldiers are drinking this water, and their families. So it would be very helpful for Congress to do that.

Mrs. DINGELL. So do you think it's—we currently have an amendment on the DOD bill that would require that, because as you know, EPA has yet to even set a rulemaking to set the standard. It's only a guideline.

So would designation of that increase or speed up the beginning to clean this up and people recognizing how important it is to deal with this pollutant?

Ms. SWANSON. Mr. Chairman, Representative Dingell, yes, it would very much expedite the process for that to happen.

Mrs. DINGELL. What specific actions have you taken as AG to hold PFAS polluters accountable? And how can other states in the federal government follow what you've learned?

Ms. SWANSON. Mr. Chairman, Representative Dingell, it was the companies' products that created this problem. It wasn't communities that created it. It wasn't individual homeowners who created it. It wasn't patients who created it. It was the companies that develop widely popular products and sold them. And then when they learned that the products were dangerous to public health and the environment, didn't disclose it. They didn't come clean. And so I think it's very important for the companies that contributed to the problem to be part of the solution and help fund the cleanups.

What we did in Minnesota was file the lawsuit against 3M that recovered $890 million to help bring clean water to solutions to our state. I think other communities across the country are going to have to look at similar actions because this is a very large and significant problem.

Mrs. DINGELL. Thank you.

And I'd like to ask one yes-or-no. Is that amount of money going to cover cleaning up all the sites that you have there?

Ms. SWANSON. Mr. Chairman, Representative Dingell, yes.

Mrs. DINGELL. Thank you.

Mr. ROUDA. Thank you.

Without objection, the representatives from Michigan, Texas, and Maryland are authorized to participate in today's hearing.

And we have been called to vote. So what we're going to do is I am going to ask Congressman Sarbanes behind me to take over the chair so that he can ask questions while we all go vote. And then he's going to sprint over there and do the same. And after he finishes his questioning, we will move into recess with the next panel.

So I thank the three of you, but please stay there.

Mr. SARBANES.

[Presiding.] Thank you.

I'm going to yield myself five minutes to ask questions to the panel. I appreciate you being here.

Mr. Bilott, I wanted to address most of my questions to you. You, at this point, I would say, have made a study of the culture in these corporations in terms of hiding the ball over a period of decades. And I'd like you to speak a little bit to that, because I've seen in the record that you've already created, with the testimony that's been submitted, plenty of instances in which employees inside these companies were trying to raise the alarm, call attention to the risks that were being discovered as a result of testing and other evidence that was coming forward. And essentially, they were run over by supervisors, by executives, by lawyers, whatever, which seem to reflect a culture that had taken hold that was making decisionmakers within these corporations disregard or essentially deaf to these claims and concerns, which would have the effect of being demoralizing on that part of the work force inside these companies.

Can you speak a little bit to what your investigations and the litigation that you engaged in uncovered about a culture and the extent to which you think that culture, in some ways, continues now aided by an army of consultants and lobbyists and others that are acting on behalf of these companies?

Mr. BILOTT. Thank you. You know, it took a while to piece this together through a lot of years of combing through internal DuPont documents. And I'll speak to DuPont at this point. But what we saw in the documents is you've got some of the world's best scientists at DuPont and within the Haskell laboratories. And they were doing world-class science. They were identifying serious health risks from exposure to these chemicals. And you had scientists warning the company that something needed to be done, steps needed to be taken. Let's look for alternatives. Maybe the community should be warned.

You had lawyers within the company. We had the rare circumstance of being able to see some of the internal documents from lawyers warning the company, warning the business that we ought to look into possibly getting people clean water who were drinking this.

So what you see is you had scientists within the company itself who were trying to do the right thing. You had lawyers who were trying to advise the company to do the right thing. Yet, unfortunately, there's a memo from 1984 that I believe is in the record, it's referenced in our attachments, where internally the company looks at all these different factors. And one of the concerns is this could penalize our business going forward. The sales for these materials are increasing. And, you know, one of the problems we're dealing with was it was not regulated at that time.

So the decision was made to keep on using the material. Not only keep on using it but increase the use and increase the emissions out into the environment, despite what the internal scientists and lawyers were warning.

And part of that—you talk about a culture. You're talking about a situation where you've got a company that represented itself as

the science company. And, again, this was a huge scientific operation within the company. They had thousands of scientists. They were looked to as experts by the Federal regulatory agencies. People at EPA. People at FDA. People within the Federal regulatory system would look to DuPont to tell them the truth about these chemicals.

You know, so you had a company that was controlling the science, was able to give information to the regulators about these health risks, and repeatedly made the decision not to do so. Business interest won out.

Mr. SARBANES. It makes you wonder why the companies would hire these experts and scientists in the first place if they're not going to give their opinion the weight that it deserved. It's also obviously incredibly nearsighted to judge that, even from the bottom line of a business perspective, it's going to hurt you if you don't address those concerns, because, obviously, these companies now are in a compromised position because of that culture of concealment that took hold.

Whether that has become a reflex that simply cannot be overcome, we'll see as time goes on. We'll have a chance to probe that a little bit with the second panel.

I'm going to adjourn—or—no. Okay.

I'm going to yield to Congresswoman Wasserman Schultz, who's going to come take the chair and ask her questions for five minutes.

MS. WASSERMAN SCHULTZ. [Presiding.] Okay. Thank you.

Mr. Bilott, I have a question for you. The U.S. Navy, as you mentioned, began to raise serious concerns about the potential toxicity of firefighting foam and its harmful effects on the environment in the 1970's. This was a series of alarming reports. I have the report here, and this report by the Navy noted, quote, the 3M Company has not provided any useful information about the components of FC206, which is one of 3M's firefighting foams.

Would you say that this represents typical behavior for 3M, that the company has a track record of trying to suppress harmful information related to its firefighting foam and PFAS products?

Mr. BILOTT. Thank you for the question. What I can tell you is, in our experience in litigation with 3M, one of the very first things 3M did was go to the court to get what is called a blanket protective order. This is after we had been litigating with DuPont, and we were able to get documents from the litigation and provide them to the regulatory agencies like EPA to warn of the health threat.

When litigation began against 3M, they immediately sought a blanket protective order to prevent any of their internal documents from being shared with the public or the regulatory agencies.

And I believe as Ms. Swanson and others within the state of Minnesota, you know, can testify to, that kind of conduct continued for many years with respect to the perfluorinated business, trying to keep the information about the toxicity, the risks of these chemicals, within the company.

Ms. WASSERMAN SCHULTZ. Thank you. The Navy began working with 3M to develop firefighting foams in the 1960's. It turned into a very lucrative business deal for the company. The military did

studies for decades, and DOD only started thinking of the chemicals as hazardous in the late 1990's when it started to seriously explore alternatives to foams with PFOA and PFOS. The Air Force completed a transition to safer foams in 2018, and the Army is scheduled to complete the transition this year. But the Navy is not scheduled to complete its transition until next year.

Mr. Bilott, I know you can't speak on behalf of all of DOD, but in your view, might DOD have made this transition sooner if 3M had not been so reticent about sharing information with the military and the public?

Mr. BILOTT. I believe that probably would be possible. The more information that had been made available about what these chemicals are, what kind of products they are in, how we are all exposed to them, if that information had been made decades earlier, I think a lot of what we are talking about here today could have been avoided. Yes, the U.S. EPA ended up bringing a lawsuit against DuPont for withholding information, and specifically said in that claim, if we had been given information about PFOA, in particular, earlier, we could have begun looking into this decades earlier.

As we already heard, 3M ended up having to pay a fine as well for withholding information from EPA. So——

Ms. WASSERMAN SCHULTZ. Yes, I mean, logic just tells you that obviously the more transparent they were, the sooner that we could have gotten to the bottom of this to address it and avoided exposing literally thousands of people to harm from the impacts.

Last question before we adjourn. In the Fiscal Year military construction and veterans affairs appropriations bill, I made sure—and I chair that appropriations subcommittee—that we put in $60 million in additional funding for PFOA and PFOS cleanup on military installations. Many military bases have unsafe levels of PFAS chemicals in their drinking water. And to either of you, Ms. Swanson or Mr. Bilott, what more should be done by the Federal Government to protect our men and women in uniform? Because they really are impacted severely.

Ms. SWANSON. Madam Chair, I think a number of things can be done. One would be to ban the use of PFAS firefighting foam for training exercises. I mean, it really is a perversity that much of the contamination occurred not by actually fighting fires but by training how to fight fires. I think Congress can limit the ability of these chemicals to be used in training exercises, for example, and then as quickly as possible phaseout the chemicals altogether.

Certainly classifying these substances as a hazardous substance would help because the Department of Defense has been slow to come to the cleanup table, and if it were called a hazardous substance, that would certainly help and eliminate the Department of Defense's ability to say we have no obligation to do that.

I think listing these chemicals under the Toxic Release Inventory is important as well. That helps all communities so that if there is a release of these chemicals, you know, the public knows about it, and I think that would be something that could be helpful.

And then I think as well, just helping with the sampling, I mean, this is an expensive effort. I just saw, I think, in Massachusetts an announcement that the Governor was appropriating some money for testing and it was millions of dollars, and this is something that

all communities are grappling with. Some communities are probably better able to pay for that than others, but that goes beyond the military but could certainly help as well if testing were funded. It could be something Congress could do.

Ms. WASSERMAN SCHULTZ. Thank you.

Ms. SWANSON. Thank you.

Ms. WASSERMAN SCHULTZ. Mr. Bilott, anything to add?

Mr. BILOTT. Nothing to add.

Ms. WASSERMAN SCHULTZ. Okay. Thank you. And without objection, the Navy report that I referenced will be entered as a part of the record.And the panel is dismissed with the thanks of the committee, and the committee stands in recess subject to the call of the chair.

[Recess.]

Mr. ROUDA.

[Presiding.] Without objection, the committee will reconvene, and further without objection, the gentleman, Representative Kildee, is authorized to participate in today's hearing. Glad to have you here.

Before we start with the witnesses, I did want to make a few comments. This is a unique hearing, and I want to say a few words before we start with our next panel, which I will introduce shortly. We have with us today representatives from three corporations, the 3M Company, DuPont, and Chemours, and I believe this is the first time these companies have testified before Congress on the issue of PFAS chemicals. I would like to welcome our panel and thank them for being here.

We just heard from Lori Swanson and Rob Bilott and how the cases they litigated against 3M and DuPont, respectively, relied on a long historical record that showed both companies knew PFAS chemicals, specifically PFOA and PFOS, were toxic for decades, and yet continued to manufacture these chemicals and carelessly discharged them into our air, our water, and our soil. As a result, Americans unwittingly drank, ate, and breathed toxic, man-made chemicals for decades, chemicals that can lead to liver disease, thyroid disease, kidney disease, cancer, and more. I am hammering home this point because PFAS contamination is an issue that is just now starting to get the attention it deserves and companies are only recently starting to pay for what they have done.

As I have mentioned, the companies represented before us today are American institutions. They have made products Americans have been eager to buy, and they have helped create many of the conveniences of modern life. But that does not make them exempt from basic ethical standards of conduct. Part of why American capitalism has survived and thrived for as long as it has is because companies have historically treated both their workers and the larger American society responsibly and fairly, in addition to turning a profit.

A company is not just a CEO or a head of PR but the hundreds and thousands of people all working to serve a specific purpose. The relationship between companies and the American people is interdependent. Companies make high quality products that Americans decide to purchase and each makes the other better off. And importantly, each trusts the other implicitly to participate in the marketplace in good faith.

So when that covenant is broken, when the American people learn that companies have obscured and suppressed evidence and the chemicals they use and manufacture are toxic, it is a seismic event. I mean it, because it shapes the foundation of democratic capitalism. And that is why we are here today, not just to try and help gain some semblance of justice for the affected people who lived in contaminated communities, but also to ensure companies are held accountable for what can only be described as violating the trust of the American people.

I certainly recognize that our panel here today represents companies that have in some cases undergone a lot of changes, including, but not limited to, corporate restructuring and changes in management over the past several decades.

Chemours didn't even exist until 2015 when it was spun off from DuPont. But our subcommittee doesn't accept that these changes in corporate structure let the current incarnation of the company off the hook. A company is tied to its past, morally responsible for its past, and must answer for its past, no matter what changes have occurred from point A to point B, in the same way a Nation must contend with and be responsible for actions taken decades ago, even though there have been changes in government and leadership since then.

This is Congress, the people's body, not a courtroom, and the American people recognize that companies don't just disappear into thin air because a few people in a boardroom somewhere decided that a merger and a few spin-offs might improve the company's bottom line.

So I hope we don't spend this hearing trying to ping-pong responsibility back and forth between two companies or debating whether or not the DuPont that exists today is the same DuPont that dumped PFAS into the water.

It also does not work to simply deny the science linking PFAS to serious health affects in Americans, and try to leave Americans who were poisoned up to their own devices to clean up your mess.

So I hope that we can all start from a common baseline, and that is the scientific consensus that PFAS chemicals and especially the long-chain chemicals like PFOA and PFAS are harmful to human health. Let's not get sucked into the rabbit hole of more research needs to be done, because, you know what, that excuse can be and has been used to justify inaction, and the American people are smart enough to see that excuse for what it is.

It is 2019, and if these chemicals are killing people, let's stop using them and let's get them out of our environment. I call on each company here today to come to the table, work with Congress and the EPA to address this national emergency. The lives of each and every American depend on it.

So with that, I would like to swear the witnesses in. Thank you for rising. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth so help you God?

Thank you. Please sit down. The record shows that the witnesses answered in the affirmative.

We have three witnesses here. We have Daryl Roberts, chief operating and engineering officer with DuPont; Denise Rutherford,

senior vice president of corporate affairs for 3M Company; Paul Kirsch, president of fluoroproducts, The Chemours Company.

And with that, we will move to you, Ms. Rutherford, to start with your oral testimony for five minutes. Please note that the microphones are very sensitive. Make sure you turn it on when you're asked a question or when you're presenting. The floor is yours. Thank you.

STATEMENT OF DENISE R. RUTHERFORD, SENIOR VICE PRESIDENT OF CORPORATE AFFAIRS, THE 3M COMPANY

Ms. RUTHERFORD. Chairman Rouda, Ranking Member Comer, and distinguished members of the subcommittee, thank you for the opportunity to appear before you today. My name is Denise Rutherford, and I am the senior vice president of corporate affairs at 3M, reporting directly to our chairman and CEO. In this role, my responsibilities include sustainability initiatives, environmental stewardship, and public policy.

I joined 3M as a senior research chemist in 1989 after obtaining my Ph.D. in chemistry at Colorado State University, and I've been a 3Mer for nearly 30 years. We are a company of scientists and engineers who are committed to applying science to help solve some of the world's biggest challenges.

Our core mission is to create products that are essential to improving people's lives, and the innovations produced by 3Mers have benefited millions. These innovative products have—include countless examples that are vital to everyday life, from materials in smartphones, low-emission vehicles, airplanes, and renewable energy, to our products like EKG electrodes, worker safety products, and familiar products like Scotch tape and Post-it notes.

In all our work, we are guided by a deep commitment to people, to science, and to the quality and safety of our products. This commitment extends to the topic that I'm here to testify about today—industry's use of certain per-and polyfluoroalkyl substances, or PFAS, and the state of scientific knowledge about their effects on people and the environment.

While PFAS is a very small fraction of 3M's overall business, we take our stewardship responsibility extremely seriously. At 3M, we have spent decades studying PFAS compounds, and I'm grateful for the opportunity to share what we've learned with the subcommittee and to listen to the subcommittee's concerns on this important topic.

I am proud that 3M has had a—long standing—commitment to environmental stewardship. That commitment extends to our industry-leading, decades-long effort to improve technologies and scientific understanding related to PFAS and includes our decision to voluntarily phaseout production of PFOS and PFOA. We were an industry leader in this respect and since our decision to phaseout these compounds almost 20 years ago, others in the industry eventually followed suit.

As a result, the most recent CDC testing shows that levels of PFOS and PFOA in humans have declined by more than 70 percent. Seventy percent. This shows that progress is possible, and we are headed in the right direction. We are committed to continuing down that path and working with Congress and regulators to de-

velop a collaborative, science-based approach to concerns about PFAS. In my written testimony I outlined five key principles of our proposed path forward.

First is our commitment to ongoing remediation at sites where we produced or disposed of PFAS. We believe this is an important responsibility as a manufacturer and as a member of the communities where we live and work.

Second is our commitment to ensure appropriate disposal of firefighting foams known as AFFF. 3M's producing and selling AFFF more than a decade ago. We will continue to work with our former customers to ensure that unused 3M firefighting foam is properly handled, and when appropriate we will take that product back from those former customers.

Third is the need for nationwide science-based regulation. We support EPA's PFAS action plan and Congress's efforts to expedite timelines for the EPA to decide whether to set nationwide drinking water standards.

Fourth, we propose establishing a clearing house for sharing best practices on detection, measurement, and remediation.

Finally, we call for a coordinated research into PFAS. We believe that a respected, established, and independent scientific body should be called upon to conduct a comprehensive review of the existing science on PFAS, inform the public of the findings, and set an agenda for continued research.

If we come together, if all relevant stakeholders can come together, we can develop a path forward. We commit to working with Congress and concerned parties. As an active, responsible participant in the dialog and to continuing to drive science-based progress through appropriate actions.

Thank you for the opportunity to present this testimony. We are looking forward to working with the subcommittee.

Mr. ROUDA. Thank you, Ms. Rutherford.

Mr. Kirsch, five minutes for your opening statement.

STATEMENT OF PAUL KIRSCH, PRESIDENT OF FLUOROPRODUCTS, THE CHEMOURS COMPANY

Mr. KIRSCH. Thank you Chairman Rouda, Ranking Member Comer, and members of the subcommittee for inviting me today to testify on behalf of The Chemours Company.

My name is Paul Kirsch, and I'm the president of the fluoroproducts business at Chemours, my role since I joined the company in June 2016. I also serve as the executive sponsor for the Chemours corporate responsibility commitments.

Like you and others who have come before this subcommittee, I want to leave my children and grandchildren a cleaner, better world. I don't merely empathize with public concerns over the presence of PFAS in drinking water and the broader environment, I share it. The public is rightly concerned over drinking water quality, and Chemours, like all companies, must do its part. Let me assure you, our entire team takes very seriously the obligation to manage PFAS compounds and our manufacturing processes in a responsible way and ensure they are safe for their intended use.

I have been asked to provide some background regarding the formation of Chemours and the details of its spin-off from DuPont.

Chemours was established on July 1, 2015, as an independent, publicly traded company. From day one, we faced serious challenges given how DuPont unilaterally designed the spin-off, including a deliberate disproportionate assignment of two-thirds of DuPont's environmental liabilities, 90 percent of its active litigation, as well as an obligation to indemnify DuPont for all assigned environmental liabilities should any regulatory, public, or private plaintiffs seek to hold DuPont accountable.

And if that wasn't enough, DuPont mandated a $4 billion payment from Chemours in the form of a dividend. To our knowledge, there has been no other spin-off like this in terms of debt, as well as the indemnification provisions which have no cap on time or money.

DuPont designed the separation of Chemours to create a company where it could dump its liabilities to protect itself from environmental cleanup and related responsibilities. From my written testimony, you can clearly see that despite the financial condition DuPont left us in at the time of the spin-off, and the legacy issues we inherited, Chemours moved quickly and with a sense of urgency to transform the company and take action against these—to address these historical issues.

At Chemours we live up to our commitments with actions, not just words. The $200 million investment we have made in our Fayetteville, North Carolina facility, is just an example of that. From this investment, we are creating a best-in-class emissions control facility that can serve as a model for other chemical manufacturing facilities around the globe. This facility took tens of thousands of hours to design and will reduce air and wastewater emissions of all PFAS by 99 percent or greater by the end of this year.

The commitment to reduce air and wastewater emissions of all PFAS by 99 percent or greater is not just for our Fayetteville facility but for all of our sites. It's part of our ten ambitious corporate responsibility commitments that we announced a year ago. These commitments are both impactful and measurable.

Besides the PFAS emission goal, a first in the chemical manufacturing industry, these commitments also include environmental goals for greenhouse gases and landfill intensity. While Chemours has only existed as an independent company for four years, we operate with a mature understanding that economic progress and environmental protection are not contradictory. They can and they must go together.

The products we make enable critical components used in the medical, aerospace, automotive, semiconductor, communications, and energy industries. For example, a major product produced at our Fayetteville site not only enables renewable energy storage, but it would be critical in enabling the hydrogen economy with the next generation of fuel cells for the automotive market.

And the types of commitments we have made enable us to manufacture our products in ways that meet the expectation of a world that demands more. We believe collaboration and transparency are critical to better understanding this issue and addressing public concern. We support the Federal legislative efforts currently under way and their goals to develop a safe, regulatory framework for PFAS compounds using a science-based approach.

Chemours provided input to the Senate Environment and Public Works Committee on the PFAS provisions in the Senate NDAA bill, and we support the measures that resulted from that process in the Senate bill as passed.

Chemours also supports EPA's process to determine whether legacy, long-chain PFAS chemicals should be designated as hazardous substances under the Superfund law. However, we do understand Congress may move on this issue legislatively and would welcome the opportunity to engage with Members should this be the case.

In closing, we can't change the actions or decisions taken by others in the past which continue to impact us today. We can only control the decisions in front of us. We believe that our record, even in our earliest days as a new company demonstrates our commitment to being a different kind of chemistry company, one dedicated to taking a leadership role in environmental stewardship.

Thank you again for the opportunity to be here today. I look forward to your questions.

Mr. ROUDA. Thank you, Mr. Kirsch.

Mr. Roberts, the floor is yours for five minutes of opening testimony.

STATEMENT OF DARYL ROBERTS, CHIEF OPERATIONS & ENGINEERING OFFICER, DuPont DE NEMOURS, INC.

Mr. ROBERTS. Thank you, Mr. Chairman, Ranking Member Comer, and members of the subcommittee.

My name is Daryl Roberts, and I am the chief operations and engineering officer for DuPont. I attended Howard University on the ROTC scholarship and earned a degree in chemical engineering. I served as a commissioned Army Reserve officer for eight years, during which time I started my career at Eastman Kodak and earned a master's in occupational health and safety from the University of Rochester, and an MBA from Rochester Institute of Technology. I then worked in health and safety roles in senior leadership for Arkema, a diversified chemicals company.

Just over a year ago I joined DuPont because I was and still am excited about the opportunity to work for a mission-driven company that is focused on making the planet a better place for my daughter's generation and beyond.

The new DuPont appreciates this opportunity to address the subcommittee's questions about PFAS. We're pleased to be here today to endorse specific legislative proposals and congressional efforts to protect public health and the environment.

Let me first explain why I refer to my company as the new DuPont. E.I. du Pont de Nemours and Company, historically known as DuPont, has evolved throughout the course of its history, often adding and removing business lines. For example, in 2004, the fibers business became a separate company called Invista. And in 2013, the coatings business became a separate company called Axalta. In 2015, the performance chemicals business, a long-held business within the DuPont family, became a separate company called Chemours.

Chemours took the fluoroproducts technologies, operations, sites, customers, technical expertise, and executive leadership in the formation of its new company. Their CEO ran the business line. Their

executives made decisions about the business line for many, many years, and their plants made the products we are talking about today.

Most recently, historical DuPont merged with the Dow Company and then split into three separate, independent companies—Dow, Corteva, and the new DuPont, which I represent.

With respect to Chemours, which has become a very profitable, free-standing business, I would say no one wants to hear two companies argue about litigation. This is not about money here today. They want to hear about how we are going to work with Congress on legislation, which is what the new DuPont wants to do.

The new DuPont is a specialty products company dedicated to solving some of the world's most pressing challenges, including those identified in United Nations sustainable development goals. For example, to address the world's food shortages we have developed technologies to increase food shelf life. To address greenhouse gas emissions, we have developed materials to lightweight cars and planes. And we can all agree that our first responders deserve the very best protective equipment, so we continue to make the best-in-class performance fibers for flame-resistant materials and body armor. We do all of this by employing more than 14,000 Americans across 28 states.

The focus of today's hearing is PFAS. The new DuPont does not manufacture PFAS. Like many other companies today, we use some PFAS materials. However, our use is extremely limited. Nevertheless, we recognize these are important issues, and that's why we support legislative proposals addressing PFAS. They are: Requiring EPA to set a national primary drinking water regulation for PFAS within two years; requiring toxic release inventory reporting on certain PFASes including PFOA and PFOS; requiring EPA to set pretreatment and affluent standards for PFAS by 2022; and requiring EPA to list PFOA and PFOS as hazardous substances within one year under CERCLA. We encourage Congress to enact these proposals as part of the National Defense Authorization Act.

While Congress considers this legislation we're moving forward with our own commitments. As this subcommittee recognized in their prior hearing, the vast majority of PFAS contamination is caused by firefighting foams. We do not manufacture or sell firefighting foams and have never done so. However, like countless other companies, we purchase foams for protection of our facilities. We are committed to ending all use of PFAS firefighting foams at our facilities by the end of 2021.

We have also reaffirmed our commitment to not make, buy, or use long-chain PFAS materials. We will eliminate by the end of this year our limited use of long-chain PFAS in a recently integrated operation which is the only instance where we use it today. And we're immediately working to eliminate it.

We will provide free access to our product steward software. We will also grant free licenses to others to what—that want to use our PFAS remediation, using our water-treatment technologies, which we'll make available for free, and we will provide research funding for PFAS remediation. And, of course, we'll continue to fulfill our commitment to remediate our sites.

We look forward to today's hearing and how we can work together to further our shared goals of sustainability, innovation, and responsible product stewardship.

Mr. ROUDA. Thank you, Mr. Roberts.

The chair now recognizes Representative Tlaib for five minutes of questions.

Ms. TLAIB. Thank you, Mr. Chairman. As we discussed in the earlier subcommittee previous kind of hearings, we've also discussed DuPont's own scientific research that demonstrated links between exposure of PFAS and a variety of very serious health concerns.

So, Mr. Roberts, I wanted to start by asking about DuPont's current PFAS-related responsibilities. Is it your opinion that since the 2005—is it Chemours spin-off—new DuPont is no longer involved in development and marketing PFAS chemicals?

Mr. ROBERTS. Congresswoman, that is correct.

Ms. TLAIB. So regardless of all the money DuPont made over the decades with PFAS chemicals, is it your opinion that new—I can't stand that you guys call it——

Mr. ROBERTS. New DuPont.

Ms. TLAIB [continuing]. DuPont, which is right now capitalized with those profits, is not liable for the unpaid cost of cleaning up contamination and compensating for the human injuries that DuPont caused?

Mr. ROBERTS. Congresswoman, what we're accountable for is to represent and to ensure that we cleanup sites which we own and operate. So we are——

Ms. TLAIB. So even though you contaminated other sites, you don't want to pay for that?

Mr. ROBERTS. Congresswoman, I would——

Ms. TLAIB. How about injuries, people dying?

Mr. ROBERTS. Congresswoman——

Ms. TLAIB. Medical costs?

Mr. ROBERTS. Yes, if I may? Congresswoman, by all means, the sites that we owned and operate, we're fully committed to continue working to remediate.

Ms. TLAIB. No. It's lawyer talk when you say owned and operate. I'm talking about when you contaminate other properties, you walk away. You're not going to clean those up?

Mr. ROBERTS. Congresswoman, we did not walk away from those sites. I will be very clear in saying that our performance chemicals division of DuPont, which was renamed as Chemours, is still operating those sites.

Ms. TLAIB. Okay.

Mr. ROBERTS. So the same individuals that were operating those sites, that were making decisions on those sites, that were—it was extracting profit from those sites and are still extracting profit from those sites, as I read in the written testimony from Chemours, are fully committed to cleaning them up. So——

Ms. TLAIB. So in spite of growing scientific consensus within the company that PFOA was toxic and was contaminating local environments, DuPont purposely hid the research from affected communities and government regulators. Glen Evers, a former DuPont research scientist testified before this committee, subcommittee,

about DuPont's effort to suppress this research on the toxicity of PFAS chemicals and DuPont's effort to limit Mr. Evers' opportunity to discuss his research, as well as retaliation against him for discussing his work with the EPA.

Mr. Roberts, are you aware of these efforts to suppress DuPont's own employee's research concerning the company's development, use, and the health risk of PFAS chemicals?

Mr. ROBERTS. Congresswoman, I can tell you that I'm not aware of that as I was not present at that time. What I can tell you is that the company that I work for is fully committed to working——

Ms. TLAIB. Sure.

Mr. ROBERTS [continuing]. in a way where we're transparent——

Ms. TLAIB. Does DuPont——

Mr. ROBERTS [continuing]. where we work with our communities in a way where they understand what we do. We understand our requirement to ensure——

Ms. TLAIB. So you're not aware of that. But is DuPont, the original manufacturer of Teflon, in any way responsible for shielding critical information from the public?

Mr. ROBERTS. Congressman, no company should shield critical information from the public. The company that I work for is completely focused on making sure that when we have information, that we communicate it, that we work and that our product stewardship efforts are critical in what we do every day, that the communities in which we operate, that we share information, that we work with our regulators to establish the right regulation. That's why we're here today——

Ms. TLAIB. I understand.

Mr. ROBERTS [continuing]. to completely support legislation——

Ms. TLAIB. Well, I'm here because I represent 650,000 people that are being harmed by PFAS exposure, and we're trying to get to the truth here and trying to bring it forward, not talk about who owns what or whatever. We're trying to figure out who is responsible, right?

So more recently, in 2009 DuPont received approval from the Environmental Protection Agency, EPA, to start making GenX commercially as a replacement for PFOA, which persists indefinitely in the environment and is linked to cancer and other serious illnesses.

The agreement passed to Chemours in 2015 when DuPont formed the company from business units. That included the manufacturing of GenX at the—I think it's Fayetteville—works plant in North Carolina. Mr. Roberts, is this a depiction accurate? Is it correct that DuPont's GenX manufacturing passed to Chemours in 2015?

Mr. ROBERTS. Congresswoman, it is correct that the Chemours company owns and operates the facility which is in Fayetteville. That's correct.

Ms. TLAIB. Okay. Mr. Kirsch, so, is it also accurate to stay that it is new DuPont's position, or whatever, that only Chemours is now responsible for what was once DuPont's GenX manufacturing operations?

Mr. KIRSCH. I believe, Congresswoman, that's what's written in the spin-off document, yes.

Ms. TLAIB. In our earlier subcommittee hearing, we heard from Emily Donovan, a North Carolina resident, living near Cape Fear River, which is dealing with PFAS contamination, including PFOA, PFOS, and GenX chemicals. Ms. Donovan expressed concerns that have emerged in her local community related to that exposure and these emerging PFAS chemicals in links to cancers, immune disorders, and so forth. Dr. DeWitt even described GenX chemicals as quite toxic and not safe.

So, Mr. Roberts, the people in North Carolina who live this, live by this plant, are very sick, and DuPont played a role in poisoning them. So in my opinion, I think it means that DuPont needs to help Chemours fix that crisis. And so will you commit today to working with Chemours to clean up the water works plant in North Carolina?

Mr. ROBERTS. Congresswoman, we're here today to commit to clean up the sites that we own and operate. Chemours is fully capable of cleaning up the sites that it owns, operates. It continues to drive profits to its shareholders by operating. They're fully—as we've heard from them, from their CEO, from their leadership, they're in great financial position. There's no reason that they would require our help to clean up their sites.

Ms. TLAIB. Thank you, Mr. Chairman.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Gibbs.

Mr. GIBBS. Thank you, Chairman.

Ms. Rutherford, I think I heard you say in your oral testimony that 3M has ceased producing PFOS and PFOA. Is that correct?

Ms. RUTHERFORD. Yes, Congressman, that's correct.

Mr. GIBBS. How long ago was that?

Ms. RUTHERFORD. Congressman, we announced that phase-out in May of the year 2000, and we completed the phase-out within just a couple of years after that, for those two compounds—PFOA and PFOS.

Mr. GIBBS. Did you do that based on your research, or were you forced to do that?

Ms. RUTHERFORD. No, we did this voluntarily, Congressman. Thank you for that question. We discovered in the late 1990's as our testing capabilities improved, we were able to find these materials in the environment in places that we didn't expect to find them and at concentrations, really low concentrations. But as we moved forward, we saw that these did bioaccumulate, meaning that they would buildup over time with continued exposure, for these two particular materials. We voluntarily then took the action to phaseout—we worked closely with the EPA, the Clinton EPA at that time, to develop that exit plan and to communicate our rationale for doing so. We did this without any information, any awareness. There is still no cause-and-effect relationship for any adverse human——

Mr. GIBBS. Okay. Thank you. I guess for all three of you—I mentioned this in the first panel—there's 5,000 known substances that are under this classification of PFAS, and are all these chemicals the same structure? Is there some—my understanding, there's some that testing would be tough, and I'd just like to hear your reaction about, should we handle this as a class, or should we figure

out which ones might be harmful to the environment and human health or—you see where I'm going here?

Mr. ROBERTS. Congressman, we don't believe all these chemicals are the same. That's why we support legislation to list PFOA and PFOS, and only those two, as hazardous substances under CERCLA. That's further than the other companies here are willing to go today, but that's what we believe is correct. What we know about those chemicals is that they're biopersistent. That's enough to know that there's a clear concern for those chemicals within society at this point in time. And we feel for that reason that they should be regulated.

On the larger class, we believe it's appropriate to have the EPA continue to gain information for us to drive science-based regulation once we have additional data on the larger class of chemicals.

They can't all be looked at the same, but I think we know enough about those which are called C8s or extremely biopersistent, to say that that's an appropriate action at this point in time.

Mr. GIBBS. Now, with all those 5,000 different compounds, how has the interaction between the companies and the EPA, how has that interaction worked to develop the science-based and get the real facts of what's going on, what compounds might be harmful and what might not be? Anybody can answer, all three of you, whoever wants to.

Ms. RUTHERFORD. Congressman, I'd be happy to address that question. As we worked with the EPA over many, many years and many administrations, we have engaged on a scientist-to-scientist basis, and that work has continued to share the studies we have, the body of evidence in the public domain, as well as the work conducted by our own EPA to do risk assessments as part of the process for setting a nationwide, science-based standard. That work has continued.

We appreciate and support the new action plan to do that in an expedited manner. We believe our country is best served to continue to allow the EPA to exercise that process and not to proceed with a hazardous designation under CERCLA unless it is decided by the EPA through their normal process.

Mr. GIBBS. Okay. Go ahead, Mr. Kirsch.

Mr. KIRSCH. Congressman, we agree that the class of the 5,000 substances that represent PFAS are not all the same. They vary in their uses from the pharmaceutical industry, through aviation, as I mentioned earlier, and automotive. So regulating them as an entire class, we believe, would be a mistake.

To the question about how we work with different regulatory bodies, we've spent time—or we are spending time, even in the present, with different congressional bodies, both in the House and the Senate, as well with the EPA and with the state of North Carolina as a result of the efforts that we put in place there.

Mr. GIBBS. Okay. Well, I think, like I said earlier, we need to make sure that we're protecting the environment and human health, but at the same token, make sure we're not throwing the baby out with the bath water, and I don't think a lot of people realize that there's this many thousands of compounds under this general classification.

So we have to be careful how we handle that, Mr. Chairman, and I think that's a prudent point because a lot of those compounds are actually, I think, beneficial, and we need to figure out the ones that aren't. That's where the science comes in. I know somebody made a comment about science is an excuse, and I don't think that's true. I think we need to get the facts and do what's right for everybody. So I yield back. Thank you.

Mr. ROUDA. Thank you. The chair now recognizes Representative Kildee. You're up.

Mr. KILDEE. First of all, thank you, Mr. Chairman, for allowing me to participate in this hearing and thank you especially for your leadership on this question and for holding what has been, I think, a very informative series of hearings. I'm not going to be redundant by asking some of the same questions. I'd like to make a bit of a statement, but I want to clarify something before I go forward.

Mr. Roberts, could you reiterate what you said about what compounds should, in your opinion, the opinion of your company, should be regulated and under CERCLA?

Mr. ROBERTS. Sure. Fluorosity compounds of PFOA and PFOS, which are the two C8 chemistries which are considered long-chain. They are the chemistries which we recognize as being highly biopersistent, meaning they have half lives that can be greater than a year. Because of that connection to biopersistence, that's the reason why we believe that those are the chemicals that should be considered for CERCLA.

Mr. KILDEE. I thought that's what I understood you to say, and I guess I'm a little bit puzzled. I think you mentioned, Mr. Roberts, that Chemours has adequate financial resources to deal with any financial liability for cleanup or for any liability that might emanate out of health concerns as a result of these chemical contaminants. Mr. Kirsch, is it your position that Chemours was provided with adequate financial resources as a part of the spin-off to deal with what obviously would be a pretty significant cost to deal with cleanup and other liability issues?

Mr. KIRSCH. Thank you for the question, Congressman. The answer would be a clear no, and I think the amended complaint that you all received has a couple of interesting examples—and I will mention one, and it gets back to the North Carolina situation. The maximum liability that DuPont estimated for North Carolina in the spin-off was $2.09 million. And as I mentioned in my oral remarks, that cleanup effort and stopping the emissions in that facility will cost us well north of $200 million.

Mr. KILDEE. So this is the concern that many of us have, is that we hear from one witness who has off-loaded their liability, that they think that the chemicals in question should be regulated under CERCLA, but that the company that does have liability has not been given adequate resources to deal with that obligation. And listening to the witness representing 3M, you want to get credit for the decision to no longer produce these dangerous chemicals voluntarily, but in the same breath, want us to believe that there's no science that says that these chemicals are dangerous at all. So if you're responsible for the creation and the promulgation of these chemicals in the environment, you can off-load the obligation to somebody else who doesn't have enough resource, and if you create

these chemicals that then contaminate people and affect their lives, you can take credit for the fact that you're taking it out of commerce and no longer putting it into the environment, but on the same token say that there's nothing saying this is dangerous. This is ridiculous. This is ridiculous. We have a huge problem in this country. The people I represent, for example, in the town of Oscoda, Michigan, who hosted an Air Force Base, the Wurtsmith Air Force Base, had their groundwater contaminated, have had their way of life affected. It's a part of Michigan. It's right on the shore of Lake Huron. It's a beautiful part of our state, where the culture is one of hunting and fishing, where now you can't hunt the animals because the groundwater has contaminated them. You can't eat the fish that you catch because they're too dangerous to consume. And we have companies that have benefited and made millions and billions of dollars by selling these products into commerce, who now want to point the finger at somebody else or say, well, we're not going to produce these chemicals anymore, but believe me, there's no science that says they're safe. I take issue with that. There's plenty of science. There's plenty of science out there that demonstrates these are harmful chemicals and dangerous for human consumption. Otherwise, you wouldn't have taken them off the market in the first place.

Mr. Chairman, thank you for holding this hearing. This has been quite elucidating, and I think what we're hearing today, I think, makes the case that we can't sit and wait for voluntary action, even though I think obviously we would appreciate action. Congress has to act. It's the only way we're going to get to this problem and at a scale equal to the problem. Thank you very much.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Gosar for five minutes of questioning.

Mr. GOSAR. Thank you, Mr. Chair.

Ms. Rutherford, what role does science play in EPA's chemical regulatory process, and what type of information does EPA consider as part of this process?

Ms. RUTHERFORD. Yes. Thank you for the question, Congressman. The EPA has a very rigorous, scientific process that is fundamental to its decisions. As I understand it, our scientists work closely with those scientists on a variety of materials. You can appreciate for a company that has 50,000 different products, we are engaged with regulators. We take our responsibility for our products and the safety of those products very, very seriously. And as we have engaged with them, the EPA has been able to develop processes that set appropriate regulations and nationwide science-based standards for us over many years.

Mr. GOSAR. So is there legal or other possible ramifications if the EPA does not base its regulatory actions on sound science?

Ms. RUTHERFORD. Congressman, that's an interesting question. I'm not a legislator or a member of the EPA. Our concern would be that our actions speak for ourselves. We've been engaged with our communities in remediation at our own manufacturing facilities and dealing with these issues over years. It has resulted in remediation, improving water quality in our communities. The blood levels in the Americans has dropped by more than 70 percent. Ac-

tions speak louder than words. We're concerned that should legislative action result in a lot more conversation and arguments, it would prevent us from taking action in the communities and improving water quality.

Mr. GOSAR. So I guess my question is, as, you know, it goes about sound science, is, 3M's protocol, were they instrumental in actually constructing some of the protocols that are found at the EPA?

Ms. RUTHERFORD. Congressman, I wouldn't be so bold as to say we're that instrumental, but we have been engaged in testing these materials over many years. It was our scientific—our scientists—excuse me—who were instrumental in developing some of the analytical techniques that allow us now to detect these materials down to the parts-per-trillion level. And so as we are engaged in testing and in active remediation around our own sites, we are able to detect these materials, and that is a technique that was supported by 3M and many others in the industry, quite honestly, to enable the EPA to further its—the interest of the Americans addressing water quality.

Mr. GOSAR. So what you're telling me is, the technology has changed to evaluate the chemistry, the evaluation, to finding bioaccumulation? That's evolved, hasn't it? I mean, once upon a time, science said that the earth was flat. Is it flat?

Ms. RUTHERFORD. Congressman, we all know that's not the case. The world is round. And, you know, our approach in advancing the science has evolved over time. When we first produced these materials, we conducted certain rig tests that were required by the EPA. Additional tests are now required. We are absolutely committed to that degree of compliance, both the standards and our understanding of these materials. Our ability to detect today is far beyond what it was 20 to 30 years ago.

Mr. GOSAR. Well, most of the time, rules and regulatory state actually comes from reaction, not being proactive. So how do you look at this aspect in being proactive? I mean, you know, it's kind of hard to see into the future, but once again, science gives us some predicated outcomes. You know, particularly a scientific method that if I perform certain processes, I get a result, and I turn them back over to you. You do the same processes and get the same result. That's how science has evolved to today. So how have you looked at your process that's been proactive versus reactive?

Ms. RUTHERFORD. Congressman, that's an interesting perspective, and what I can say is that 3M conducts our own research. We also support, by terms of grants to universities, for them to conduct research in an unrestricted way. So that research continues to expand the body of knowledge. Those are peer-reviewed journals. That helps to advance the understanding that we all have of these particular materials in the environment.

We have been studying this for many, many years, our own work force, scientific studies. We see there are associations in these studies. We see a lot of inconsistencies in those data, and the data simply don't show any cause-and-effect relationships at historical levels of these materials in the environment, either the older materials or the newer materials, but yet we continue to advance the science so that we can truly understand the situation.

Mr. GOSAR. One indulgence real quick.

Are there other industries that your metrics have been beneficial to, other than the chemistry, like DuPont and 3M?

Ms. RUTHERFORD. Sorry. Could you——

Mr. GOSAR. Are there other industries that have benefited from your quantitative evaluations in a proactive manner?

Ms. RUTHERFORD. Certainly. We're very active in several industries where precise measurements are required. For instance, the advances in electronics have been enabled by some of our materials going into electronic devices—our transportation, low-emission vehicles, aerospace. All of those industries benefit by the dedication of all of our scientific companies here in the U.S.

Mr. GOSAR. Mining as well, right?

Ms. RUTHERFORD. Absolutely.

Mr. GOSAR. Thank you.

Mr. ROUDA. Thank you. The chair now recognizes Representative Ocasio-Cortez.

Ms. OCASIO-CORTEZ. Thank you, Mr. Chair. Thank you for holding this hearing and ensuring that we don't let this go until we get some real answers on this issue. This committee has heard stories of families whose babies have had their brains damaged for their entire lives by PFAS chemicals, women who have been rendered infertile for their entire lives, stage 4 cancer, people whose families have been torn apart by lupus and diabetes, and have lost many family members to this disease. Ms. Rutherford, I want to spend some time here discussing some of 3M's current tactics when it comes to accepting responsibility for PFAS—or not accepting responsibility for PFAS contamination. Are you aware of 3M's membership to an organization entitled Responsible Science Policy Coalition?

Ms. RUTHERFORD. Congresswoman, we are members of many trade associations, and that is one of those.

Ms. OCASIO-CORTEZ. How much money does 3M give to this coalition?

Ms. RUTHERFORD. I'm not aware of that actual number, Congresswoman.

Ms. OCASIO-CORTEZ. Okay. Are you aware of any other chemical companies that are members of the Responsible Science Policy Coalition?

Ms. RUTHERFORD. Again, I will reiterate, we're members of many trade associations. We do that in order to advance our perspective—share our perspective, and to share our science and——

Ms. OCASIO-CORTEZ. Thank you.

Mr. Chairman, I would like to enter into the record a presentation by the Responsible Science Policy Coalition dated July 24th, 2018, which lists 3M as a key member.

Mr. ROUDA. Without objection, so moved.

Ms. OCASIO-CORTEZ. Thank you very much. In the lobbying materials by the coalition, it states, and I quote, the weight of current scientific evidence does not show that PFOS or PFOA cause adverse health effects in humans at current rates of exposure. Ms. Rutherford, do you agree with this statement?

Ms. RUTHERFORD. Congresswoman, I absolutely agree with that statement.

Ms. OCASIO-CORTEZ. This statement goes against 3M's own scientists who for decades have been studying these chemicals and terming them, quote, toxic. For instance, in 1999, Richard Purdy, one of 3M's own scientists and environmental specialists resigned his position in protest calling PFAS, quote, the most insidious pollutant since PCB. Additionally, this administration's agency for toxic substances and disease registry released a toxicology profile of PFAS chemicals. In the profile the agency states, quote, the available epidemiology study suggests associations between perfluorical exposure and several health outcomes. They then go on to list a myriad of serious health outcomes, including increased risk of thyroid disease, liver damage, increased risk of decreased fertility, and decreased antibody response to vaccines.

Even during the state of Minnesota's lawsuit against 3M, 3M claimed that there were no proven negative health effects of PFAS exposure on human health. Mr. Rutherford—or Ms. Rutherford, are you aware of the efforts made by 3M in the past to conceal the risks of PFAS for more than 60 years?

Ms. RUTHERFORD. Congresswoman, I cannot—I am not familiar with that. That goes against everything I know about my company as a scientist over these past 30 years. We are committed to advancing the science and to sharing information to the public domain.

Ms. OCASIO-CORTEZ. And if that's the case, why is 3M taking a position of denying the scientific findings of its own scientists? A large part of the scientific community and the current administration by joining organizations that are spreading misinformation about PFAS.

Ms. RUTHERFORD. Congresswoman, respectfully, I disagree with that characterization. We have a team of epidemiologists and toxicologists who do report to me. I've spent hours and hours with them, going through these studies. There is—there are a lot of inconsistencies in the data. We accept this that there are associations which are like leads, places that we should continue to look, and we are, in fact, doing that. But when we look at that evidence, there's no cause and effect for adverse human health effects at the levels that we are exposed to as a general population.

Ms. OCASIO-CORTEZ. Right. So it may not be causal, but it's very associative, I see here. Has 3M or any agent of 3M taken meetings in the last year with lawmakers and told them or their staff that there's no negative health effects of PFAS on human health?

Ms. RUTHERFORD. Congresswoman, we have a very active team of representatives here working with policymakers to share information. We are very transparent about that. We do that, we report and register all of our representatives——

Ms. OCASIO-CORTEZ. But is that information—has 3M or an agent of 3M told lawmakers that there is no negative health effects to PFAS?

Ms. RUTHERFORD. We have shared with legislators, policymakers, Congresswoman, the same statement that you have repeated back to me, that the weight of scientific evidence shows no adverse human health effects at current or former levels.

Ms. OCASIO-CORTEZ. So 3M is telling lawmakers to not be concerned about this?

Ms. RUTHERFORD. No. We are saying that we should be concerned. We do request additional studies, but what we can say is, we've been studying our own work force for more than 40 years. These are people who had occupational exposure at much higher levels than the general population. We do not see, looking at the scientific evidence of our own work force, adverse human health effects.

Ms. OCASIO-CORTEZ. And has this point ever been communicated to senior officials of the Trump administration?

Ms. RUTHERFORD. I am not aware of that, Congresswoman. We have been working with regulators and policymakers.

Ms. OCASIO-CORTEZ. Thank you very much.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Keller for five minutes of questions.

Mr. KELLER. Thank you, Mr. Chair.

I'm glad to be here today to learn more about the effects of PFAS. And it's all our concern that we have a healthy community, healthy water, and a healthy environment.

Dr. Rutherford, you know, I've been listening to the exchange going back and forth about PFAS and potential harms. And I heard you say, and I want to make sure I understood it correctly, that in your work force, you hadn't seen that the exposure of the employees of 3M had had the negative impact on their health. Is that correct?

Ms. RUTHERFORD. Congressman, that is indeed correct. And thank you for the question. We've been, as all chemical manufacturers will do, monitoring our own work force over many, many years dating back into early operations both in Minnesota and in Alabama and other facilities. We see no adverse human health effects associated with exposures to which they were exposed. And, again, that's many times higher than general population.

Mr. KELLER. Now, this wouldn't be just your view or 3M's view. Do others believe this to be the case as well, such as any government agencies?

Ms. RUTHERFORD. Congressman, many governments have studied this issue. It's a very complex issue, and it's worthy of further study. Other governments, such as Australia Department of Health, Canada's Ministry of Health, have made similar conclusions that the data are inconsistent, yet that the data available today show no conclusive evidence of cause-and-effect relationships creating adverse human health.

Mr. KELLER. And, you know, just some fluoropolymers, you know, compounds of PFAS, they're used in a wide variety of things, even medical devices and those kind of things. Is that correct?

Ms. RUTHERFORD. Congressman, that's correct. These fluoropolymers are used in many very important applications, such as aircraft engines, low emission vehicles, renewable energy, just to name a few, electronics.

Mr. KELLER. But in the case of medical devices, you know, that would be something that would be covered under the Food and Drug Administration if there were some negative impacts. We would certainly think that a branch of the U.S. Government such as the Food and Drug Administration would be concerned if these

pose that kind of risk and using them for medical devices. Would that be an accurate assumption to follow?

Ms. RUTHERFORD. Yes, Congressman, that would be an accurate assumption. These are used in medical devices. Some of my fellow witnesses have spoken to that, that these are key components in a variety of devices all around us every day to enable performance.

Mr. KELLER. Okay. Again, I just want to make sure that when we look at anything as Congress, that we follow the science and the actual science. And I'll say this, not the political science of trying to advance an agenda but the actual science of how this impacts the lives of Americans and making sure that—while we want to make sure everybody's safe, we have the tools and we have the ability to have those tools made available, whether it's for low emissions to help our environment, whether it's for medical devices to help us look for ways that we can be healthier or prevent diseases. We need to make sure that we let the science do it and not as Congress tell the scientists how to do their jobs.

So any other government agencies, because it's not just the Food and Drug Administration. We also have a government agency called OSHA, and they deal with safety of Americans and people that work in America.

So, again, I would just encourage the other members of this committee to make sure that we let the actual science dictate what we do and not the political science.

Thank you.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Hill for five minutes of questioning.

Ms. HILL. Thank you.

I appreciate my colleague's commitment to science. And I would urge us to ensure that those who are funding the science are indeed objective, as we know oil companies funded the science that denied climate change for many, many years.

I have to say I'm very glad that these three companies decided to show up here today. The country, our groundwater, and our people have been poisoned by chemicals made, used, and improperly disposed of by the companies in this room. The question is who is going to pay for the injuries and the cleanup. These companies or the taxpayers?

And here's one thing that really bothers me. DuPont is trying to use corporation law to ensure that they are not on the hook for these costs. DuPont spun off its chemical business in 2015 into a new independent company, Chemours. And according to the complaint Chemours recently—and I'm sorry if I'm not pronouncing this right. My French is a little rusty—recently filed against DuPont. DuPont then saddled the new company with liability costs that were dramatically underestimated at the time the spinoff was finalized. Next, DuPont merged with another company, Dow Chemical, and then spun off a company that they refer to as New DuPont.

The sole purpose of these corporate restructuring seems to be the creation of a legal fiction that someone else is responsible for all the documented harms that DuPont perpetrated dumping PFAS chemicals into landfills and waterways, suppressing the science

showing these chemicals were toxic, poisoning the drinking water of millions of Americans. This strains credulity, and that is putting it mildly.

DuPont has, in the past, accepted liability for discharging PFAS chemicals into the environment which led to serious problems, including birth defects, liver and thyroid and kidney disease, and cancer. Now, a few years have passed, and there's been a spinoff, a merger, and then other spinoffs.

So, Mr. Roberts, I recognize that you're new with the company, but who is now responsible for this contamination if not DuPont?

Mr. ROBERTS. Congresswoman, to go through your question, the DuPont company has changed forms many times over the last 217 years. The last 10 years is not new and was not constructed in some way to avoid liability around the PFAS issue.

The removal of the fibers business to INVISTA; the spinoff of the Axalta business, which is related to our coatings, the Performance Chemicals business, which is related to the fluorochemicals line of business, which is now called Chemours; the creation of the merger with Dow and then the separation, was about this company now reemerging as a company that's focused on sustainability.

Ms. HILL. I mean, that's fine. I understand restructuring. I mean, I ran an organization. I know how restructures work, and that's fine. But who ultimately is responsible if not DuPont?

Chemours didn't exist when this was happening. I mean, they came into existence in 2015. So who takes accountability? And if corporate law loopholes allow us to put our hands up like this, then the only people who are responsible are the American taxpayers, because the cleanup has to happen. This to me is a nonoption. But who pays for it?

And as far as I'm concerned, the company that was doing this in the first place should be held accountable. But if that company doesn't exist through corporate gymnastics, then who does pay that bill?

Mr. ROBERTS. Okay. Congresswoman, I fully agree with you. And in my opening statement, I stated, first, we're fully committed to remediating the sites that we own. I also heard, as we went through the opening statements, that Chemours has very clearly stated that it's committed to doing remediation on the site that it now owns.

Ms. HILL. Well, let's talk about that.

Mr. ROBERTS. So I don't believe that either company is saying that there's not full commitment to making sure the sites that have been owned and operated either currently by the company that's called DuPont or the division of DuPont, which was Performance Chemicals, which is still operating, which is financially viable in every way, shape, and form——

Ms. HILL. I don't mean to cut you off, but I only have a minute left.

According to the Chemours' complaint against DuPont filed this year, there's issues with the estimates of cost cleanups near Cape Fear, North Carolina, one of DuPont's legacy sites. The estimate was that it would be approximately $2 million in cleanup. Chemours later learned that the actual cost of the cleanup would be somewhere around 200 million, and that's a huge difference in

terms of estimates. And then—I'll jump really quickly. I guess what it boils down to is that if Chemours doesn't have the money to pay the victims for all their injuries and to clean up all the contamination, then what happens? Is it DuPont's argument that taxpayers should pay and not DuPont? Who's responsible?

Mr. ROBERTS. Congresswoman, we don't believe the taxpayers should pay. What I would say, when we hear the statement that Chemours then later found out, is that the individuals that were running the sites, the individuals that were developing the products, the individuals that ran this business related to the sites that were fully aware of the financials of the business, fully aware of the liabilities and profits and understood what it was taking with it, are the same individuals that sit and run Chemours today.

Ms. HILL. But there's the $2 million estimate versus the $200 million estimate. That doesn't quite track. And I'm out of time. But I would—maybe you can respond to that in writing after the fact.

Mr. ROBERTS. We would be glad to.

Ms. HILL. Yielding back.

Thank you.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Comer for five minutes of questioning.

Mr. COMER. Thank you.

Dr. Rutherford, I think it would be good for everyone to know how 3M got into the PFAS business to begin with. I know in your testimony you mention relationships with the Navy and with firefighting foam. But can you briefly tell us how that relationship began?

Ms. RUTHERFORD. Yes, Congressman. Thank you for the question. We were involved in the development very early on of fluorochemical surfactants. And that was research that we had engaged in early days. We also had a patent that was purchased from a university that gave us technology in that area as well.

And then after the aircraft carrier fire in—of the Forrestal, where our military personnel lost many, many lives, many of their lives were lost, the Navy put out a request for an improved firefighting system for ships. 3M was one of the companies engaged in that research that resulted in the Navy winning a patent for the—and writing the first specifications for the firefighting foams. And 3M was one of the suppliers in the early development and then through several—many, many years.

Mr. COMER. Okay. I'm going to jump around here.

Mr. Roberts, in your statement, you said that DuPont will no longer use any long-chain PFAS in, quote, recently integrated operations. Can you explain a little bit more what that exactly means?

Mr. ROBERTS. That's correct. Congressman, we recently, as part of the spinoff from the Dow Company, acquired a business that, as part of it, had one product that used a long-chain material. As with the Dow changes—and it will continue to do in the future. Any time that we acquire something, if there's anything that's long-chain, that's included within that portfolio, then we will immediately look to eliminate it, because we're going to stand by our commitment not to use those materials, but—which might be even more important is, not only are we fully committed to not partici-

pating in long-chain chemistry, but our biggest footprint around those materials is actually around our firefighting foams.

So our commitment is that we will, by the end of 2021, is to completely stop the use of PFAS-related firefighting foams at our sites. We have already stopped using PFAS firefighting foams for training. Any time that a PFAS-related firefighting foam is used to prevent or in the mitigation of a real event, we collect that material so that it doesn't go to soil—or to a water body. And we believe that the industry is now ready. And we have been working with companies both in the Americas and in Europe on a generation of firefighting foams that we're comfortable for our uses can be used to replace PFAS chemicals, even those that are not long-chain.

So our biggest footprint is around our firefighting foams. We're fully committed to removing that footprint by, not only getting out of long-chain, but also getting out of all PFAS-related firefighting foams across all of our sites worldwide.

Mr. COMER. And I've stated this in a previous hearing that we had on this subject, but the Kentucky firefighters' union came to my office and were very concerned about that. They obviously are concerned about their safety, as I'm sure every Member of Congress is, and that was an important component. So that's good to hear.

They were concerned about their safety, because the PFAS helps put out fires quicker than——

Mr. ROBERTS. Correct.

Mr. COMER [continuing]. than just normal water.

Mr. ROBERTS. But I agree that—normal water. But I think what we see now is a new generation of foams, which though I'm sure will have their own issue, are not biopersistent. So they are made up of alcohols or proteins which don't have that issue. And we now have a generation we think are just as effective as PFAS-related materials. So we are working with those companies. As we are focused on sustainability, we think we can develop a roadmap that other companies can then follow once we work with these companies to develop this line of chemistry. We'll remove this issue that we've heard across the country is really firefighting foams, so we're focused on addressing that issue.

Mr. COMER. Good.

Mr. Kirsch, I'm curious, are the people running Chemours' business today the same people who ran it when it was a part of DuPont?

Mr. KIRSCH. No, they're not, Congressman. I think that was a slight misrepresentation. So on my staff, I run the fluoroproducts business, as I mentioned in my opening statement. My staff consists of 12 folks, three of which have any—anything to do with the previous DuPont fluoropolymers business. The rest are either new to the company or had no previous experience in fluoropolymers.

To the best of my understanding, the way that the spin document was created, the current Chemours leadership, anyone that was there at DuPont at the time, was not involved in the creation of that document. So to suggest that there was information and the ability to dictate those terms I think is just false and, hence, the complaint.

Mr. ROBERTS. If I may.

Mr. COMER. Yes.

Mr. ROBERTS. The gentleman who was the executive vice president of the fluorochemicals business and had been so since 2008 is now the CEO of Chemours. So I just want to be clear here that so we can truly accept the areas where we're going to focus that we can focus on remediating the sites that we own and that Chemours does the same. But I don't want to really sit here and go back and forth, because it doesn't make sense. But I don't want to be in a shell game.

When the head of the business is now the CEO, it's clear that there's ownership. And an individual who was a part of those discussions who the scientists work for and is currently running Chemours, it makes it very difficult to say we don't know anything about it before 2015.

Mr. KIRSCH. I'm sorry. I need to comment on this.

Yes, Mr. Vergnano is the CEO of Chemours. Mr. Vergnano was part of the DuPont company. I find it interesting that any request I've ever made to address sustainability issues or issues of remediation, which we are taking significant action and we made significant commitments, ambitious commitments one year ago, Mr. Vergnano has approved every single one of those. I'm having trouble bridging this.

Mr. COMER. Thank you. I yield back.

Mr. ROUDA. The chair now recognizes Representative Sarbanes for five minutes of questioning.

Mr. SARBANES. Thank you, Mr. Chairman. Thanks for convening this hearing on an important topic.

So that last exchange was pretty enlightening, I think. The fact that you have two major corporations now pointing fingers at each other, and that's exactly what was just happening, it shows a couple things. There's something wrong with these chemicals. That's an acknowledgment implicitly in that finger-pointing that we just saw. And, second, both companies know that there's a significant amount of legal liability and accompanying financial liability associated with these chemicals and how they were handled. And everybody's trying to get in front of that, I can see.

I want to come back for a moment, Ms. Rutherford, to your testimony previously about the responsible science policy coalition, which I understand 3M is a member of or has helped to fund. And they have concluded, among various studies they've done, quote, the weight of scientific evidence does not show that PFOA or PFOS caused health effects in humans. And you were asked about that, whether you agree with that or you don't agree with that, and I think you said you do agree with it.

Ms. RUTHERFORD. Congressman, that's correct. I do agree with that statement.

Mr. SARBANES. Talk to me about that. How can you agree with this statement after all of the testimony that's come forward and the litigation and otherwise that there are no health effects in humans from PFOA or PFOS? I just want to get into your head for a second, because on its face, it seems to me that goes against the weight of the evidence, testimony, documents that have been presented for years when it comes to the impact of those chemicals.

Ms. RUTHERFORD. Congressman, if I may.

Mr. SARBANES. Yes, go ahead.

Ms. RUTHERFORD. Again, it is the complete understanding of how the testing is done, the analytics, the approach to understanding this. I do appreciate that links and associations are indicated in those scientific studies. However, every study I've read, and I've read many, many of these studies, calls for additional work, because there are a lot of inconsistencies in the data. Establishing a human health impact is a very complex thing. And we——

Mr. SARBANES. You know that back in, I guess, 1981 there was a memorandum inside 3M saying that, as a precautionary measure, approximately 25 women of childbearing potential have received job reassignments at the 3M Decatur plant so they will not be exposed to a type of flurorchemical that can cause birth defects in rats.

So I guess are you saying, well, it causes birth defects in rats, but that's not conclusive as to human effects? Nevertheless, there was a reassignment of 25 childbearing women. Are you aware of that testimony and document?

Ms. RUTHERFORD. Congressman, I am indeed aware of that testimony and that study. What I'd like to share with you is I felt that was a measure of very strong responsibility on our part. There was a study conducted in which we observed some of these birth defects. What we found also, though, is that this was an inaccurate study. The way the fetus was dissected was not repeatable. We shared these information with the EPA.

And the way we discovered that, Congressman, is that it showed up in the control group. The same issue that was found in the exposed population of the animals showed up in the control group with no exposure. So we were—that showed——

Mr. SARBANES. So on the one hand—I mean, I get your point here. You're trying to put a context around that particular information. And that's fair, to a point. But there's a lot of other information and evidence that has come forward, which really belies the statement and the conclusion that was reached by this responsible science policy coalition which, as far as I can tell, is just a whitewash operation. I mean, it's sort of, you know, everybody's going to be okay coalition. But I don't think that there's good science behind that, from what we've seen.

The fact of the matter is the chemical industry has a tremendous amount of power, influence, resources. And they have deployed that for decades against the interests of the average person out there. They've done it with lobbyists. They've done it with campaign contributions. They've done it by buying studies that then masquerade as science. And this continues to go on. We have a responsibility here to push back against that, and we're not going to give up until we've done that.

I appreciate your coming here today, but this is the beginning of a continuing inquiry into the harmful effects of these chemicals.

And with that, I yield back.

Mr. ROUDA. Thank you.

The chair now recognizes Representative Wasserman Schultz for five minutes of questioning.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman.

Last year, the Union of Concerned Scientists released a report detailing PFAS contamination at 131 military facilities across the United States. At 90 percent of these sites, PFAS concentration was 10 times higher than CDC's Agency for Toxic Substances and Disease Registry, ATSDR, risk levels, which itself is much lower than the EPA's current health advisory. Two-thirds of these sites were at least 100 times the ATSDR risk level.

I'd like the panel to consider this: At Patrick Air Force Base in Brevard County, Florida, PFAS contamination was found to be 4,338,000 parts per trillion. That's the level that was detected. That is 390,909 times the risk level.

Many servicemembers have developed cases of Hodgkin's lymphoma and other cancers. These chemicals were used at about 400 U.S. military installations, as we have discussed here today.

Ms. Rutherford, what are 3M's plans for compensating servicemembers and veterans that were exposed to these chemicals, chemicals that your company had determined as harmful to human health?

Ms. RUTHERFORD. Thank you for the question, Congresswoman. As we transformed our own product portfolio and phased out of the chemicals that are part of AFFF, we discontinued that product. We have, nevertheless, continued to work with the Department of Defense to understand the safe use of these materials and the remediation. The remediation needs around these bases do need to be addressed.

Ms. WASSERMAN SCHULTZ. Remediation is not what I'm asking you about. What I'm asking you about is what plans do you have to compensate servicemembers and veterans that were exposed to these chemicals that you were aware were harmful to human health?

Ms. RUTHERFORD. Again, Congresswoman, the studies we have do not indicate at the levels of exposure in the environment in the past or today that adverse human health effects exist. We are, however, continuing our studies, and we will work proactively with scientific bodies. It's not only me, Congresswoman. It is every—a lot of other government agencies, our own ATSDR, Australia, Canada, Germany, the weight of scientific evidence is there. We do agree additional study is required.

Ms. WASSERMAN SCHULTZ. I'm sorry, that's just not—that doesn't conform with what information I know that we've been given about 3M's awareness of the harmful effects of these chemicals.

You began working with the Navy on developing your firefighting foam in the sixties. At what point did you convey the research that you had done and the knowledge of the products harmful effects to DOD? My understanding is that you do and were and withheld information about its harmful effects, and I want to know if you ever advised DOD that it should stop the use of the foam based on that awareness.

Ms. RUTHERFORD. Congresswoman, as we became aware of the potential of bioaccumulation of some of the materials of these foams, that communication did indeed happen. So we've been proactive in sharing that information, the risk of bioaccumulation. And that's why we phased out of those two particular materials at the time more than 12 years ago.

Ms. WASSERMAN SCHULTZ. Okay. These chemicals have been significantly contaminating our servicemen and servicewomen, yet DuPont worried, in its 2009 SEC annual filings, that approximately—and this is a quote—$1 billion of 2009 revenues could be affected by any such regulation or prohibition of PFOA, while the company stated in the same report, DuPont believes that PFOA exposure does not pose a health risk to the general public.

Did DuPont care more about its bottom line than about our men and women serving in the Armed Forces? And why have your companies, all of your companies been fighting against additional regulation of PFAS chemicals even though our servicemembers who have come into contact with firefighting foam or tainted groundwater are suffering from illness?

Mr. ROBERTS. Congresswoman, first of all, as I stated in my opening, we're not here standing in the way of regulation. We support very clearly the line items that are included as part of the NDAA. So we're here to be cooperative. We're here to support. I think the things that this Congress is talking about in understanding what type of legislation would really help to drive this—the situation in the right direction.

So to start there, clearly requiring the EPA to set a national primary drinking water regulation for PFAS under the Safe Drinking Water Act within two years is something that we're here to support, as well as other line items on the NDAA.

Ms. WASSERMAN SCHULTZ. I'm glad that you have taken this position now. But that was clearly not your position previously. Previously, your company did oppose regulation of these chemicals and maintained that you would lose a billion dollars of revenue in 2009 if there was any such regulation, and kept the information about its harmful effects from the public. Isn't that correct?

Mr. ROBERTS. I don't know that to be the case, Congresswoman.

Ms. WASSERMAN SCHULTZ. Well, I'm reading to you from words that were put out by your own company in a report.

Mr. ROBERTS. Okay. What I can tell you is what we believe today. What I can tell you is that we're here to support, in a proactive way, legislation that we think will drive this situation in the right direction.

Ms. WASSERMAN SCHULTZ. Does DuPont have plans to compensate servicemembers who have been harmed by exposure to these chemicals?

Mr. ROBERTS. Congresswoman, the DuPont company that I represent, and I believe what I also read in the Chemours statement, was that AFFF, or foams related to this issue, were not materials that were made by DuPont. They're not now, and I don't believe that was the case in the past at all. But I would refer that to the gentleman from Chemours to respond to as well.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I know my time is expired. But if the gentleman from Chemours could respond, that would be helpful.

Mr. KIRSCH. Yes. Thank you, Congresswoman.

Chemours has never manufactured, sold, or formulated firefighting foams. I believe the issue—question is specifically around PFOS and PFOA. Neither one of those Chemours has ever used. So

at this point, I'm not sure what else I could possibly add to the conversation.

Ms. WASSERMAN SCHULTZ. Are any of your companies that were responsible for using any of these chemicals that firefighters and military servicemembers were exposed to planning any type of compensation to harmed victims? That's a question for all three of you.

Mr. ROBERTS. At this point, the DuPont company is focused on cleaning up and remediating the sites which we operate, that's our focus, as well as reducing the amount of firefighting foam that we use in our sites. But that's the limit of where we're focused at this time.

Ms. WASSERMAN SCHULTZ. So no?

Mr. ROBERTS. We are focused on what we—what's within our control.

Ms. WASSERMAN SCHULTZ. No. Yes or no? Yes or no?

Mr. ROBERTS. We'll continue to focus on what's within our control.

Ms. WASSERMAN SCHULTZ. That's not a yes-or-no answer. Yes or no, are you planning, at any point, at compensating people who have been harmed by your company's chemicals?

Mr. ROBERTS. Congresswoman, you're speaking specifically to armed forces around the world——

Ms. WASSERMAN SCHULTZ. I'm speaking specifically to any—to this issue specifically.

Mr. ROBERTS. Yes. We are focused on working through——

Ms. WASSERMAN SCHULTZ. Okay. The other two people, if you could answer, please.

Mr. KIRSCH. Yes.

Ms. WASSERMAN SCHULTZ. The answer is no. Let the record reflect that the gentleman essentially said, no, there are no plans.

Mr. KIRSCH. Again, we have not been involved in PFOA or PFOS, which I think are the——

Ms. WASSERMAN SCHULTZ. So your answer is also no?

Mr. KIRSCH. Correct.

Ms. RUTHERFORD. Congresswoman, we have been actively engaged in our communities over many, many years conducting remediation——

Ms. WASSERMAN SCHULTZ. Yes or no? Are there any plans that 3M has to compensate victims who have been damaged by your chemicals?

Ms. RUTHERFORD. I will reiterate my statement, Congresswoman, that our evidence does not indicate that anyone was—adverse human health effects were caused by these foams.

Ms. WASSERMAN SCHULTZ. That's not——

Ms. RUTHERFORD. Nevertheless, we're actively engaged with the DOD.

Ms. WASSERMAN SCHULTZ. That's not actually accurate in terms of the documents and the information that has been provided to the committee and to the military. Thank you. I yield back the balance of my time.

Mr. ROUDA. Thank you. The chair now recognizes myself for a line of questioning.

Let me start with Mr. Roberts. I thought your comment that the spinout of Chemours had nothing to do with reducing the liability

of DuPont was patently false. We know that boards and executive management teams often spend time trying to figure out how to reduce liabilities. And I'm quite certain that DuPont, with its in-house attorneys and experts, figured out the best way to reduce the liability here was to spin it out to Chemours.

And that leads me to you, Mr. Kirsch. How much money was given to Chemours when it was started and spun out to address these liabilities?

Mr. KIRSCH. Mr. Chairman, I don't have the exact figure in my head in terms of what the accrual would be. I mentioned the—I mentioned the North Carolina case, the 2 million——

Mr. ROUDA. I'm talking, when you were spun out, were you given a basket of assets to address the studies that DuPont had done to ascertain the potential liability they were going to have? Were you given money to address it?

Mr. KIRSCH. I'm not sure exactly how much money might have been accrued, but there were maximum liabilities that were estimated, and I believe an accrual was set forth for that.

Mr. ROUDA. And, of course, the maximum liabilities have shown to be extensively beyond that. I think you said at one point it's a hundred times greater than what was anticipated.

Mr. KIRSCH. That's correct.

Mr. ROUDA. And, Ms. Rutherford, I'm deeply confused. You said, and I want to make sure I understand this, no one has been harmed by any PFAS chemicals that you're aware of?

Ms. RUTHERFORD. Congressman, what I did say——

Mr. ROUDA. That's a yes or no. Come on. I don't need a long speech. Yes or no?

Ms. RUTHERFORD. We have no definitive cause-and-effect relationship for——

Mr. ROUDA. Great. So your point is no one in America right now, no one, has been a victim of any PFAS chemicals, all 5,000, including PFOA and PFOS. That is your position.

Ms. RUTHERFORD. We state that the majority evidence does not indicate that—that to be true, sir.

Mr. ROUDA. Then why the hell do you care there's been a 70 percent reduction in PFAS levels if it doesn't affect anyone?

Ms. RUTHERFORD. Because we know these are concerns of our colleagues, the people in our communities, and all of us. We all want to have confidence in our drinking——

Mr. ROUDA. Damn right, because you guys have internal memos that show that it impacts people, impacts your workers. You've made changes in how you had those workers conduct their activities. You have internal memos showing how devastating these chemicals can be to certain individuals that become exposed to it, yet you also stated earlier that you deny knowing about those internal memos?

Ms. RUTHERFORD. No, I don't believe so.

Mr. ROUDA. I thought Representative Ocasio-Cortez asked you what knowledge you had of coverup of information by 3M, and you stated, I believe, to the effect that you've been completely transparent and you're not aware of those situations. Is that incorrect? You are aware of the memos?

Ms. RUTHERFORD. I believe the conversation, Chairman——

Mr. ROUDA. Let me ask the question. Are you aware of memos, internal documentation at 3M showing clearly concerns about the hazardous aspects of exposure to these chemicals both by workers of 3M as well as the general public? Are you aware of any documentation within 3M to that effect?

Ms. RUTHERFORD. There are studies, Chairman, that indicate there are effects at extremely high doses as a result of our own scientific inquiry. That is a part of the evidence that we have. At extremely high doses in respect to how we commercialize our new products to ensure the safety——

Mr. ROUDA. How do you define high doses? What would that be? Parts per trillion of what?

Ms. RUTHERFORD. Oh, no. This would be in parts per hundred. So this is a very, very different order of magnitude. Many, many thousands of times higher than what you would be exposed to in the environment.

Mr. ROUDA. I see. So what we've seen when witnesses previously coming in here who have been exposed to those levels who have significant health hazards, health outcomes, you would suggest it has nothing to do with the class of PFAS chemicals. It has something to do with some other item.

Mr. Roberts, I want to ask you. You stated earlier that you would support PFOS and PFOA being covered by the Superfund. Is that correct?

Mr. ROBERTS. That's correct.

Mr. ROUDA. Mr. Kirsch, would you as well?

Mr. KIRSCH. I'm not the expert on the two compounds or the legislation or the—and the process. It sounds like the EPA has enough information to make a decision.

Mr. ROUDA. So your answer is no at this time?

Mr. KIRSCH. I think the EPA has enough information to make the decision, and I think that that's the decision they should make. And I think if they don't, I'm assuming that you'll——

Mr. ROUDA. Okay. Ms. Rutherford?

Ms. RUTHERFORD. Yes, Chairman. We believe the EPA should be allowed to use its process to make that decision.

Mr. ROUDA. Mr. Roberts, if I understand things correctly, there's 5,000 chemicals under the heading of PFAS. The long-chain seem to be the ones that most people would agree are bad for our health.

Besides PFOS and PFOA, of the other 5,000 chemicals under the class of PFAS, how many of them are long-chain, roughly? In other words, it's not just those two, correct?

Mr. ROBERTS. No, it's not just those two. If we think about the chemicals which were identified under TRI, it was PFOA, PFOS, and about 22 other companies that were considered in that group that we talked about reporting under TRI. That's the group that I think that we're talking about. That's why it's——

Mr. ROUDA. Thank you. So you answered my next question.

So based on what we know with long-chain, all long-chain compounds should fall under the Superfund, correct?

Mr. ROBERTS. That group would be acceptable. It's still a very small subgroup. They're all—have that—the issue of being biopersistent. So if it was just those two or slightly larger group, you

know, I think that's something that could be determined by Congress.

Mr. ROUDA. I've submitted legislation to support a trust fund to finance an EPA administrative fee on PFAS manufacturers designed to raise at least $2 billion per year sufficient to cover 25 percent of what we know we need in operation and maintenance costs associated with PFAS and predominantly PFOA and PFOS.

Would any of you three support legislation along those lines to hold manufacturers responsible for helping create a trust fund to address these cleanups?

Mr. ROBERTS. Congressman, for today we focused on the sections that were under the NDAA only because we knew that was a current issue on the Hill. But we'd be more than happy to followup with your office to understand more and have a discussion on that. We'd be more than happy to have that discussion.

Mr. ROUDA. Mr. Kirsch?

Mr. KIRSCH. Mr. Chairman, we're spending tremendous amounts of money to virtually eliminate the emissions of PFAS from all of our facilities, tremendous amounts of money. I guess I would also be inclined to work together with your office to understand better what this mechanism looked like.

Mr. ROUDA. I also note that your lobbying efforts have also increased by 123 percent. I assume that's in an effort to address this issue in a way that is most satisfactory to Chemours?

Mr. KIRSCH. I honestly don't know what the lobbying budget is for the company.

Mr. ROUDA. Ms. Rutherford?

Ms. RUTHERFORD. Yes, Chairman. We're very interested in being involved in additional testing and remediation discussions, and we'd be glad to work with your office to understand exactly that intent.

Mr. ROUDA. Well, I'd like to thank all of you for coming in today. I know there's been some tough questions. And I'm a little frustrated, because I do feel like there's a little bit of round robin here and an unwillingness to fully embrace the obligations that companies have to the trust of the American public when it comes to addressing matters of our health and our safety, yet I also see some potential light.

And I appreciate, Mr. Roberts, your commitment on behalf of DuPont to see some of these chemicals under PFAS be brought into the Superfund oversight.

And at this time, the chair would like to recognize Representative Wasserman Schultz for additional questions.

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman. I appreciate it. Referring back to PFAS being one of the biggest sources of contamination in the Department of Defense's use of PFAS containing firefighting foam, the Department has resisted cleaning up the contamination that it caused and argues that PFAS has not yet been designated a hazardous substance under the Superfund law. Making the Superfund designation would also free up EPA funding and other resources to help cleanup civilian sites critical to us addressing this remediation that you're referring to.

Even former EPA Administrator Scott Pruitt said a year and a half ago that EPA would designate some PFAS chemicals to be

hazardous substances under the Superfund law. But I know I don't have the confidence that EPA is going to propose a rule that takes that step, let alone finalize one.

So to the panel, and I would like a straight yes or no answer, do you agree that legacy PFAS chemicals like PFOA and PFOS should be designated as hazardous substances under the Superfund law?

Ms. Rutherford?

Ms. RUTHERFORD. Congresswoman, we do not believe that is the case. The EPA should make——

Ms. WASSERMAN SCHULTZ. So no? No?

Ms. RUTHERFORD. At this time, based on the science, we—we're not policymakers, ma'am. We cannot make that assessment for the United States.

Ms. WASSERMAN SCHULTZ. No. Yes or no?

Ms. RUTHERFORD. No.

Ms. WASSERMAN SCHULTZ. Okay. Thank you.

Mr. KIRSCH. I'm not the expert.

Ms. WASSERMAN SCHULTZ. I realize you're not the expert. Yes or no, do you believe that PFAS chemicals like PFOA and PFOS should be designated as hazardous substances under the Superfund law?

Mr. KIRSCH. I think the EPA has all the information they need, based on what I've heard.

Ms. WASSERMAN SCHULTZ. I'm not asking whether—that question. I'm asking you if your company's position is that it should be designated as a hazardous substance under the Superfund law.

Mr. KIRSCH. Congresswoman, I appreciate the line of questioning, but with all due respect, that's as much as I can answer.

Ms. WASSERMAN SCHULTZ. So you won't answer the question? You're refusing to answer what your company's position is——

Mr. KIRSCH. I think the EPA——

Ms. WASSERMAN SCHULTZ.—on whether or not——

Mr. KIRSCH. Sorry.—the EPA has all the information they need.

Ms. WASSERMAN SCHULTZ. You're refusing to answer the question. You will not answer yes or no on whether or not your company believes that these chemicals should be designated as hazardous substances under the Superfund law. You're refusing to answer the question. Is that correct?

Mr. KIRSCH. The answer would be no.

Ms. WASSERMAN SCHULTZ. You don't think so?

Mr. KIRSCH. I think the—again, the EPA has——

Ms. WASSERMAN SCHULTZ. You don't think that designation should be made?

Mr. KIRSCH. The EPA has all the information that they need.

Ms. WASSERMAN SCHULTZ. And so your answer is no. Is that what you're saying? No?

Mr. KIRSCH. I said the EPA has all the information they need to——

Ms. WASSERMAN SCHULTZ. So you're—are you refusing to answer or are you saying no?

Mr. KIRSCH. I think I did answer the question.

Ms. WASSERMAN SCHULTZ. No, you didn't. Yes or no to my question.

Mr. KIRSCH. Again, the EPA has——

Ms. WASSERMAN SCHULTZ. That's not yes or no. So essentially you're refusing to answer.

Mr. Roberts?

Mr. ROBERTS. Congresswoman, for PFOA and PFOS, our answer is yes.

Ms. WASSERMAN SCHULTZ. Okay. Thank you very much.

During the subcommittee's July hearing on PFAS and industrial contamination, Emily Donovan, who lives in a community plagued by water laced with several PFAS chemicals called on all PFAS chemicals to be designated as hazardous under the Superfund law. And I agree with Ms. Donovan.

Mr. Chairman, I'd like to enter into the record a letter that was signed by 162 House members asking the NDAA conference to regulate all PFAS chemicals.

And to the panel, if you want this subcommittee, this Congress, and the American public to believe that you are ready to take your obligation to clean up these chemicals seriously, this is your moment.

Do any of you agree—hopefully all of you agree—that all PFAS should be designated as hazardous under the Superfund law?

So far, I've gotten a no and a refusal to answer and a yes, so——

Mr. ROBERTS. Congresswoman, my yes was for PFOA and PFOS. The biopersistent long-chains, I do not agree that that's the right statement for the entire class of 6,000 chemicals.

Ms. WASSERMAN SCHULTZ. Okay.

Mr. ROBERTS. So my answer was very specific to PFOA and PFOS.

Ms. WASSERMAN SCHULTZ. To those two chemicals.

Mr. ROBERTS. Correct.

Ms. WASSERMAN SCHULTZ. Thank you.

To those of you that have disagreed or refused to answer, you are playing a part in this national emergency. You have sickened our first responders and our members of our military, and I don't know how you sleep at night.

Thank you. I yield back the balance of my time.

Mr. ROUDA. Thank you.

Without objection, all members will have five legislative days within which to submit additional written questions for the witnesses to the chair which will be forwarded to the witnesses for their response. I ask our witnesses to please respond as promptly as you are able.

This hearing is adjourned. Thank you.

[Whereupon, at 5:20 p.m., the subcommittee was adjourned.]

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