

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Application for Renewal of)	File Number:
Broadcast Station License of)	BRCT - 20040927AMD
)	
New World Communications of Tampa, Inc.)	
)	
For Renewal of Station License WTVT,)	
Tampa, Florida)	

PETITION TO DENY

of

Jane Akre

Steve Wilson

SUMMARY

Broadcast journalists Jane Akre and Steve Wilson respectfully submit this Petition to Deny the renewal of the broadcast license of WTVT Television Channel 13, the Fox owned-and-operated station in Tampa, Florida, to licensee New World Communications of Tampa, Inc (New World). New World's application dated September 27, 2004 is presently pending before the Commission.

This Petition is based largely upon Petitioners' experience as news reporters at WTVT and, more specifically, upon their experiences in connection with producing a series of news reports on the potential human health risks of artificial hormones secretly injected into dairy cows that supply virtually all of the milk in WTVT's viewing area and beyond.

During the course of the Petitioners' employment at WTVT, they witnessed (and more fully document and detail later in this Petition) numerous occasions that the licensee failed to serve the public interest by putting its own financial interests first, especially in broadcasting what was known to be false, distorted, and slanted news reports that were held out to the public to be accurate and without bias. Petitioners were repeatedly pressured, coerced, and threatened by the station's management and representatives of its corporate parent to broadcast such information the journalists knew and conclusively documented to the highest levels of management to be false, distorted and slanted. Nonetheless, they were told by the station manager David Boylan, "We just paid \$3 billion for these television stations. We'll tell *you* what the news is. The news is what we *say* it is!"

Even after Petitioners made all-good-faith efforts to follow management directives and re-wrote the series of news reports no fewer than 83 times—carefully documenting the accuracy of each and every version as it was submitted and station officials admitted failing to find a single misstatement of fact—every

re-write of every report was rejected as unacceptable for broadcast. The chief counsel of the licensee's parent corporation, Carolyn Forrest at Fox Television Stations, Inc offices in Atlanta, frankly confided to Petitioners (as later confirmed in her courtroom testimony) that the station's primary concern was not the public interest but the fear of losing advertisers and having to defend itself against even an unfounded civil claim by another advertiser that had threatened "dire consequences." Petitioners were dismissed by Fox Television Stations shortly thereafter.

The station's misconduct was then compounded by its airing of a substitute series of reports whose documented errors of omission and commission clearly known to the licensee constituted news distortion in violation of the Communications Act and the FCC 's longstanding rules against distorted and slanted news reports that are unworthy of the public trust reposed in a broadcast licensee. In addition, Petitioners submit details and a sworn statement from an interviewee who says that statements WTVT attributed to him in the broadcast were not only twisted and mis-reported but actually fabricated.

Further evidence of the licensee's misconduct and lack of good character is evidenced by the special treatment it has afforded advertisers and those who threaten even-groundless litigation. This is evidenced by sworn admissions from station news producers that, with the concurrence of the station's news director, they abruptly cancelled coverage of a different public health issue when it was learned that the product in question was produced by the same company that makes the dairy hormone and had previously threatened the station.

Also, as part of a *pattern* of reckless behavior in violation of its responsibilities and duties as a licensee obligated to serve the public interest, the Petitioners have also documented an additional case of deliberate news distortion at a co-owned station—WDAF Fox 4 in Kansas City, Missouri. There, Petitioners

have obtained and present herein additional extrinsic evidence including another sworn affidavit from another insider—another veteran journalist—who says his news reports were given to another advertiser to edit in their own interests. The affiant says he was ultimately commanded to broadcast what he had documented to his Fox Television managers in Kansas City to be clear evidence of falsities, distortions, and a slant that distinctly favored the advertiser. That story, which aired over his strenuous objections before he left the station, intentionally misled viewers as to the actual potential health risks of a household chemical that was later banned from sale in the U.S. by the Environmental Protection Agency (EPA).

Finally, Petitioners document herein the failure of the licensee of WTVT to comply with the public file rule at Section 73.3526. More fully described later and supported with sworn affidavits attached hereto, Petitioners present evidence that the licensee has, on repeated occasions and in clear violation of law, discarded viewer comments and failed to keep them in the station's Public File as required.

The precursor to this Petition is a first-of-its-kind civil court lawsuit, a whistleblower claim filed by the Petitioners against WTVT in a Florida state court on April 2, 1998. As a result, many of the representations made herein have been well documented in sworn testimony that is now a matter of public record. A five-week trial concluded August 18, 2000 with a unanimous jury verdict that Petitioner Akre was terminated because she threatened to disclose to the FCC the broadcast of a false, distorted or slanted news report which she reasonably believed to be a violation of the prohibitions against intentional falsification or distortion of the news on television. Although a Florida Court of Appeal later overturned the jury verdict, it did so based only upon a finding that, as a threshold issue, the station's conduct about which journalists Akre and Wilson threatened to blow the whistle was technically not a violation of any promulgated law, rule, or regulation and, therefore, reasoned the appellate justices, the plaintiffs were never entitled to

employee protections afforded by the state's Whistleblower Act. The premise the jury accepted in reaching its ultimate verdict, namely that the news reports at the heart of this Petition were indeed "false, distorted, or slanted," still stands.

It is not the Petitioners' purpose here to re-try their employment claims. Instead, they firmly believe, as the Commission itself has previously articulated, that "*rigging or slanting the news is a most heinous act against the public interest –indeed, there is no act more harmful to the public's ability to handle its affairs.*" And like the Commission, Petitioners also acknowledge and fully support First Amendment protections afforded to all journalists that allow wide latitude in the making of editorial decisions, even bad ones, by broadcast licenseholders. Nonetheless, as courts have ruled in other cases on other facts, the First Amendment is not absolute, a notion which the Commission also affirmed earlier in voicing its promise that "*in all cases where we may appropriately do so, we shall act to protect the public interest in this important respect.*" This is exactly such a case where, beyond being appropriate, the Commission is legally compelled to act.

Accordingly, the Petitioners having made a *prima facie* case that the licensee has, among other misconduct, participated in, directed, and acquiesced in a pattern of news distortion, and having fully supported allegations with the attached affidavits of persons with personal knowledge as to why the issuing of the license renewal would not serve the public interest, consistent with Section 309 (d) the granting of the renewal of this license cannot be a matter for staff action alone but must be referred to the full Commission for investigation and a full hearing on the record in the city of the licensee, as mandated by law.

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EXHIBITS ATTACHED

1. Transcript of WTVT Promotional Announcement
2. As-broadcast Transcript of Lang Reports
3. Petitioners Analysis of False, Distorted Content in Lang Reports
4. Declaration of Charles Knight
5. Letters Missing From Public File, Declarations of Writers
6. Declarations of Public File Reviewers Hosking and Duffey
7. Declaration of Brian Karem
8. Declarations of Petitioners Jane Akre and Steve

PETITION TO DENY AND FOR OTHER RELIEF

Section 309 (k) of the Communications Act of 1934 states that the FCC may grant a license renewal application if it finds the station, during the preceding license term, has 1) served the public interest, convenience and necessity; (2) there have been no serious violations by the licensee of the Communications Act or the Commission's Rules'; and (3) there have been no other violations of the Act of the Commission's rules which, taken together, would constitute a pattern of abuse.

Under the same section, anyone may petition to deny an application for a broadcast license if the petition contains specific allegations of fact showing that doing so would be inconsistent with that public mandate. The petition must raise substantial and material question of fact supported by an affidavit of those with personal knowledge as to why issuing the license would not serve the public interest.

The Commission will consider material evidence the licensee itself participated in, directed, or at least acquiesced in a pattern of news distortion intended to slant or mislead with regard to "*a significant event and not merely a minor or incidental aspect of the news report.*"¹ Additional evidence of deliberate distortion may include written or oral instructions from station management, extrinsic evidence of pressure, and misleading or inaccurate information included in the story that aired.

While the First Amendment does allow wide latitude in editorial decisions by license holders and the Commission has repeatedly stated that it is loath to delve into newsroom decisions and is not the national arbiter of the truth, in its decision re the CBS program "*Hunger in America,*"² the Commission clearly

¹ *Serafyn*, 149 F.3d 1217, 12 (quoting *Galloway*, 778 F.2d at 20)

² 20 F.C.C 2d 143,150 (1969)

ruled that when there is extrinsic evidence of deliberate news distortion or staging of the news involving the licensee, its principals and news management, that raises serious questions as the character qualifications of the licensee that those cases must be thoroughly explored and investigated.

As the FCC ruled in the *Hunger* case:

“Rigging or slanting the news is a most heinous act against the public interest –indeed, there is no act more harmful to the public’s ability to handle its affairs. In all cases where we may appropriately do so, we shall act to protect the public interest in this important respect.”³

In other words, the First Amendment is not absolute—and it is certainly not a license to lie or to deliberately distort or slant the content of news reports transmitted through the public airwaves. The Commission, having already articulated that there are and there should be instances when the reckless behavior of licensees should be investigated further, has said that in particularly egregious cases, appropriate action could include the revocation of a license in a case where the licensee is found not to have served the public interest, convenience, and necessity, and/or where the licensee is of questionable character to oversee the public airwaves.⁴

³ 20 F.C.C. 2d 143, 151 (1969)

⁴ *Complaints About Broadcast Journalism*, undated, Consumer and Governmental Affairs Bureau, FCC, available at <http://ftp.fcc.gov/cgb/consumerfacts/journalism.pdf>

I. INTRODUCTION AND BACKGROUND

On December 2, 1996, Petitioners Jane Akre and Steve Wilson were hired by WTVT Fox-13 in Tampa. As accomplished, award-winning investigative reporters with more than 50 years experience collectively, they were charged with investigating issues of public importance. They were told that, without fear or favor, they should produce television news reports for Tampa Bay area viewers which were important, compelling and, above all, accurate. The station immediately produced promotional announcements trumpeting the hiring of the journalists as part of the station's "Investigators" unit, promising viewers that these journalists were part of "the largest, most-experienced and toughest investigative unit in the state" and were committed to "uncovering the truth, getting results, protecting you!"⁵

Shortly after their hiring, Petitioner Akre proposed, and station news executives approved, a series of news reports that would expose for the first time the little-known fact that much of Florida's dairy herd was being secretly injected with an artificial hormone known as recombinant (or synthetic) Bovine Growth Hormone (rBGH). Station management acknowledged the reports were important and significant to viewers for a number of reasons, chief among them:

- Respected scientists believed the hormone itself and its impact on the public milk supply were a serious safety concern for milk drinkers and for cows.
- Though its manufacturer, Monsanto, claimed rBGH (brand name: *Posilac*) was "the most thoroughly test product in the world," testing for potential human health concerns consisted of only a

⁵ videotaped promotional announcements were played at trial and entered into evidence on July 17, 2000, see transcript of promo attached hereto as Exhibit 1

single 90-day test on 30 rats. Although none of the test animals died during the test period, many exhibited pre-cancerous conditions at the end of the study.

- rBGH, though legal in the US, was in the process of being banned in Canada and was already prohibited throughout Europe, Australia, New Zealand, Japan, and was unapproved or banned in most of the rest of the industrialized world due in large part to concerns about risks to human health. As with the recent questions about the approval of human drugs like Vioxx and similar ace inhibitors, there were serious questions about the thoroughness of the FDA approval of rBGH. As an animal drug, there were worries that regulators had approved the hormone for cows without due consideration to the effects on humans who drink the altered milk.
- Florida dairymen were widely injecting cows without notice to consumers. Milk cartons carried no disclosure labels. Only drinkers of so-called organic milk could be assured they were not drinking milk altered by rBGH injections.
- Although large chain grocery stores in Florida had publicly acknowledged the health controversy years earlier and promised they would not ever sell milk from rBGH-injected cows until there was widespread consumer acceptance, they had broken that promise. Moreover, they knew or learned very shortly after they made the promise that the pledge could not be kept—but the retailers had never told consumers the truth, leaving milk buyers who relied on those promises serving altered milk to their families without their knowledge or consent.

Petitioners produced and provided the proposed broadcast news scripts to WTVT managers and counsel a week before the scheduled airdate and reviewed those scripts with them in great detail immediately thereafter. Station officials were sufficiently satisfied with the scripts and documentation provided by Petitioners that radio and television promotional announcements were produced and began to air.

Late Friday, February 21, 1997, before the broadcasts were to begin airing the following Monday, a FAX was sent from a New York law firm representing hormone-maker Monsanto, to the President of Fox News, Roger Ailes, who forwarded it to WTVT. In the letter, Monsanto's outside counsel made a number of false accusations against the character and expertise of the reporters and the information Monsanto guessed was about to air. Upon receipt of that letter, WTVT's attitude about the story changed dramatically and, as the then-news director admitted, also prompted the immediate postponement of the scheduled broadcasts.

After meeting with the Petitioners and reviewing documents and other evidence that showed Monsanto's claims to be false, a new airdate was set for the reports to be broadcast a few days later. Before the reports began, a second letter was received from the same law firm, this time predicting "dire consequences for Fox News" if the story were to air in Florida.

After this latest threat, the story was pulled again. Petitioners were told by the WTVT news director that the decision was based on the written threat. Petitioners were later informed that similar threats were received from Florida dairymen and that Winn-Dixie, another major advertiser, had called to voice its displeasure and the possibility of canceling its ads on WTVT.

In the following weeks and for nearly a year, the Petitioners worked on what was virtually a daily basis re-submitting to station executives and their counsel the

documentation and other evidence that showed all aspects of the reports were professionally and ethically produced and were entirely factual in every respect. Nonetheless, station officials—including WTVT’s manager, its counsel, Fox Television’s counsel, and WTVT news managers—pressured the Petitioners to materially change the broadcasts to specifically conform to information supplied to the station management primarily by Monsanto.

News executives repeatedly deferred editorial control to counsel which admitted at the time and later in courtroom testimony that it was guided primarily by the Monsanto letters. Fox local attorney Greg Jones said he was using the letters as “a road map” in an effort to craft reports which would satisfy Monsanto and other subjects of the investigative reports. Without regard to the documented, fact-based journalism the station’s reporters had uncovered and sought to air to viewers, Jones’s goal was to avoid any possibility of litigation. In wake of the facts Petitioners presented, including unquestionable proof of the falsity of many of Monsanto’s statements, WTVT’s General Manager David Boylan asked what the journalists would do if he exercised his authority to kill the story altogether. “Would you *tell* anybody?” he asked. When Petitioners then again attempted to convey to the station manager the public interest mandate all broadcasters and journalists are required to serve, as well as the importance of the news they had discovered and were about to broadcast, it was then that Boylan told the two:

“We just paid \$3 billion for these television stations. We’ll tell you what the news is. The news is what we say it is!”

He then persisted in demanding changes including many the Petitioners documented to him to be false. Nevertheless, Boylan warned that unless those changes were made as directed, despite the Petitioners’ knowledge and demonstration of their falsity, both would be fired.

Petitioners resisted manager Boylan's directives and continued to provide him and other station executives with additional documentation of the facts. Still stalemated, Petitioners then told Boylan that broadcasting false, misleading and slanted news reports would not only violate the public interest but also the law and rules administered by the FCC. They told him that if he continued to coerce them to broadcast what they had documented to be false and distorted information, Petitioners would report such misconduct to the Commission. In the following days, instead of firing them both as threatened, Boylan changed course and twice offered a large monetary settlement in exchange for a confidentiality agreement that neither journalist would ever discuss how and why the rBGH news was quashed at WTVT, nor ever again speak of rBGH in public or in any report in any media produced for any future employer. The conditions that would have kept important health information from the public were unacceptable to both Petitioners who refused the deal.

After threats from the management and then an offer of hush money refused to settle the dispute, Petitioners were instructed to re-write the story. They did little else for the next eight months. Although each re-write satisfied the concerns expressed by the news managers and Fox attorney Forrest, new concerns of a potential attack by advertisers would then immediately arise. As those were addressed, more changes were demanded. Even though the Petitioners re-wrote the reports 83 times—unheard of in any professional editorial review process—none was ever acceptable for broadcast. Ultimately, both Petitioners were dismissed on December 2, 1997.

II. WTVT MANAGEMENT REPEATEDLY DISPLAYED LACK OF CHARACTER BY PRESSURING ITS JOURNALISTS TO BROADCAST TO VIEWERS KNOWN LIES AND DOCUMENTED DISTORTIONS

In its decision in re *Hunger In America*, the Commission, while expressing its reticence to inhibit any licensee's freedom or willingness to present programming dealing with the difficult issues facing our society, nonetheless made clear the conditions under which it would act on allegations of deliberate distortion of news. The Commission said:

"...we do not intend to defer action on license renewals because of the pendency of complaints of the kind we have investigated here—unless the extrinsic evidence of possible deliberate distortion or staging of the news which is brought to our attention involves the licensee, including its principals, top management or news management."⁶

As detailed and documented below, the news distortion at WTVT involved precisely these individuals. The Commission has previously said unless an investigation into charges of news distortion reveals involvement of the licensee or its management there will be no hazard to the station's licensed status. But here, the evidence shows the misconduct with regard to ordering lower-level employees to knowingly distort the news extends to top news management, top station management, and beyond to the highest level of the management of the corporate parent, Fox Television Stations Inc.

The character issue here fits to a "T" the standards set forth later in the *Hunger* decision:

"For example, if it is asserted by a newsman that he was directed by the licensee to slant the news, that would raise

⁶ 20 F.C.C. 2d 143, 150 (1969)

serious questions as to the character qualifications of the licensee. See, e.g. *KMPC, Station of the Stars, Inc*, 14 Fed Reg, 4831 (1949) Such cases must be thoroughly explored and it would be inappropriate to renew the station’s license pending resolution of such an issue.”⁷

Here is specific, detailed, and documented evidence of a licensee’s repeated efforts to force its staff journalists to broadcast what the reporters knew and documented to be false, distorted and slanted news reports. The evidence shows this was done first by management directive, then by overt coercion upon threat the journalists would lose their jobs if they refused, then by enticing the two to act against the public interest in exchange for money, then by attempting to frustrate them into simply giving up on broadcasting honest and accurate reports and leaving the station, and finally by dismissing them and admitting their motivation for doing so was the Petitioners’ insistence on reporting only what they knew to be the truth to viewers. As WTVT’s then-General Manager once complained to the Petitioners who refused to broadcast what they had repeatedly documented to be false and misleading news reports: “I just want people who want to be on TV.” Surely this string of reprehensible misconduct is exactly what the Commission had in mind when it said such cases must be thoroughly explored.

Six months after corporate parent Fox Television Stations counsel Gary Roberts dismissed Petitioners Akre and Wilson, the trade magazine Variety reported in its April 25, 1998 issue that

“...despite admitting that the hormone story is newsworthy...WTVT counsel (Patricia) Anderson says the station has no plans to run a revised report at this time.”

Nonetheless, after the journalists filed their civil complaint that detailed how WTVT management effectively quashed the story, the station and its defense

⁷ 20 F.C.C. 2d 143, 150 (1969)

lawyers apparently decided it was in their own interest to broadcast some version of the rBGH story. Manager Boylan then directed a much-less-experienced reporter he recruited to produce the rBGH reports. As discussed herein later, it is those actual broadcasts which are the strongest, most direct evidence of the licensee's blatant disregard for the public interest by using the public airways to convey rBGH information that station managers and others at the licensee's parent company knew to be false and/or distorted. Most of these false and distorted details were the same ones that the Petitioners had repeatedly and clearly documented in undisputable detail when *they* resisted WTVT directives to proceed with broadcasts in the dishonest manner described herein. But despite the fact their reports never aired on WTVT, the pressure exerted upon the Petitioners by a wide range of WTVT employees reaching to the top levels of station management and prompted by no less than the President of the licensee's parent company, Fox Television Stations, Inc is an important demonstration of the clear lack of character expected of a broadcaster using the public airwaves.

In her sworn deposition related to the civil suit and taken on September 14, 1998, Petitioner Akre recounted in detail many of the specific directives from Fox Television Stations counsel Carolyn Forrest, WTVT Assistant News Director Sue Kawalerski, and/or WTVT's local counsel Greg Jones. In discovery, WTVT management and counsel admitted they were specifically and personally instructed by parent Fox Television Stations President Mitchell Stern, himself an attorney, that the station was to "take no risks" with the rBGH reports in wake of the threats received by Fox officials and management at WTVT. Of course, the station could have simply decided not to air *any* rBGH reports but, as detailed at trial by the production of a WTVT manager's handwritten notes of a conversation among management, Manager Boylan and others feared adverse publicity might follow if the story was just swept under the rug. "Major PR problem for Fox if story killed,"

read the note. Below are several, though far from all, examples cited under oath by Petitioner Akre of the directives from station officials who ordered her to distort her reports and broadcast information she knew and demonstrated to them to be false and misleading:

- Jones ordered Akre to remove all references to “cancer” as the potential human health concern upon which many health experts were focused. Later, showing the extent to which Fox Television Station executives directed editorial content of the news reports admittedly using Monsanto complaints as a guide, FTS Counsel Carolyn Fox also deleted references to cancer, telling Petitioner Akre, “I’m going to throw my weight around on that one. We’ve already discussed it. I’m not going to put it in.” Instead, she and WTVT officials ordered the use of only the phrase “human health implications” when describing to viewers the nature of the concern about rBGH milk.
- Despite evidence that it was an accurate statement verified to have been made by a state agriculture commissioner who characterized rBGH as “crack for cows,” dairymen disapproved, as evidenced by sworn testimony in connection with the lawsuit, and Jones ordered Akre to remove it.
- Monsanto insisted injecting cows with rBGH did not change the composition of the cows’ milk. Akre produced for WTVT officials a binder full of scientific studies—including Monsanto’s own—which showed the milk *was* altered in way considered troublesome by many human health experts. Nonetheless, WTVT management ordered Akre to report only Monsanto’s claim that milk from

injected cows “is the same safe and wholesome milk we’ve always known.”

- Asst. News Director Kawalerski ordered the reporters to effectively slant the story against any concerns about rBGH safety by reporting to viewers that the FDA had considered all the scientific evidence critical of rBGH even though Akre knew—and showed Kawalerski and other WTVT officials—that much of that growing body of scientific evidence had *not* emerged until *after* FDA approval.
- Petitioners were also told by news managers to remove all mention of concerns expressed by Canada’s leading health regulators about the safety of the drug, as well as reports of the ban in that country as well as all of the European Union. Deliberately omitting these facts clearly slanted the reports in a way that would cause viewers to minimize any legitimate health concerns.
- Petitioners were also directed by WTVT management to remove virtually all references to the scientific credentials of rBGH critics, including a renowned scientist and faculty member of the University of Illinois.
- While ordering the removal of mention of the credentials of critics that would qualify them as “experts,” WTVT managers also ordered Petitioners to include in the reports without challenge Monsanto’s claim that “cancer experts don’t see the problem” with rBGH.
- Kawalerski insisted Petitioners misrepresent to viewers a post-approval study of injected *cows* as evidence of safety for *human* health, even after she was shown the study results and how they

included data only for animals and could not be related in any way to humans

- Kawalerski insisted Petitioners not refer to the only rBGH testing for human safety as “short term,” even when shown accepted scientific protocols which conclusively quantify a 90-day test as a “short-term test.”
- Kawalerski and counsel Jones also insisted reporters falsely tell viewers that rBGH use had been “endorsed” by organizations such as the AMA, even though Petitioner Akre provided conclusive, undisputable proof from the AMA that not only has it not endorsed rBGH, it never endorses *any* specific product
- WTVT counsel Jones omitted any and all reference to the potentially dangerous spin-off hormone created by rBGH injections (IGF-1). This spin-off is the very basis for scientific concern about increased human cancer risks as a result of rBGH injections
- Fox counsel Forrest ordered Petitioners to remove all references to the University of Florida which had been funded for rBGH research by UF professors. These UF researchers were later paid by Monsanto to travel and endorse the product. Directives to omit this information followed a call to Kawalerski from the University’s dairy director who wanted the reports killed. (Her notes and her subsequent testimony at deposition and trial show his call was apparently prompted by Monsanto officials who had just hosted the director at a posh resort.)

At trial, broadcast journalism expert Forrest Carr, who was not compensated for his testimony, testified under oath that the station’s directives produced news

reports that “*were slanted and tipped more in favor of Monsanto than they should have been because they failed to present salient facts that should have been in and failed to challenge certain statements that should have been challenged.*”⁸

As Carr put it, WTVT’s edits and outright omissions of information had “*nothing to do with journalism.*”⁹ The bottom-line of Carr’s own review: WTVT viewers would have been misled by the reports the licensee demanded because they were so seriously and materially slanted.

III. WTVT VIOLATED THE PUBLIC INTEREST BY BROADCASTING NEWS REPORTS THE LICENSEE KNEW TO BE FALSE, DISTORTED, AND SLANTED

According to a published report in The St. Petersburg Times on June 7, 1998:

“WTVT aired a series on Posilac (rBGH) on May, 20, 21 and 22 assembled by its new investigative reporter, Nathan Lang—an effort station managers said refuted any allegation that they tried to bury the story.”¹⁰

Setting aside WTVT’s motives to finally broadcast news about rBGH (hereinafter referred to as the Lang Reports), this Petition is supported by a clear showing that 1) the broadcasts contained false and distorted information deliberately designed to slant the news reports, a clear violation of the public interest, and 2) station officials—the very same ones who had, in fact, previously pressured the Petitioners to broadcast false, distorted, and slanted reports—were aware of these distortions and misrepresentation of facts and they deliberately directed or acquiesced in their broadcast to the public.

⁸ Akre-Wilson v New World et al Trial testimony of Forrest Carr T1614, 4382

⁹ Akre-Wilson v New World et al Trial testimony of Forrest Carr T1599

¹⁰ “*News Leads TV Through an Ethical Maze*” by Eric Deggans, St. Petersburg Times, June 7, 1998, page 1-F, (available online at <http://www.sptimes.com>)

Whether the story was finally aired as merely a defense strategy six weeks after the Petitioners filed their civil lawsuit, or because Fox managers belatedly acted on their initial determination that it was news important to the public interest, the Lang Reports (and the Petitioners' experiences at WTVT that preceded them) offer the Commission more than sufficient evidence to investigate further.

During his own testimony in the civil suit, Lang acknowledged that he was provided with the voluminous research and many notes compiled by his predecessors, Akre and Wilson. This is an important admission because it confirms that the Lang Reports were produced with the Petitioners' research available as a primary resource. This research included many scientific studies and other documentation contained in a grey binder and milk crates filled with documents, notes, and correspondence Akre and Wilson gathered in the course of their 12-week investigation and the 10-month period before their termination. This material clearly and directly refuted many points Monsanto had pressured station officials to include in the Akre-Wilson reports, points documented to be false but nonetheless included in the Lang Reports WTVT managers ultimately approved and finally aired. There can be no dispute in so many of these instances that Lang and, more importantly, his WTVT managers were well aware of the false and misleading nature of many of the points reported to viewers as fact.

Lang's testimony further confirmed that he repeatedly consulted with the same management team that the Petitioners say directed them to slant the story to keep advertisers happy and discourage the same potential litigants that, as station counsel had earlier conceded to Petitioners, had no valid claim but were threatening to file suit nonetheless. Furthermore, there is ample evidence that WTVT managers and their counsel also largely dictated editorial content to Lang as they had to Akre and Wilson before him—and for the same reasons. At deposition, Lang described his experience reporting the rBGH story as “a headache

the size of Monsanto.” And as evidence he, too, was pressured by WTVT managers to alter his reporting in ways that led to the same kind of distortions and slant the Petitioners resisted, Lang testified at deposition, “There were lots of things we had to cut out that I thought were relevant.”

Perhaps more important than Lang’s admission about the many things WTVT management ordered deleted from his reports are the many misleading and outright inaccurate points which were ultimately broadcast despite the broadcasters’ knowledge of their falsity.

Attached hereto as Exhibit 2 is a transcript of the Lang Reports and, attached as Exhibit 3 is the Petitioners’ own thorough examination of the many examples of false or misleading information broadcast by WTVT. Chief among these examples is #12 on Page 8. Here, WTVT carries the claim of a Monsanto spokesperson who says milk from treated cows “is the same safe and wholesome product” as milk from cows not injected with the artificial hormone. As explained in the exhibit, this statement is flatly false. Information which clearly contradicted this false claim was thoroughly and repeatedly reviewed by Petitioners with WTVT managers up to and including the General Manager. Documentation to a scientific certainty was contained in the research material Lang used to produce his reports. This particular falsehood was the cornerstone of the misleading and slanting nature of the reports. The record clearly establishes that it was broadcast with the full knowledge of WTVT managers—and without mention of documented, contrary evidence that showed it blatant falsity, information that the Petitioners had repeatedly shared and reviewed in detail with station management and then left behind for Lang’s eventual review. If viewers were misled to believe hormone injections made no changes to the milk they drink—as they were in the Lang Reports—they would have no reason to be concerned about questions of human health safety.

An independent review of the Lang Reports, compared with the reports proposed by Petitioners and rejected by the licensee, has also led The St. Louis Journalism Review to conclude the differences are both “profound and subtle.”¹¹

Equally troublesome and indicative of a pattern of deliberate falsity is the fact that although Lang told viewers he had personally investigated the rBGH issue by “visiting and talking with...really all the players involved,” he actually interviewed only two rBGH critics—and both have declared their statements were misrepresented and, in some cases, fabricated.

In one case, the interviewee has testified under oath that the Lang Reports ignored substantial, important scientific information the source provided. Under oath, this source also complained,

“I didn’t feel it was a fair and impartial report...It was, in my opinion, that anybody watching that would say, ‘Where’s the beef? Where’s the evidence (of human health risks)? Where is the proof? If they have no proof, it must be safe.’ That was the way I saw this report.”¹²

In the case of the second rBGH critic, a farmer who says he told Lang that rBGH use nearly destroyed his entire dairy herd, says in a sworn affidavit attached hereto as Exhibit 4 that WTVT reported statements that were completely fabricated, as well as misrepresenting other key points the interviewee made to WTVT. Given the preponderance of evidence that supports the premise that the licensee intended to slant the rBGH reports for its own purposes, it is difficult to write off such blatant misreporting as merely sloppy work by a poor journalist.

The licensee has frequently argued its right to its own editing judgments. But the Petitioners’ own experiences, followed by Lang’s similar experience and

¹¹ see “Fired Reporters Tell St. Louis Audience: Monsanto Lying about Effects of Bovine Growth Hormone” by Peter Downs, St. Louis Journalism Review, September 1998 edition available online at <http://www.stljr.org/archives/september1998.htm>

¹² Akre-Wilson v New World et al Pre-trial Deposition testimony of Robert Cohen, January 12, 1999, see page 80

the ultimate result seen in the as-broadcast transcripts, strongly support the Petitioners' claims that the licensee's handling of the rBGH reports, compounded with all the additional extrinsic evidence detailed herein, is clear and convincing support for the claim that the licensee is not operating in the public interest and lacks the good character to do so. The disputes detailed herein cannot be written off as nothing more than common, ordinary and honest editorial disagreements between reporters and editors. Despite mutual respect for the First Amendment and the Commission's oft-stated unwillingness to second-guess journalists or be an arbiter of news, the body of evidence here shows that what has happened at WTVT is *prima facie* evidence of nothing short of a deliberate effort by station executives to present to its viewers false, distorted, and slanted reports about a matter of significant public interest because the licensee's own interests conflicted with its legal mandate.

IV. A PATTERN OF MISCONDUCT ENCOURAGED OR CONDONED BY THE LICENSEE CONTINUES; VIEWERS ARE DISSERVED WHEN SPECIAL TREATMENT IS EXTENDED

Following the rBGH reports, there arose another case which raises serious questions about whether the licensee operates WTVT in the public interest or puts its own financial interest above its legal mandate to serve its viewers. Equally important, Petitioners believe the example detailed below is further support of a *prima facie* case against the licensee in accordance with the Commission's prior ruling.¹³

In the station's coverage of another significant human health issue, the widespread use of the artificial sweetener aspartame, WTVT producer Cindy Simmons scheduled a live interview with Mary Nash Stoddard on the station's

¹³ WGPR, 10 FCC Record at 8148

noon news broadcast. Ms. Stoddard, who had flown to Tampa from Dallas at her own expense to discuss her concerns about the risk to humans who consume the product. She is the author of Deadly Deception, The Story of Aspartame (Odenwalk Press, 1998). Despite Simmon's research in preparation for the interview, she testified at deposition that she did not learn until shortly before the broadcast that aspartame is a product of Monsanto, maker of rBGH, the very same company that had threatened WTVT with "dire consequences" if the station aired Petitioners' rBGH reports months earlier.

Even though she was just a couple of hours from air, Simmons abruptly cancelled the interview segment. At her pre-trial deposition, Simmons testified as to some concerns about the interview but confirmed that learning of the Monsanto connection was the ultimate reason for the cancellation after consulting with the station's news director who was involved in the Monsanto/rBGH dispute. Stoddard was dis-invited with a phone call from WTVT employee Angela Schultz. In a published report in The St. Petersburg Times, Stoddard says Schultz told her the segment was cancelled "after a meeting with the station's attorneys." At deposition, Schultz testified she followed a news managers directive to tell Stoddard the interview was cancelled partly "for legal reasons" which were not specified to her.

The petitioners believe this further example is additional evidence of a clear pattern of special treatment offered to a major advertiser to serve not the public interest but the licensee's own interests.

V. LICENSEE HAS REPEATEDLY VIOLATED THE FCC REQUIREMENT THAT IT MAINTAIN PUBLIC FILE

The FCC's rules require all broadcast stations to maintain a file available for public inspection.¹⁴ In wake of the controversy surrounding WTVT's news coverage of the rBGH issue, Petitioners are aware of many communications by citizens to the station in the form of letters and other correspondence sent by FAX, Postal mail and e-mail. Despite the volume of comments directed to WTVT, Petitioners are unaware of a single instance in which a citizen who wrote such comments ever received a reply or acknowledgment from the station. Many who communicated comments to the station forwarded copies of those communications to the Petitioners. Although the bulk of those comments were sent in the time period beyond the three years which Section 73.3526 requires the licensee to keep all such comments, Petitioner is in possession of several such communications and sworn declarations from citizens who attest to the authenticity of the copies and the fact that they sent those respective communications to the station within the last three years, each specifically requesting that the comments be added to the station's Public File. (Copies of citizen letters and sworn declarations from writers are attached hereto as Exhibit 5)

On Monday, December 13, 2004, Petitioners and two volunteers visited WTVT for the purpose of reviewing the station's Public File. Over the course of more than three hours, each and every hard-copy document in the file was reviewed. Each and every computer diskette which held comments received electronically by the station was duplicated electronically and subsequently reviewed as well. (Sworn declarations of those who reviewed the file is attached

¹⁴ 47 C.F.R. §§ 73.3526

hereto as Exhibit 6, except that Akre and Wilson attest to their review in their own declarations attached as Exhibit 8)

As a result of the thorough review of the file provided for inspection by the licensee, it was determined that *none* of the communications sent by *any* of the declarants was contained in the station's Public File as required. Additionally, public comments received electronically during the entire month of September 2002 were missing and unable to be located by station officials at the time.¹⁵ Also, with the exception of a lone message received by the station on April 17, 1998, there was not a single other message—hard copy or electronic—related to the subject of the station's handling of the rBGH issue or the Petitioners' claims of news distortion. In addition to the known examples of communications which were sent but were not kept in the file as required, it is beyond reasonable belief that the station never received a single such comment in the last seven years when the dispute and subsequent trial has received considerable news coverage throughout the viewing area and beyond.

VI. FOX MANAGEMENT DISTORTS NEWS AT CO-OWNED & OPERATED WDAF FOX-4 IN KANSAS CITY, MISSOURI

Additional evidence of a pattern of failing to meet the good-character requirements expected of all licensees, as well as additional of failing to serve the public interest, is another example, this time at the Fox-co-owned-and-operated WDAF-Fox 4 in Kansas City, Missouri.¹⁶ In a deposition taken January 8, 1999, another veteran journalist has testified that while working in the news department

¹⁵ Subsequently, WTVT's program director supplied on the eve of the filing of this Petition an electronic file which purports to be the missing emails. Petitioners have not yet reviewed the material to confirm its authenticity.

¹⁶ While Petitioners acknowledge that the FCC normally limits its review to the particular station applying for renewal, evidence is relevant from another station tending to show an abusive pattern or policy common to both stations.

there in 1998, the year following Petitioners' experience reporting the rBGH story at WTVT, he was warned by the station's news director that there existed a company-wide prohibition against reporting on that issue. The reporter quoted the Michael McDonald, the station's news director, as warning him, "He said there is no way in hell we are going to touch that. I think that was his exact words. He was quite pointed on that."¹⁷

In addition, the management at WDAF and counsel representing corporate parent Fox Television Stations, Inc showed egregious mishandling of the public airwaves there when the same reporter produced a series of reports that raised serious questions about the risk to human health posed by indoor use of a Dow Chemical product known as Dursban. As the journalist states in his sworn affidavit, attached hereto as Exhibit 7:

"I am aware that Dow Chemical pressured Fox Television to influence the news content of my reports. Specifically, I am aware that as a result of that pressure, advance copies of scripts and/or videotapes of my proposed news reports were provided to Dow and, as a result, Dow and its counsel then suggested to Fox numerous editorial changes to the story as I had written it. Subsequently, despite my strenuous objections to violations of journalistic freedom and ethical standards, I was directed by Fox Television attorneys and managers to edit and sanitize my reports in a way that would appease Dow. These changes I was directed to make resulted in final broadcasts which were inaccurate and misled viewers. This information was included in my broadcasts only under extreme duress, namely that it was clear to me that if I did not follow directions as dictated, I would be terminated as the station's investigative reporter."

¹⁷ Akre-Wilson v New World et al Pre-trial Deposition testimony of Brian Karem, January 8, 1999, see page 67

VII. THE PUBLIC INTEREST REQUIRES A HEARING

Petitioners have thoroughly documented here a *prima facie* case that the licensee of WTVT has directed, participated in, and acquiesced in a pattern of willful and deliberate news distortion in violation of the public interest mandate all broadcasters are expected to meet. Petitioners have also raised ample additional evidence that the licensee may no longer meet the good-character qualification to continue to operate a station in the required public interest, convenience and necessity.

Accordingly, the stewardship of the public interest required of broadcasters strongly commands that the FCC investigate the evidence submitted of repeated acts of violations by this licensee before a full hearing on the record provided by law in Tampa, the city where WTVT is licensed. The Petitioners request that the license renewal of WTVT be withheld until the outcome of that hearing.

VIII. CONCLUSION AND REQUEST FOR RELIEF

As both a measure of good character and a requirement of federal law and the rules of the Federal Communication Commission, broadcast licensees are mandated to refrain from deliberately distorting broadcast news reports and airing as bona fide news what is known to be false. Journalists, too, are ethically bound to resist such directives that would mislead viewers, depriving them of the accurate information needed to conduct the public affairs of a free society. In testimony connected to the civil action described herein, Walter Cronkite, the esteemed former anchor and managing editor of The CBS Evening News, was asked to what extent should an ethical journalist go to resist directives by management of his own news organization that would result in a false or slanted story being broadcast.

His reply: “He should not go one micro-inch towards that sort of thing. That is a violation of every principle of good journalism.”¹⁸

In the recent cases of broadcast indecency, citizens have made it clear that they expect the government to regulate the public airways in a manner that protects children and others from material which crosses the line. Though not always easy to define the limits of permissible and Constitutionally protected free expression, the Commission has nonetheless responded with enforcement actions where warranted. And though it is understandable how the Commission is loathe to enter another area of Constitutional protection afforded to the press, citizens expect appropriate regulatory oversight in this area, too.

Despite the licensees oft-repeated defense that editorial disagreements should not be the subject of review by government regulators, the Commission has already properly determined there are limits to what a licensee of the public airwaves can broadcast, even given First Amendment protections. Here is a case in which the licensee has argued that the First Amendment protections are so broad, there is not and cannot ever be any law, rule, or regulation to prohibit even known lies and distortions from being broadcast. If ever there were a case to warrant a thorough government review of the boundaries of these protections as they pertain to use of the airwaves, Petitioners respectfully maintain this is the case. Although the bar to trigger such review has been set extremely high, Petitioners have met each and every prerequisite ever laid out by the Commission.

Accordingly and for the reasons discussed above, affirmed by the sworn declarations of Petitioners Jane Akre and Steve Wilson¹⁹ the Commission should find that this Petition to Deny and prior records incorporated here by reference raise substantial and material questions of fact commanding a full evidentiary

¹⁸ Akre-Wilson v New World et al Pre-trial Deposition testimony of Walter Cronkite, April 25, 2000, see page 31

¹⁹ Declarations of Akre and Wilson attached hereto as Exhibit 8

hearing on the captioned WTVT New World Communications of Tampa, Inc license. Pursuant to Section 1.253 of the Rules, C.F.R. §1.253, we ask that the Commission order hearings in the city of license, following pre-hearing conferences at the FCC.

Respectfully submitted,

JANE AKRE

STEVE WILSON

406 Royal Tern Road South
Ponte Vedra Beach, FL 32082
(904) 273-0345

December 31, 2004

CERTIFICATE OF SERVICE

I, Steve Wilson, hereby certify that I have, on the 31st day of December, 2004, caused a copy of the foregoing “Petition To Deny and For Other Relief to be delivered by U.S. First Class Mail, postage prepaid, to the following:

Robert Linger, Vice President & General Manager
WTVT-TV Fox13
3213 West Kennedy Boulevard
Tampa, FL 33609

Molly Pauker
Fox Television Stations, Inc.
5151 Wisconsin Avenue NW
Washington, DC 20016

Additionally, on the 31st day of December, 2004, I caused a copy of the foregoing “Petition To Deny and For Other Relief” to be delivered by hand to the following:

Robert Linger, Vice President & General Manager
WTVT-TV Fox13
3213 West Kennedy Boulevard
Tampa, FL 33609

Hon. Michael Powell, Chairman
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Hon. Michael Copps, Commissioner
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Hon. Jonathan Adelstein, Commissioner
Federal Communications Commission

445 12th Street SW
Washington, D.C. 20554

Hon. Kathleen Abernathy, Commissioner
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Hon. Kevin Martin, Commissioner
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

W.Kenneth Ferree, Esq.
Chief, Media Bureau
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Steve Wilson

EXHIBIT 1

WTVT TAPED PROMOTIONS:

“The Investigators,
Uncovering the Truth!
Getting Results...
Protecting you!!

Investigative Reporters Steve Wilson, Jane Akre and Consumer Lawyer Eric Seidel. A team of producers and researchers and specially equipped photographers. The largest, most experienced and toughest Investigative unite in the state.”

EXHIBIT 2

WHAT'S IN YOUR MILK?

WTVT – Tampa

Transcript (As-Broadcast) May 20, 21, 22, 1998

Part I, May 20, 1998, 10 p.m. Fox 13 News

Anchor Kelly Ring: “Several years ago, dairy farmers started injecting their cows with a synthetic hormone to raise milk production.”

Anchor John Wilson: “Kelly, government agencies gave it all their stamps of approval despite loud criticism and some rather frightening claims about this. And because so many dairy farmers in Florida use this drug, Fox 13 set out to examine the issues so you can make an informed decision about what you and your children consume. Our investigative reporter Nathan Lang joins us now from the kitchen.”

Nathan Lang, WTVT Fox 13 Investigative Reporter: “It seemed like an appropriate place to begin. We went out and bought one of almost every dairy product in the stores from butter to yogurt. And after visiting and talking with dairy producers, scientists on both sides of the controversy, representatives from government agencies really all the players involved, nothing puts it perspective quite like this.”

Natural Sound of cow in field: “Moo”

Reporter Nathan Lang: “It is hard to think of an animal we depend on more than cows. Forget for a moment all the leather we wear, all the beef we eat. Try to think of a product we consume more than milk. By the carton, by the scoop, by the slice. Milk and dairy by-products make their way into almost every meal we eat. So its critical our milk supply be two things, safe and abundant. Squarely between those two objectives beats the heart of this controversy.

Natural Sound of dairymen herding cows: “Go ahead on, go ahead”

Reporter Nathan Lang: “Rick Silvia manages one of the largest dairy herds in Florida—3,000 cows. This farm is the model of efficiency. Cows are numbered and wear electronic ankle bracelets. Every step, every squirt, is monitored for productivity. Meet milk factory #3066. She lines up in a stall three times a day to drain her udders.

Dairyman Rick Silvia: “This cow in the third stall gave 25.96 pounds of milk.”

Reporter Nathan Lang: “The more she produces, the more she’s worth. A few years ago she started getting a shot every two weeks. It’s a synthetic hormone injection called recombinant bovine growth hormone or rBGH. Fortunately it has a brand name, Posilac, made by the Monsanto company.

Dairyman Rick Sylvia: “Posilac is something, it’s an extra tool that allows us to stay in business and make a living.”

Reporter Nathan Lang: Posilac injections can raise a cows milk production by as much as 20%. If she were producing ten gallons of milk per day without the shot she could produce 12 gallons a day with the shot. For farmers everywhere the equation is simple.

Dairyman Rick Silvia: “It’s just a management tool.”

Reporter Nathan Lang: It’s a management tool which nets this farm an additional 300-thousand dollars a year. It is profitable but is it safe?

Dr. Samuel Epstein, University of Illinois School of Public Health: “The milk from cows treated with rBGH is supercharged with high levels of a highly potent growth hormone.”

Reporter Nathan Lang: Dr. Sam Epstein is as skeptical as they come. He is a professor of environmental medicine at the University of Illinois Medical Center’s School for Public Health. He bases his fears on a large body of research, he and legions of other scientists have reviewed. Though the majority of those scientists don’t share his concern, he remains adamant. Even published his conclusions in the International Journal of Health Services.

Dr. Samuel Epstein: “There are highly suggestive if not persuasive lines of evidence showing that consumption of this milk poses risks of breast and colon cancer.”

Dr. William von Meyer, Posilac Opponent: “We’re going to save some lives if we review this now, if we allow BGH to go on I’m sure that we are taking excessive risks with society.”

Reporter Nathan Lang: Up in Wisconsin, Dr. William von Meyer echoes the alarm.

Dr. William von Meyer: “Milk is a complex protein.”

Reporter Nathan Lang: Dr. von Meyer makes studying how chemicals affect humans his business. After years of his own research, he says the federal agency responsible for approving sales of rBGH did not do a thorough review.

Dr. William von Meyer: “A human drug requires two years of carcinogenicity testing and extensive birth defect testing. BGH milk was tested 90 days on 30 rats at any dose before it was approved.”

Reporter Nathan Lang: The federal agency responsible is FDA, food and drug administration. It’s Center for Veterinary Medicine reviewed the drug and determined quote “rBST poses no risk to human health” end quote. rBST is the chemical name for the synthetic BGH. DR. David Kessler, who was FDA commissioner at the time said quote “the public can be confident that milk and meat from rBSt treated cows is safe to consume’ end quote.

That was 1993. Posilac went on sale a few months later. In the four years to follow, Posilac sales seems like they’ve been injected with the growth hormone. The drug’s maker say 300 more dairy producers begin the Posilac program every month. No doubt Monsanto company makes a persuasive pitch in this promotional tape it sends to dairy farmers.

Excerpt from Monsanto promotional videotape: “Posilac is single most tested new product in history and is now available to you specifically so you can increase your profit potential.”

Reporter Nathan Lang: In Monsanto’s effort to convince dairy farmers of the value and safety of the Posilac program, it is quick to point out all the agencies and organizations which have approved use of the drug. Most recently, the World Health Organization, the National Institutes of Health, the American Medical Association, the American Cancer Society and again FDA among others. While more and more dairy farmers appear convinced, those suspicious of the synthetic hormone aren’t giving up. They are especially concerned that many organizations based their support on the original FDA review, a review the critics say was inadequate.

Dr. William von Meyer: “Well you can’t test anything that’s going into the entire childhood of the United States for 90 days and call it an assurance to the public that there’s going to be no biological effects.”

Reporter Nathan Lang: Dr. von Meyer has enlisted the help of his congressman Scott Klug. Representative Klug’s office says Dr. von Meyer has given the FDA a list of legitimate scientific questions and concerns. Concerns to which the FDA hasn’t given satisfactory answers for a year and a half according to Klug’s office. FDA stands by its original approval and so far has refused numerous requests by Fox 13 to

interview someone at FDA with a solid grasp on the issues. So we went straight to the source.

Reporter Nathan Lang (on camera): Welcome to St. Louis, gateway to the west and homebase for Monsanto. It is here where they headquartered research, development and now do more than a hundred million dollars in annual sales of their synthetic hormone Posilac. Inside one of Monsanto's many research facilities, we find the chief dairy scientist, Dr. Bob Collier. Since even trained scientists fundamentally disagree on several complicated health issues, we asked a question of conscience.

Reporter Nathan Lang to Robert Collier, Monsanto scientist: "You understand if the critics are right, we're talking about a cancer explosion on a national level over the next 10 to 20 years created by a company that you work for, how do you feel about that?"

Robert Collier: "I'm glad you asked that question, because Monsanto employees including myself all have ah families, we all have ah the same level of concern about food safety that other consumers do and we believe very strongly this product is safe."

Reporter Nathan Lang: Back on the Florida dairy farm the same kind of gut check question.

Rick Silvia, Dairyman: "If there was any concern gosh our kids would be the last ones that would be drinking it, but we're not concerned."

Reporter Nathan Lang: One fear critics raise is the drugs only been on the market for four years. If there are going to be long-term health effects, it may take several more years to notice a trend. That's why some scientists want to see more tests done on the drug specific to cancer. Kelly? John?

Anchor John Wilson: All right Nathan, thank you. We'll continue our special report on this Posilac, this hormone on our Fox 13 6 o'clock news tomorrow.

Anchor Kelly Ring: And we're going to go deeper into the health issues too and we'll show you why some critics say the drug's approval, this approval is tainted. That's tomorrow on the Fox 13 6 o'clock news.

Now we have a post-script to this story. You may be aware of a lawsuit brought against Fox 13 by two former employees regarding our coverage of the BGH issue. These employees claim they were fired because Fox 13 management refused to allow them to report about this story. Fox 13 management vehemently denies this charge and stands behind our coverage of this issue. Management adds that the lawsuit

against the station has no merit and they say it was filed by two disgruntled employees.

Anchor John Wilson: So, chapter two tomorrow night.

Part II, May 21, 1998, 6 p.m. Fox 13 News

Lloyd Sowers, WTVT Anchor: You've probably heard the slogan "Milk, it does a body good." But after you see this story tonight, you may think about drinking less of it.

Cynthia Smoot, WTVT Anchor: This scares just about anybody who makes a living in the dairy business. There is a new drug going into cows these days but you don't have all the information about it, in fact very few do. Fox 13 investigative reporter Nathan Lang explains why.

Reporter Nathan Lang: The folks who do have that information are with Monsanto company, the drug's maker. And the Food and Drug administration, the federal agency which approved sales and they're not sharing details. So we went out and gathered what is available so that you can decide for yourself how you feel about it.

Rick Silvia, Dairyman: "The margins have been tighter and tighter and over time its been harder and harder to stay afloat in the dairy business."

Reporter Nathan Lang: In the high speed, high tech high stakes dairy business they've got milk production down to a science, I mean science. Every day ten more farmers begin injecting their herds with a drug called Posilac. That is according to Monsanto, the drug's maker. Monsanto's scientists figured out how to splice, recombine and eventually manufacture a synthetic bovine growth hormone. They claim it's almost identical to the natural one which helps calves become cows. Two injections a month with this hormone additive usually gets a cows to produce more milk, as much as 20% more. The promotional tape makes it sound like you'd have to be crazy not to use it.

Clip from Monsanto sales videotape: "Of course you want to inject Posilac into every eligible cow as each cow not treated is a lost income opportunity."

Rick Silvia, Florida Dairyman: "Of all the managers here I was the one who didn't want to use Posilac, I was the one against it."

Reporter Nathan Lang: Rick Silvia helps manage one of the largest dairies in Florida. At first he didn't want to inject anything unnecessary into his herd. He was worried it could cause problems. He watched his competition, in time gave Posilac a shot and now he's sold.

Rick Silvia: "We're seeing it's not detrimental to the cattle, seeing that there is a little extra milk in em."

Reporter Nathan Lang: Ask Silvia to take a stab at how many Florida farmers are injecting these days?

Rick Silvia: “I would venture to guess the majority, maybe the vast majority of those farmers are using Posilac at this point.”

Reporter Nathan Lang: Of the 240 dairy farms across the state, at least one gave Posilac a try and gave it up, then gave up dairy farming altogether. The hollow silence haunts Chuck Knight. He’s a third generation dairy farmer who won’t be able to pass it on to the fourth.

Reporter Nathan Lang to former Dairyman Charles Knight: “Where to you lay the blame for having to shut your farm down? (Knight) Posilac. (Lang) Why is that? (Knight) Just because of the fact of the foot problems, the mastitis problems and the loss of cows.”

Reporter Nathan Lang: The problems Knight suffered are two of the more than twenty potential problems for cows listed on the Posilac warning label. He says immediately after injecting his herd, complications began. They compounded and eventually crippled him. He contacted Monsanto and the FDA for help. He says they told him poor farm management was to blame not Posilac. When Knight could no longer afford to replace the cows he lost, he had to sell the herd.

Charles Knight: “I’m mad at Monsanto and I’m wondering where FDA was during this time.”

Reporter Nathan Lang: Knight says he also called the University of Florida Dairy Science unit. It seemed like a wise place. This research facility outside Gainesville just happens to be one where scientists conducted some of the original Posilac trials for Monsanto.

Reporter Nathan Lang to Dr. Herbert Head, University of Florida: “What do you think of that? (Dr. Head) That contains a product that works for dairymen when the use the product correctly, that’s what I think of it, well-tested product.”

Reporter Nathan Lang: Dr. Herbert Head says his personal research on the drug and the studies he read from other university trials convinced him...

Dr. Herbert Head: “We found there was no problem with the cows being injected with this product. They responded well, they ate more, and they produced more milk.”

Reporter Nathan Lang: Milk which Dr. Head also insists is safe for us.

Dr. Herbert Head: “I don't have any concerns, I buy the milk I drink the milk and I'll recommend that you do the same.”

Robert Cohen, Author: “I want people to see that milk is poison, that we shouldn't be drinking it, that it's filled with hormones.”

Reporter Nathan Lang: Robert Cohen says three years ago he completely removed dairy from his family's diet. After pouring over mounds of research and uncovering what he calls a conspiracy of ignorance, he wrote a book to let the world see his conclusions in a broad context. He and a handful of outspoken scientists maintain, consuming milk from cows treated with this synthetic hormone accelerates the growth of cancers in our bodies.

Robert Cohen responding to Reporter Nathan Lang: “Yes, I'm petrified. We're drinking protein hormones that make cancer grow.” (Lang) Okay, but you have no PhD? (Cohen) Zero PhD. (Lang) You have no MD? (Cohen) That's right. (Lang) So what makes you qualified to say these things? (Cohen) Louis Pasteur also had no credentials and we accept a lot of his work.”

Dr. Barry Bercu, Pediatric Endocrinologist: “I don't think there is any risk to humans consuming this molecule”

Reporter Nathan Lang: Dr. Barry Bercu is a pediatric endocrinologist at University of South Florida's College of Medicine. Growth hormones are his specialty. He says simply enough, any protein hormones we would consume in milk would get broken down during digestion along with all the other proteins.

Dr. Barry Bercu: “You have to have the whole molecule to have that growth promoting activity, you cant have these little bits and pieces.”

Reporter Nathan Lang: He explains a number of other complicated scientific reasons why he believes these cancer fears are unfounded. The proof, he says, is in the numbers.

Dr. Barry Bercu: “The bovine growth hormone has been on the market for four years now and to date with the widespread use we have not seen any increase in any type of cancer.”

Commissioner Bob Crawford, Florida Department of Agriculture and Consumer Services: “The scientific community believes that it's not an issue, that it's safe.”

Reporter Nathan Lang: Florida's agriculture commissioner Bob Crawford sees no reason why farmers here should avoid using it.

Commissioner Crawford: "If FDA had concerns we would have concerns but they seem not to have concerns."

Reporter Nathan Lang: And that sentiment right there, says Robert Cohen, is the root of the problem.

Robert Cohen: "They approved it in 1994, they won't take it back because by doing so would reveal the magnitude of this fraud."

Reporter Nathan Lang: His charge of fraud at FDA begins with two people who worked for Monsanto. A scientist, Dr. Margaret Miller and attorney Michael Taylor. They took jobs at FDA and he says influenced the review process. The U-S General Accounting Office investigated those specific allegations. With regards to Dr. Miller it reports, we did not find any evidence that DR. Miller participated in the review process. It goes on to report, Mister Taylor's actions did not raise the appearance of a loss of impartiality. In October of 1994 the GAO concluded, there were no conflicting financial interests with respect to the drug's approval. Despite these findings, the critics aren't convinced and they continue to point at other potential conflicts of interest.

Clip from AMA videotape: "The AMA's conclusion is that bovine somatotropin is a safe and effective drug that can be used to enhance milk."

Reporter Nathan Lang: The American Medical Association set out to quell fears about milk safety with this video production. Who paid for it? Monsanto. At the University of Florida's Dairy Unit we interviewed Dr. Head right outside the Monsanto barn. Remember UF did some studies, Monsanto did the funding.

Reporter Nathan Lang to Dr. Herbert Head: "What do you say to the critics who say you only gave positive results on your BST testing in order to get research money and to get Monsanto to build this barn for you?"

Dr. Head: "I would say they're 150% incorrect. I got no money for my research."

Reporter Nathan Lang (on camera): Posilac has generated a great deal of controversy in its first four years on the market. But did you know that this

synthetic bovine growth hormone is only one of dozens of chemical additives, antibiotics, vaccines that are injected into cows over the course of their lives?

Some critics argue with the addition of Posilac and a faster cows' metabolism come higher rates of infection. Remember Chuck Knight says it destroyed his herd. With an increase of antibiotics to treat these infections, critics fear our bodies are becoming immune to those antibiotics. Michael Hanson speaks for the Consumer's Union.

Dr. Michael Hansen, Consumers Union: "So for example, if you drank milk that had residues of eurythmycin in it, then bacteria in your stomach could pick up resistance to that eurythmycin so that if you came down with an illness you wouldn't be able to use eurythmycin to treat it."

Reporter Nathan Lang: Drug residue tests at the dairies and at the processing plants are supposed to keep those residues out. Inspectors with the Florida Department of Agriculture say the milk comes in clean more than 99-percent of the time. When it's not the load is dumped and the dairy absorbs the loss. In the face of ardent criticism, Monsanto stands by its science, its principals, its product and the safety of milk.

Dr. Gwen Krivi, Monsanto, to Reporter Nathan Lang: "The supply today is the same as it was before the use of rBST. Ah, it's the same safe and wholesome product and I encourage my children to use it." (Lang) "To use it?" (Krivi) "To drink it."

Reporter Nathan Lang: If you wanted to read all the research Monsanto did on Posilac you couldn't. Though much of it is public, some of it is protected under the heading "Trade Secrets."

Dr. Robert Collier, Monsanto scientist to Reporter Nathan Lang: "I think the question is, um, are the people who are responsible for evaluating the safety, did they have access to all the information and the answer is yes. (Lang) And who are those people? (Collier) Those are the experts in the Food and Drug administration."

Reporter Nathan Lang: Back on Chuck Knight's farm, dairy is done. Whether or not Posilac is to blame, we'll never know. He sold the cows, he still drinks the milk and he's moved onto to growing organic crops. When circumstances squeezed him, he squeezed back. He hopes to turn this vacant milking parlor into a place to make juice.

Chuck Knight made a choice, to get out of the dairy business. But he still trusts the FDA's endorsement of the safety of milk. And that's a decision you'll have to make for yourselves.

Nathan Lang, Fox 13 News.

Anchor Cynthia Smoot: Now if you don't like the idea of drinking milk that comes from cows treated with Posilac you'll probably find it hard to avoid. And tomorrow on Fox news at five we'll show you why and what if anything you can do about it.

Part III, May 22, 1998, 5 p.m. Fox 13 News

Anchor Kathy Fountain: Well by now you may have heard of the newest drug dairy farmers are injecting into their cows. It's a growth hormone designed to raise milk production.

Anchor Denise White: But it also raises fears by critics who say it is an unnecessary health risk. Should you worried by what is in your milk? Fox 13's Nathan Lang has been investigating and here is what he discovered.

Reporter Nathan Lang: If you want to become the fastest man alive, a Baywatch babe, two of New York's finest, three of pop music's hottest...you gotta grow a milkstache. Just take a look at this Hollywood heavyweight we once called Opie. America's milk processors and producers can't say enough about how wholesome their product is. But what a lot of people in the milk industry don't want to talk about is the newest drug going into the four legged milk factories who make their product. It's a genetically engineered bovine growth hormone called Posilac. Some call it bgh, others call it bst. By any name it gets cows to make more milk. It was developed by Monsanto, approved by the Food and Drug Administration and in just four years has become the largest selling dairy drug in the world according to its makers.

1993 file tape clip of protestors: "Boycott BGH"

Reporter Nathan Lang: When Posilac first came out it got a lot of negative press. Protests, rallies, the works. The drug's opponents insist it's a serious health risk.

Author Robert Cohen: "I want people to see that milk is poison that we shouldn't be drinking it, that it's filled with hormones, you decide."

Reporter Nathan Lang: Robert Cohen is so fearful, he published his findings in a book. He is a relatively new critic on the scene. Ben Cohen, no relation, and his partner Jerry Greenfield have been critical for years.

Ben Cohen, Ben & Jerry's Ice Cream: "We worked hard to try to prevent the federal government from approving the use of BGH."

Reporter Nathan Lang: They owned a pretty successful ice cream company you might have heard of, Ben and Jerry's.

Jerry Greenfield, Ben & Jerry's Ice Cream: "My son eats a lot of ice cream, drinks a lot of milk, eats a lot of cheese and ah given the choice I want him eating products that do not have BGH in them."

Reporter Nathan Lang: Despite the fact that FDA and several other organizations have approved use of the drug, Ben and Jerry remain firmly unconvinced.

Ben Cohen: "What the FDA said was fine and healthy 10 or 20 years ago, the FDA is saying it is really bad for you today."

Reporter Nathan Lang: They feel so strongly, they make their milk suppliers pledge not to use the drug. It says so on their cartons. But why the word pledge? Why doesn't it simply state our milk suppliers don't use synthetic BGH? Why? Because there is no way of knowing who does and who doesn't.

Commissioner Robert Crawford, Florida Department of Agriculture and Consumer Services: "If we don't have a system of self-tracking who is using it and who is not using it."

Reporter Nathan Lang: Florida's Agriculture Commissioner says there is no system because there is no need.

Commissioner Robert Crawford: "I think there is just widespread feeling in the scientific community that this additive is safe and that consumers don't need to be concerned about this."

Reporter Nathan Lang: But some consumers are concerned. That's why Publix and Albertson's and Winn-Dixie have official statements about the additive. All three asked their suppliers not to use it. But all three acknowledge their milk supply probably has the added hormone in it. As for Kash and Karry and Food Lion, they refused to answer our questions about synthetic BGH in their milk. But it doesn't matter from which store you choose to buy your milk or cheese or ice cream. Most milk products you buy come from Florida cows and the handful of farmers who will talk to you about the subject estimate the majority of their competitors use the drug.

Ken Deaton, Dairy Manager: "Every dairy that I know in the area is on the Posilac program."

Reporter Nathan Lang: Most dairies belong to a co-op association. The co-op handles all the finances and logistics involved in getting milk from the dairy to the processing plant. At the plants, milk from one dairy is mixed with milk from others. These days you can be virtually guaranteed that much of the milk which ends up on store shelves comes from cows treated with the drug. Posilac's makers won't tell you

which farms they sell to or even how many they sell to in Florida. They will tell you the dairy products you eat, the milk you drink...

Dr. Gwen Krivi, Monsanto: “There is a fairly high chance that they would have come from a supply that was mixed that included milk from rBST supplemented animals.”

Reporter Nathan Lang: Here inside the cooler at Roland Park Middle School in Tampa, there are four kinds of milk. Buttermilk for making salad dressings, lowfat milk, chocolate lowfat milk, and whole milk. There are four kinds of milk but it all comes from one place. The Velda farms plant in St. Petersburg supplies milk to the vast majority of schools in this area. It gets its milk through the local co-op.

Every load of milk that arrives at a plant gets tested for everything government inspectors feel might harm us. We wanted to show you the testing, pasteurizing and bottling process but Velda turned us down citing company policy. Another plant, TG Lee, didn't even want us to point our camera in their direction. Every plant we contacted turned down our request. We can show you what it looked like when the Publix plant let our camera in some time ago to do a lighter story on ice cream.

Unidentified Publix employees in dairy lab: “Control technicians here at Publix taste every batch.”

Reporter Nathan Lang: While some corners of the industry may shy from discussions about hormone injections, Monsanto stands proud.

Dr. Robert Collier, Monsanto: “Each year sales have increased of this product, its now the largest selling dairy product in the world.”

Reporter Nathan Lang: Posilac is licensed for sale in the US and more than a dozen other countries. But it's still not allowed in Canada and the European Union put a ban on sales, at least until the year 2000. Reports do show the reasons are based largely on economics as Europe doesn't need any more milk. Nonetheless, plenty consumers in the US are avoiding milk from cows on the Posilac program.

Seema Kadiwala, consumer: “I don't want to put hormones into my body that I don't need.”

Reporter Nathan Lang: It takes effort here in central Florida to hunt down milk which doesn't come from treated cows. It also costs more than most store brands. Just like Ben and Jerry's ice cream. But unless you give up cheese, cream, yogurt, butter, most breads, certain soups, salad dressings, the list goes on, there's a good chance those cows getting poked with Posilac will make the milk you put in your body. If you find that fact hard to digest, you've got a beef with the federal government, most

of the scientific community and the dairy business, one of the most powerful industries in the world.

Nathan Lang, Fox 13 news.

Anchor Denise White: And we have a feeling this story is far from over. Fox 13 management says it is dedicated to following up on all claims made by scientists and critics. Stay tuned. We'll have more for you as this long-term investigation continues.

EXHIBIT 3

EXAMPLES OF FALSE OR MISLEADING INFORMATION IN LANG'S rBGH REPORTS

[Prepared by Petitions Jane Akre and Steve Wilson;
Referenced documents are available to the Commission upon request]

1. **REPORT:** After visiting and talking with dairy producers, scientists on both sides of the controversy, representatives from government agencies, really all the players involved, nothing puts it in perspective quite like this...

TRUTH: Lang has testified he did *not* visit and talk with scientists on both sides of the issue. He “visited and talked” only with Monsanto scientists, a university researcher funded by Monsanto, and a local doctor of questionable expertise in the latest research and developments in the field of rBGH. He did not conduct any interview with any scientist who is critical of rBGH.

Lang only *attempted* to interview scientists who raise questions about rBGH safety. When Dr. Epstein discovered Lang was not aware of the latest research and told him to call back when he could discuss the subject intelligently. Epstein says he never heard from Lang again. Dr. von Meyer refused an interview and referred Lang to his attorney. Dr. Hansen at the Consumer Policy Institute says he never received any call from Lang.

The only rBGH critic Lang *did* interview was Robert Cohen who appeared in the Lang piece saying, “Yes, I’m petrified. We’re drinking protein hormones that make cancer grow” and Lang immediately follows-up with: “Okay but you have no PhD...no MD...Also what makes you qualified to say these things?”

RESULT: Although Lang does include some interviews Jane conducted with leading scientists opposed to rBGH, he has *not* learned anything about the basis of the other side from first-hand interviews with any of the credentialed scientists most competent to provide that balance. And while his selection and handling of Cohen as an “expert” rBGH critic can only lead viewers to conclude Cohen is an alarmist kook selling a book that labels

milk “the deadly poison,” he ignores much of the good and relevant information Cohen did provide (see Facts Ignored in Lang Reports, coming later).

2. **REPORT: Dr. Sam Epstein is as skeptical as they come...Though the majority of those scientists don’t share his concern, he remains adamant.**

TRUTH: Majority of *which* scientists? Yes, there are a number of scientists who do not have human safety concerns about rBGH. Their views are widely and frequently publicized by Monsanto. Many if not most of them work directly for the hormone maker (or other companies that profit from the development of genetically modified products), or they depend on research grants from them. But certainly a majority of *independent* scientists at government health safety agencies in Canada, throughout Europe, in Australia, New Zealand, Japan and all the other places where rBGH has been banned *do* share Dr. Epstein’s concerns. Many other scientists at NGO groups around the world (Physicians for Responsible Medicine, Consumer Policy Institute, Center for Food Safety, etc) who do not stand to benefit from rBGH are also concerned.

RESULT: This unverifiable claim reported as fact is extremely misleading, especially when Lang fails to clearly point out that the U.S. remains the only major industrialized country in the world that allows it. That information was available to him from the Akre-Wilson research and from Fox managers having been made personally aware of the extent of the ban in their earlier, extensive review of the reports with Akre and Wilson.

3. **REPORT: Posilac (rBGH tradename) is single most tested new product in history...**

TRUTH: This advertising puffery Lang presents as unrefuted fact (though stated in a clip from a Monsanto promotional tape) is demonstrably false and further, is out of context in a story which, after all, purports to investigate the *human* health safety concerns over this product.

First, the claim is not even limited to drugs. Surely new airplanes are safety tested for more than 90 days. How about elements of the space shuttle? And even if Monsanto means to say it is the most-tested new *drug* in history, this is demonstrably untrue. The human safety of polio vaccines was studied

for years before they were injected into children. rBGH doubtfully *may* be the most tested new *animal* drug on the market but Monsanto's broader claim which Lang aired without refutation stretches well beyond the truth.

RESULT: The result of this statement presented as unchallenged fact in a story that investigates the human health safety is that viewers are again misled to believe there has been thorough, long, and repeated testing for any risk to humans who drink milk from rBGH-treated cows. That is simply untrue.

4. **REPORT:** In Monsanto's effort to convince dairy farmers of the value and safety of the Posilac program, it is quick to point out all the agencies and organizations which have approved use of the drug. Most recently, the World Health Organization, the National Institutes of Health, the American Medical Association, the American Cancer Society and again FDA among others.

TRUTH: Only the FDA has "approved use of the drug." Although these organizations have issued favorable comments about the drug (while taking money from Monsanto, in some cases), Lang failed to report that these same groups have also issued warnings that IGF-1 and other issues related to rBGH safety need further study before safety can be assured.

A National Institutes of Health (NIH) panel released a statement that says "*based on the data (provided by Monsanto)...rBST administration does not seem to affect appreciably the general health of dairy cows.*" Asked under oath "Did anybody at NIH or connected with NIH ever say to you that NIH has approved BGH?" Lang replied: "I don't recall." (see Lang depo, **Document 9**)

The NIH report also raised important questions about the additional amount of IGF-1 in milk from rBGH-treated cows and specifically warned that whether it "has a local effect on the esophagus, stomach, or intestine is unknown." The NIH report also suggested further testing was needed to "determine the acute and chronic local actions of IGF-1, if any, in the upper gastrointestinal tract." Lang never reported those facts, either. At his deposition, I asked: "Did you report to your audience that the NIH had questions about IGF-1 that needed to be answered?" He responded: "I don't recall specifically reporting that." (see **Document 10**)

The American Medical Association was paid tens of thousands of dollars to produce a pro-rBGH videotape for Monsanto, as Lang responsibly reported. Then, the AMA issued a statement which said in part, “The AMA supports the FDA’s approval...” and calling biotech developments of its kind “the future of food production in the U.S. (which) should not be feared impeded.” This apparent *quid pro quo* cannot qualify as any kind of thorough scientific “approval” as Lang’s report implies.

Asked directly under oath whether the AMA approves drugs, Lang replied: “I think the AMA comes up with a determination of how it feels about drugs...” (see Lang depo, **Document 11**)

The extremely important information Lang failed to report: the AMA’s own Biotech Council on Scientific Affairs published a warning in the *Journal of the AMA* that said, “*Further studies will be required to determine whether ingestion of higher than normal concentrations of bovine IGF-1 is safe for children, adolescents, and adults.*”

At his deposition, under oath, Lang said, “I recall reporting to the viewers that folks had questions.” When asked specifically to admit he never reported that any of the groups he reported as “approving” rBGH actually had important questions about its human health safety, Lang replied: “I don’t recall right now.” (see Lang depo, **Document 12**)

The American Cancer Society issued a statement about rBGH a year before Lang produced his story. It said, “*Extensive testing and research has shown that (rBGH) is indistinguishable from natural BGH and thus entails no health risks for consumers...There are no valid scientific findings to indicate a risk of human carcinogenesis.*”

While such a statement is supportive of rBGH, is certainly not an “approval” in the sense most people would take it to mean. But more importantly, the ACS reassurances about safety were originally issued in 1994. Lang does not deny that he never bothered to discuss the statement with the doctor whose name appeared on it. Had he done so, as Jane did, he would have learned that Dr. C.W. Heath, Jr. was far less favorable about the product by late 1997 after many others were raising new concern about the effects of increased IGF-1 in rBGH milk. He told Jane he agreed those concerns about IGF-1 “certainly merit further research.”

RESULT: Reporting that these trusted groups “approved” rBGH (as opposed to “approved *of*” its use, which they may well have done while taking support from Monsanto) seriously leads viewers to the false conclusion that they and their eminent scientists must have carefully and independently researched rBGH and concluded it is safe for humans. The truth is all the rBGH studies have been managed by Monsanto which has generally released only that data which tends to support the drug.

Equally egregious is Lang’s failure to report each group’s important, unanswered questions and specific warnings about the unknown effects of IGF-1 which have been the heart of the critic’s concerns all along.

5. **REPORT: University of Florida researcher Herbert Head says, “We found there was no problem with the cows being injected with this product. They responded well, they ate more, and they produced more milk.”**

TRUTH: Dozens of published studies have documented animal health problems with rBGH. It is the very research studies Head refers to which caused the FDA to require at least 21 specific warnings of animal health problems associated with rBGH injections. These include mastitis, hoof and leg problems, reproductive disorders—all ailments that Charles Knight and other dairymen say they reported to the University of Florida. (Another good source for confirming this is John Stauber at *P-R Watch* in Madison, Wisconsin, whose material was also part of the Akre-Wilson research available to Lang.)

RESULT: For Lang to report researchers found “there was no problem” is clearly untrue. The falsity of that claim can easily be documented by the hundreds of reports of animal problems which led to the warning label. (A CBS Evening News report by Bob Arnot, also part of the Akre-Wilson research, confirms this fact.) Additionally, the two-year Post Approval Monitoring Program (PAMP study) clearly shows there were plenty of problems, including an almost two-fold increase in mastitis alone.

6. **REPORT: Lang’s report refers to “Milk which Dr. Head also insists is safe for us.”**

TRUTH: Head is a *dairy scientist* who conducted *no* tests on rBGH milk for human health safety and would not be qualified as a human health expert to assess that issue in any event.

RESULT: Again, the viewer is presented with an *animal* scientist who relies on animal studies to provide the undocumented reassurance that drinking milk from a cow injected with rBGH poses absolutely no risk to humans.

7. **REPORT: Dr. Barry Bercu is a pediatric endocrinologist at University of South Florida’s College of Medicine. Growth hormones are his specialty. He says simply enough, any protein hormones we would consume in milk would get broken down during digestion along with all the other proteins.**

TRUTH: Dr. Bercu is clearly unaware of studies that refute the early assumptions that IGF-1 does not survive digestion. At the time Dr. Bercu made that statement to Lang, there was solid evidence that in the presence of casein, a protein found in milk, IGF-1 does indeed find its way into the human gut. Dr. Michael Hansen at Consumer Policy Institute is an expert on this and says there is no longer any dispute that IGF-1 does survive digestion in humans.

RESULT: Further safety assurances by a doctor apparently chosen for his easy accessibility instead of his expertise in the latest research and developments in this exact field provides viewers with information that is inaccurate and out-of-date. At the very least, it is clear that Lang had in his possession the indisputable research that shows IGF-1 survives digestion yet he sought out opinion that nonetheless contradicted concerns based on that fact.

8. **REPORT: Lang reports Dr. Bercu’s conclusion that the *proof* of human health safety of rBGH milk is in the numbers: “The bovine growth hormone has been on the market for four years now and to date with the widespread use we have not seen any increase in any type of cancer.”**

TRUTH: This claim is preposterous. First, the claim that “we have not seen any increase in any type of cancer” is just flat wrong. Pediatric brain tumors, for example, are increasing at an alarming rate. No one knows why.

Second, the fear is that higher levels of IGF-1 in rBGH milk help human cancer cells proliferate *over time*. Just as cigarettes and asbestos don't cause lung cancer in three or four years, cancers promoted by rBGH milk would be expected to take many years to develop. And Lang is well aware of this. In his tag to Part I of the series which aired just a day earlier, he said, "If there are going to be long-term health effects, it may take several more years to notice a trend."

RESULT: A medical doctor is voicing a ludicrous conclusion based on false information and the reporter allows it to stand as presumably verified fact.

9. **REPORT: Lang reports "Florida's agriculture commissioner Bob Crawford sees no reason why farmers here should avoid using it" and uses a soundbite of the commissioner saying, "The scientific community believes that it's not an issue, that it's safe."**

TRUTH: As discussed, despite the claim of the commissioner who is not a scientist, the scientific community is far from united in agreement "that it is not an issue, that it's safe." Lang had much information to the contrary. Furthermore, Lang was in possession but failed to report documentation that Crawford himself had taken campaign contributions in cash from Monsanto.

RESULT: Viewers are misled, again, that there is no concern in the scientific community, that all scientists agree it rBGH is safe, and that the opinion of Florida's state agriculture is unbiased and formed in the absence of any conflict of interest.

10. **REPORT: University Researcher Head says, "I got no (Monsanto) money for my research."**

TRUTH: While none of the Monsanto checks may have been made out to Herbert Head, to say he "got no money" for his research is not honest and is certainly misleading. Lang could have easily done what Jane did and used the Internet or the telephone to learn that Head was the principle researcher who applied for and received nearly \$500,000 in research grants from Monsanto, including at least \$167,000 for a study on "Efficacy Studies of BGH in Lactating Dairy Cows." (see preliminary data gathered from U-F website, **Document 13**, updated information is coming from U-F next week)

It is also important to remember that many University of Florida scientists who have researched rBGH also moonlight with Monsanto promoting use of the drug for money. (Documentation is available from sworn testimony of of Dairy Sciences Department head Roger Natsky whom we have deposed.)

RESULT: The viewer is kept in the dark about Head's very big conflict of interest which may explain his unrestrained enthusiasm for rBGH.

11. **REPORT: Drug residue tests at the dairies and at the processing plants are supposed to keep those residues out. Inspectors with the Florida Department of Agriculture say the milk comes in clean more than 99% of the time.**

TRUTH: The tests which are regularly conducted in Florida are *not* expected to keep out all dangerous drug residues. Lang ignored the fact that the required tests detect only drugs from the beta-lactum family. (This testing is required primarily to prevent allergic reactions in milk drinkers who cannot tolerate *any* penicillin.) There are at least seven other classifications of antibiotics sometimes used on farms legally and illegally (or off-label) for which testing is never routinely done by anyone.

Lang testified he produced copies of this information at his deposition where he confirmed he had access to the material at the time he produced his reports yet none of it appeared in his broadcasts. Under oath, he has admitted he relied on information supplied by a health department spokesman without ever asking to see any of the reports related to drug residue testing. When asked specifically "How many antibiotics are routinely test for in Florida milk?" Lang responded: "I don't know." "Are you aware that only beta-lactic drugs are tested for in Florida milk routinely," he was asked. His reply: "I don't know that to be true." "What *is* a beta-lactum?" "I don't recall," Lang said. (see Document 14)

RESULT: Lang's reporting that 99% of all Florida milk is free from any potentially dangerous drug residue conveys a false sense of security to viewers. Basic research or even a review of the information we left behind would have disclosed this fact.

12. **REPORT: Monsanto spokesman Gwen Krivi says, "The (milk) supply today is the same as it was before the use of rBST. Ah, it's the same safe and wholesome product and I encourage my children to use it."**

TRUTH: There is no dispute that milk from rBGH-injected cows *is* demonstrably different than milk from cows that never had an injection. The major and most important difference—the one which is the basis for most of the concern—is increased levels of IGF-1 in treated cows, a fact that Lang knows or should know Monsanto has admitted. Other differences include: higher antibiotic drug residue and possible presence of increased bacteria or presence of pus in the milk due, both due to increased mastitis, increases in butterfat content, changes in protein content, etc. etc

At his deposition, Lang contended even if milk from treated cows contains high levels of IGF-1 (a fact reported by FDA scientists Juskevich and Guyer in a review of rBGH they published in *Science* back in 1990), Lang claimed, “Its hard to determine (whether the milk is really different) because you might say they’re not the same and one scientist might say they’re not the same and yet other scientists say they’re indistinguishable, they are essentially the same. As so, for me, that’s a contentious issue that doesn’t have on right answer.” (see Lang depo Document 15)

Nonetheless, the relevant point here is that Lang knew there was a difference in the milk but reported otherwise.

RESULT: From Day One, Monsanto has attempted to convince consumers “there is no difference in the milk.” The company has spent a fortune on promoting this outright lie for the obvious reason: if people can be convinced there is no *change* in the milk they drink, why should they have any health safety concerns? (We have the Monsanto-funded and other studies which show considerable consumer resistance to milk from rBGH-treated cows. This is why the company has concentrated on trying sell the claim “there is no difference” in the milk.)

13. **REPORT: Monsanto scientist Robert Collier says, “I think the question is, um, are the people who are responsible for evaluating the safety, did they have access to all the information? And the answer is yes. (Lang) And who are those people? (Collier) Those are the experts in the Food and Drug Administration.”**

TRUTH: The crucial study on 30 rats for 90 days was *not* provided to the FDA, according to spokesman Jon Sheid. (This is the study that Monsanto used to convince the FDA that since the rats showed no ill effects after being

fed rBGH for three months, there was no need to conduct any long-term test for human health safety.) Sheid told Steve and an AP reporter that the FDA received only a *summary* of the report. When Canadian government scientists did review the entire study, they reported that Americans were misled by Monsanto and by FDA scientists. The Canadians have said the test showed a third of the *rats* did have adverse antibody responses including cysts on the thyroid and prostate.

Dr. Michael Hansen and many others say Monsanto has withheld other crucial information as well. In fact, there was a huge flap in Britain when Monsanto pressured two rBGH researchers to prevent them from publishing data which was unfavorable to the product.

RESULT: If the hormone maker withheld reports which showed the product in unfavorable light, how can safety be assured? Lang's report never questions Monsanto's claim which is tenuous at best.

14. **REPORT: Chuck Knight made a choice to get out of the dairy business but he still trusts the FDA's endorsement of the safety of milk.**

TRUTH: As a result of his personal experiences, Knight has told us he told Lang just the opposite, that he certainly does *not* trust the FDA's review of rBGH.

RESULT: Here again, viewers are misled to believe that even a staunch rBGH critic believes the FDA thoroughly and adequately tested this product for human safety. Knight says, "Nothing could be farther from the truth."

15. **REPORT: ...there is no way of knowing who does and who doesn't (inject their dairy cows with rBGH)**

TRUTH: There *is* a way and it is used by the Vermont dairy co-op that supplies milk to Ben & Jerry's ice cream, the context in which Lang reports this false statement. Like other co-ops around the country, including all organic dairies, dairymen regularly sign affidavits (under penalty of perjury) attesting to the fact that cows on their farms are not injected with rBGH.

RESULT: Lang's failure to report *how* Ben & Jerry's can and do assure consumers their ice cream is rBGH-free—information he had at his disposal and could have easily confirmed with a phone call—misleads viewers to

believe rBGH milk is inevitable, that there is just nothing that *could* be done to keep rBGH out of the marketplace.

16. **REPORT: Florida Ag Commissioner Crawford says, “I think there is just widespread feeling in the scientific community that this additive is safe and that consumers don’t need to be concerned about this.”**

TRUTH: As discussed, the feeling in the scientific community is far from “widespread.” (When we interviewed Crawford, a recipient of big money from Monsanto and dairy interests statewide, we found him incredibly ignorant about the basics related to rBGH and concerns about it’s use.)

Crawford is also a signatory to a National Association of State Departments of Agriculture position paper discouraging the labeling of milk to help consumers know which products come from rBGH-treated cows.

RESULT: The viewer misled again about the extent of the debate on this issue among informed scientists and others. Again, Lang was admittedly in possession of this information.

17. **REPORT: As for Kash and Karry and Food Lion, they refused to answer our questions about synthetic BGH in their milk.**

TRUTH: Food Lion’s initial written response to Jane who inquired as a consumer: we do *not* accept milk from cows treated with rBGH. In fact, according to a letter bearing the signature of the company president, Food Lion sends *inspectors* to be sure farmers are not injecting their cows. Later, after we discovered and interviewed Food Lion suppliers who do regularly use rBGH, Food Lion admitted its milk *does* like come from treated cows. All of this written documentation which required no interpretation was left at the station and available to Lang.

RESULT: Viewers who buy milk at Food Lion are left to wonder whether it *is* rBGH-free, long after the company has admitted it is not. It should also be noted that ABC’s trouble with Food Lion was specifically mentioned in the threatening letters from Monsanto to Fox News chief Roger Ailes.

18. **REPORT: Every load of milk that arrives at a plant gets tested for everything government inspectors feel might harm us.**

TRUTH: This is the second time this falsehood is reported. See #12 above.

RESULT: False assurances to consumers that testing is screening out everything government inspectors feel might harm us. This is flatly false, as clearly confirmed by the research in Lang's possession.

19. **REPORT: Reports do show the reasons (rBGH is banned throughout Europe and much of the world) are based largely on economics, as Europe doesn't need any more milk.**

TRUTH: Human health concerns have been stated, in writing, by leaders in Canada and Europe. These documents (like the letter from the Baron which you have in the Gray Binder) have been well-reported and were available to Lang in the file we left behind. It is also true, but not mentioned by Lang, that the U.S. is certainly not in need of additional milk, either.

RESULT: Viewers are yet again led to believe there are no serious human health concerns. Is there not a *pattern* of deliberate deception here? Can all of above early be explained away as sloppy reporting?

**EXAMPLES OF RELEVANT INFORMATION NEVER INCLUDED
OR EDITED OUT OF LANG BROADCASTS
BY FOX LAWYERS AND MANAGERS**

We believe the following items are additional evidence that the report ultimately aired by Fox misled viewers and deprived them of some of the same information we were prevented from broadcasting after Monsanto exerted its pressure. In sum, it results in the same kind of biased and slanted reporting we refused to broadcast.

We begin with those items that Lang, Fox officials, and others have already testified about:

1. **REPORT:** The federal agency responsible is FDA...Dr. David Kessler, who was FDA commissioner at the time said, quote, ‘The public can be confident that milk and meat from rBSt treated cows is safe to consume’ end quote.

TRUTH: The FDA has strongly endorsed the safety of rBGH since the mid-80’s, even before most of the research was underway. FDA had a position even before it had any science to support it. In fact, rBGH milk was being fed to unsuspecting Americans straight from the test herds before anyone could ever have possibly claimed any scientific evidence of safety. (There was a major flap about this in Madison, Wisconsin in the 80’s.)

RESULT: Kessler’s reassuring quote—and the FDA’s repeated endorsements—must be included in any responsible reporting, of course. But without the *context* that those assurances are not based on any long-term tests for human safety, viewers are misled to assume they are based on solid and thorough research. To this day, that research has never been done. (its not lang’s fault the govt is weak—Better point—Lang knew that the human safety concerns were not addressed—and he failed to tell viewers)

2. **INFORMATION PROVIDED BY COHEN**

Although Lang spent most of a day shooting interviews with Robert Cohen (author of *Milk The Deadly Poison*), Cohen has testified—and Lang has

admitted—much of the information Cohen provided was ignored by Lang. (Even though Cohen is not a scientist, he has devoted the last few years of his life to investigating the science and government approval of rBGH. Many of the issues he talks about have been confirmed by experts and is well documented.)

Cohen has given hundreds of press interviews. He testified that Lang’s story “was a biased report and I wasn’t happy with it.” Cohen also testified: “I believe that I gave him information that was as good as it gets to blow Monsanto out of the water and demonstrate the facts to this issue and he decided to go with one 10 or 15-second segment asking my credentials which didn’t make me look good, without dealing with any of the issues or facts that brought me down there (to Florida for the interview)...” (see Cohen depo, **Document 16**, page 74, line 24 through page 75, line 7)

“I was offended by the bias in that report, the way they treated me, the way they opened up with the report. I didn’t feel it was a fair and impartial report. It was a report, in my opinion it was a report with an attitude.” (see Cohen depo, **Document 16**, page 80, lines 5 through 9)

“I provided him with so much overwhelming evidence that would have provided the facts that this hormone is dangerous. I absolutely gave it all to him, and I gave him the fraud that was committed and he didn’t go with any of the stuff. The only thing he went with me after many hours was that I have no credentials.” (see Cohen depo, **Document 16**, page 81, lines 3 through 10)

Here are the specific issues Cohen has testified he discussed and documented for Lang but Lang ignored in the broadcasts:

a) **Evidence of antibiotic drug residue in milk**

“I gave him some research that indicated that both the *Wall Street Journal* and Michael Hansen of Consumers’ Union tested milk samples in the New York metropolitan area and came up with 52 different antibiotics in milk.” (see Cohen depo, **Document 16**, page 53, lines 14-18)

[Although Lang *did* report there is concern that rBGH results in higher rates of infections in cows (a fact documented by Monsanto but

reported by Lang as “some critics argue”), he mis-reported the issue about whether antibiotic residue contaminates milk. Ignoring the evidence Cohen provided, Lang told viewers: “Inspectors with the Florida Department of Agriculture say the milk comes out clean more than 99% of the time” and later, in Part III, Lang reports: “Every load of milk that arrives at a plant gets tested for everything government inspectors feel might harm us.”]

b) **Evidence rBGH milk is different**

“I gave him documentation from the head of the FDA, David Kessler. Kessler testified before Congress that the two milks were indistinguishable, they were exactly the same. I gave Nat Lang the abstract which was a summary written by those two FDA scientists (Juskevich and Guyer), where in that very abstract they say after cows are treated with (rBGH), levels of IGF-1 increase. They also cited in their study the work of Margaret Miller who was Monsanto’s top dairy scientist, and in citing her work she admitted that levels of IGF-1 increase by about 80%... gave him that work. (see Cohen depo, **Document 16**, page 57, line 17 through page 58, line 7)

[Lang reported what we refused to report without context: “the (milk) supply today is the same as it was before the use of rBGH. It’s the same safe and wholesome product...” a statement by Monsanto which ran unrefuted. Lang also ignored Cohen’s evidence to the contrary.]

c) **Evidence FDA Has Not Done thorough rBGH review**

“I told him that all of the laboratory animals got cancer and this was the most horrifying thing to Monsanto after investigating \$500 million they learned that all of the animals got cancer. They had to do something. I gave him proof of that...I gave him part of the FDA paper, listed some of the organs, spleen weight, and I showed him that spleen weight increased 46% where the FDA concluded there were no biological effects.” (see Cohen depo, **Document 16**, page 59, lines 5-15)

“I sat down at the table with them (FDA officials in Washington). I remember the conversation like it just happened. I accused them of not reviewing it. Richard Teske turned to me and said, ‘We reviewed

it. We reviewed it twice.’ And I said, ‘Why twice? Wasn’t once good enough?’ and he turned to the man next to him, Chief of Statistical Analysis Bob Condon, and said, ‘Bob, we reviewed it, right?’ and Bob said, ‘Dick, we never reviewed it.’” (see Cohen depo, **Document 16**, page 61, lines 6-14)

[Although Lang does report “critics say the FDA review was inadequate,” he never makes it clear that the longest test for human safety lasted only 90 days—and Cohen’s information that FDA officials admitted to him that data from the pivotal study 90-day study was never actually reviewed at FDA (a fact that has since been re-confirmed by an FDA spokesman).

Instead of investigating Cohen’s information that safety assurances are not based on solid scientific evidence, Lang uses an uncontested soundbite from Monsanto’s Dr. Collier assuring viewers: “... the people who are responsible for evaluating the safety, did they have access to all the information?...the answer is yes...those are the experts in the Food and Drug Administration.”

Lang closes his entire series by reporting it’s a foregone conclusion that consumers cannot avoid rBGH products unless they give up dairy altogether. He suggests anyone who still worries about the safety of rBGH is out of step with almost everyone, “the federal government, most of the scientific community and the dairy business, one of the most powerful industries in the world.”

d) **Evidence That rBGH Survives Digestion**

“I explained to Nat Lang the mechanism that when you drink a 12-ounce glass of milk you’re changing the acidity in your stomach. You buffer it so that the protein hormones in milk survive digestion. IGF-1 is a protein hormone. It works.” (see Cohen depo, **Document 16**, page 68, lines 12-17)

“I gave Mr. Lang substantial evidence that IGF-1 is the key factor in the growth of every human cancer and it is identical in cows and humans. I expected that was an interesting piece of information for viewers to see.” (see Cohen depo, **Document 16**, page 77, lines 20-24)

[Despite the information Cohen provided, Lang aired a local pediatric endocrinologist (Dr. Bercu) assuring viewers, “I don’t think there is any risk to humans consuming this molecule (rBGH).” Lang tells viewers that Bercu, touted as an expert in growth hormones, says any protein hormones we would consume in milk would be destroyed in the digestive process and could therefore pose no harm. While viewers are reassured by Bercu’s statement, Lang’s report never addresses the real reason for concern: whether IGF-1 (another protein hormone *by-product* of rBGH, not the rBGH itself) survives digestion to pose a risk to human milk drinkers. Cohen’s information that IGF-1 does survive digestion could have been easily confirmed, as it is now widely accepted by scientists based on the latest research. This can be confirmed by Dr. Michael Hansen and others.]

2. **Failure to Clearly Report Supermarkets Reneging On Promises**

This was a cornerstone of the Akre/Wilson reports that was barely covered by Lang. The Fox news director has admitted that this issue (which would have negatively reflected upon some of Fox’s biggest advertisers) was ultimately ignored on the air.

Lang has admitted his reports were edited to *remove* the information that would have made this point clear to consumers. Specifically, Lang originally wrote: “A few years ago, Publix and other grocers pledged not to buy milk from dairies using the drug.” During the review process with the news director and at least two Fox attorneys, that information was crossed out and never reported. Lang claimed under oath that he couldn’t recall exactly why that was omitted. (see Lang deposition, **Document 17**, page 473 line 5 through page 474 line 1)

I asked Metlin about this at his deposition when I said, “I’m talking about the issue of the fact that the grocers had promised consumers that they would not buy milk from treated cows and they broke that promise. Mr. Lang didn’t report that.” Metlin responds, “No he didn’t.” And why not? “Ask Mr. Lang,” was Metlin’s response under oath when he also admitted, “I was aware of that information but that information is very murky...(Lang) had a difficult time confirming your information on that.” (see Metlin depo, **Document 18**, page 684 lines 2 through 19)

In fact, the information was not murky at all. Lang had plenty of documentation to confirm it:

- The videotaped interview with the manager of the dairy co-op which we wanted to include in our reports. Riley Hogan admits that when the grocers told him they were going to promise consumers there would be no milk from rBGH treated cows, “I could not in any way assure them that they would not, in any way, have milk from treated cows.” (see Wilson/Akre’s proposed report which you have as an exhibit bound with the legal complaint. It is marked “Reporters’ Version”...see Part III, page 14.
- All the written statements of the grocers and our notes of admissions they never told consumers not to rely on promises of no rBGH milk in their markets. Lang reports only that they asked their suppliers not to supply rBGH milk and they now admit the milk supply “probably” now includes rBGH milk—he completely ducks the evidence of the markets’ motivation for making the promise in the first place and the fact that they left consumers to rely on their assurances they knew would not be honored.
- Most egregious: Lang reports Food Lion and Kash ‘n Karry (owned by Food Lion) “refused to answer our questions about synthetic BGH in their milk.” In fact, Lang was in possession and *ignored* the letter Jane received from Food Lion’s president Tom Smith (who thought he was responding to a routine inquiry from a consumer, not a reporter). Smith blatantly lied in the letter when he indicated Food Lion buys no milk from treated cows. Lang also ignored the fact that a Food Lion employee who claimed to be Smith’s assistant also lied when she told Jane that Food Lion sends inspectors to assure its suppliers are not injecting cows with rBGH—a fact Food Lion has since admitted is and never was true, and Food Lion milk *does* come from rBGH treated cows.

“What was murky in your mind?” the news director was asked.
 “Well...Mr. Lang told me it was murky.” Metlin replied. (see Metlin depo, **Document 19**, page 685 line 20 through page 686 line 5)

3. **Failure to Report Facts About Monsanto’s Previous Conduct**

We thought Monsanto's previous conduct with things like dioxin, PCB's, Agent Orange, etc. was a relevant point. Some of the company's previous conduct—such as failing to report adverse information about its products in order to avoid problems getting government approval—seemed to be repeated in the case of rBGH. News director Metlin always agreed with us and, in fact, fought Fox lawyers who wanted to leave it out because they feared it would look like we “were building a case against Monsanto.”

None of this information was part of Lang's reporting. Didn't Metlin believe it was important and germane in reporting the BGH issue? “I did with your story, which is why I wanted it in there,” he testified at deposition at which point a Fox attorney ended testimony for the day, claiming Metlin was probably getting “mentally tired”. (see Metlin depo, **Document 19**, page 412 line 22 through page 413 line 20)

When the deposition resumed another day, Metlin was asked again why there was no reporting of Monsanto's past experiences. “I don't know,” he answered, admitting he was well aware of it. “I don't really know why Nathan chose not to include it. And I don't remember why I didn't remember to bring it in or put it up.” . (see Metlin depo, same **Document 19**, page 680 line 15 through page 681 line 3)

4. **Failure to Report Allegations of Monsanto Bribery Attempts**

Jane and I reported the fact that two of the three government regulators on a key panel that was reviewing rBGH in Canada reported that Monsanto officials offered what they considered to be a \$2 million bribe for the panel to approve the product without requiring further testing for human health safety. The report, already aired in a CBC documentary, was solid. One of the regulators submitted a written report to the Canadian police, the other appeared *on camera* saying he was certain the Monsanto offer was a bribe.

Fox news director Metlin boasted at his deposition that this was another issue he thought was important enough to fight with Fox lawyers to include in our reports. “...you may recall that I fought for that with you. Do you recall that?” Metlin asked me during his testimony. So why didn't it appear in the Lang reports, I asked Metlin. “I do not know the specific reason right now,” he testified. “The general reason is because Mr. Lang didn't include it.” And after fighting to include this same information in our report, did he

ever ask Lang why it wasn't in *his* story? "I don't remember asking him," Metlin said. (see Metlin depo, **Document 20**, page 409 line 1 through line 17)

Metlin admitted he still considered the element important "...which is why I fought to put it in your script," he said again at deposition. "And so why didn't you fight to put it into Mr. Lang's script?" I asked. "Because I did not direct Mr. Lang in terms of what and what not to put into these scripts." As a news director who testified that the goal of the report was to tell as much important information as possible, why did Metlin not assure that issue he fought to include before was part of what was ultimately broadcast? "Mr. Lang must have a reason for that" he said, adding again that he didn't remember if he ever even asked Lang for a reason. (see Metlin depo, **Document 20**, page 411 line 2 through page 412 line 9)

Bottom line for Fox's news director here: "If a reporter writes a story that fails to mention information that you believe is important, do you not direct the report to include the information," I asked Metlin. His reply: "I would hope I did in this case. I don't recall. I don't recall why it's not in the story." (see Metlin depo, **Document 20**, page 412 line 16 through line 21)

5. **Failure to Report Farmers Reluctance To Admit rBGH Use**

Apparently Lang agreed it was important to let viewers know that rBGH injections were something Florida farmers wanted to keep secret from consumers, a fact we included in our stories. Lang was not allowed to broadcast this information.

Although he first claimed he could not recall if he was ordered to edit out this information, Lang has produced a copy of his script with an entire section of this crossed out. This edit includes a portion of an interview with a farmer who admitted plainly, "Most farmers in my position may not say whether they use it or not because they don't want to start some kind of publicity thing."

After a lunch break, Lang insisted he couldn't remember if he was ordered to cross out that issue but then he admitted, "In some ways I think that is relevant...There were lots of things we had to cut out that I thought were relevant." (see Lang depo, **Document 21**, page 665 line 6 through 14)

Important to note: discovery has shown that dairy interests were contemplating the possibility of a food disparagement suit against the station *if* what was ultimately broadcast did not suit them.

This list continues with the following additional items we attempted to include in our reports but were blocked from reporting and Lang also never reported them. Listed briefly, they are:

6. Information that a United Nations committee has persistently refused to pave the way for rBGH use internationally.
7. Monsanto's own research that documents adverse animal reactions to rBGH use. Lang never mentions or provides data from the important Post Approval Monitoring Study (PAMP). This is solid and documented evidence of increases in mastitis, other harmful side-effects under the very best of conditions.
8. The fact that cows and humans are treated with some of the same antibiotics. (He did use Michael Hansen worrying about humans building resistance to *one* possible drug.)
9. Consumer surveys by Monsanto and the University of Wisconsin which document consumer fears of rBGH and a preference for labeling.
10. Human health concerns expressed *in writing* by Canadian and European health officials.
11. Discussion of Monsanto's failure to forward to the FDA (as required by law) farmer Knight's reports of adverse health effects of rBGH.
12. Discussion of many other farmers negative experiences with rBGH (as widely reported, including by *CBS Evening News*)
13. The "don't-ask-don't-tell-about-rBGH" policy adopted by Florida milk co-ops in wake of grocer promises that dairymen would not use rBGH.
14. Discussion of the FDA's failed safety assurances of products that turned out to be dangerous in the past.

15. Reporting of the fact that it was a Monsanto lawyer (Michael Taylor) who went to work for the FDA and wrote the “suggested language” for labeling rBGH-free products.
16. Reporting of the fact Monsanto’s chief scientist lied (on camera) when he falsely claimed to Jane: “...we have not opposed that (labeling) at all,” when in fact there is undisputed evidence that Monsanto has filed suit and threaten to sue dairies who do not use FDA’s “suggested language” in labeling.
17. Reporting of the fact Monsanto’s chief scientist also lied when he said, on-camera, that Canadian health officials were not concerned about human safety risks. There are written records, and many published reports, which contradict this.
18. Details of the extent to which Monsanto provides continuing support to the University of Florida where scientists actively promote rBGH use. (Monsanto regularly gives more than \$1 million outright gifts and donations to U-F, not counting additional large payments for sponsored research.)
19. Reporting of the fact that Florida’s agriculture commissioner Bob Crawford, who Lang featured as an rBGH supporter, has consistently received large campaign contributions from Monsanto and the dairy lobby. (Crawford admitted this in his interview that Lang used. State election reports also confirm it.)
20. Any discussion of Monsanto hiring lawyers to pressure Fox TV and other news organizations on their coverage of rBGH.
21. Repeated omissions of Lang references to cancer. Lang’s own notes (produced in discovery) say, "cancer scientists have identified IGF-1 is the most powerful hormone in the human body, exerts growth influence on every cell in human body, hormone takes existing cancers excellerates (sic) their growth." Even so, there is no mention of cancer in any of the leads. There is no mention of it anywhere in Part III of the Lang report where the lead refers to "health risk". The mention of cancer in part II is a soundbite by Cohen (who is then minimized as a book-peddler with no scientific credentials) and with a soundbite by a doctor who dismisses any cancer without addressing the real issue (IGF-1) with the latest scientific information.

22. Reporting the remarkable fact that the U.S. remains the only major industrialized national in the world to allow rBGH use.
23. Failure to report important study published in *Lancet* showing IGF-1 link to significant cancer risk (This was not available at the time of our report)
24. Failure to report important Harvard study published in *Science* re significant increase in risk of prostate cancer in men with the highest levels of IGF-1 in their blood

OUR CONCLUSIONS

Now, in wake of all that Lang reported which is documented to be false *plus* all that Fox has failed to report about this issue, consider what Lang has said about his own standards as a reporter.

In his deposition testimony, Lang said, “It is not my practice to knowingly allow false statements to be reported without perspective...I mean allowing all sides of a proposed issue to allow themselves to be heard since journalistic process is to allow voices to be included, not excluded.” (see Lang depo, Document 22, page 216, lines 1-15)

“It is my practice to allow all sides and opinions to be included. If some of those statements are absolutely false beyond any reasonable doubt without question, then those statements need to be accompanied by the contradictory information, he testified. (see Lang depo, Document 22, page 216, line 23 through page 217 line 3)

So, in light of the facts discussed here: Was Lang allowed to apply his standards of good journalism, or did Fox lawyers control and edit his material consistent with the company’s own interest?

Finally, here is additional evidence to support our conclusion that Fox, due to pressure from Monsanto, did not—and still *does* not—want to report honestly on this issue.

Fox’s claim that the Lang reports constitute “proof” of its commitment to cover the rBGH issue completely and fairly and to stay on top of the story with follow-ups is further belied by what was *not* reported.

At his deposition, Fox news director Phil Metlin initially swore that Fox has kept its statement commitment (aired as a tag to the Lang reports) of being “dedicated to following up on all claims made by (rBGH) scientists and critics.” As his testimony continued, it seemed clear they quietly dropped the story after airing the Lang reports in May until a reporter investigating what happened to Jane and me started asking why there was never any further coverage. Here is the evidence to support that conclusion:

- Metlin has admitted the station never learned of significant developments in Canada under months *after* they occurred. (This was ultimately covered in a Lang follow-up admittedly prompted by the inquiries of the *Penthouse* reporter who made it clear part of his story was to point out how Fox reneged on its promises to stay abreast of the issue. (see Metlin depo, **Document 23**, page 686 line 21 through line 24)
- Metlin has admitted that important studies raising even more serious questions about IGF-1 in rBGH milk have been ignored to this day by Fox (see Metlin depo, **Document 23**, page 686 line 25 through page 687 line 7)
- Metlin has admitted the station has ignored the fact that two U.S. senators have asked the heads of the FDA and HHS for a thorough review of rBGH approval. (see Metlin depo, **Document 23**, page 687 line 8 through line 15)
- Metlin has admitted that even though Fox was alerted with a press packet, it ignored the fact that the Center For Food Safety has filed a lawsuit to force the FDA to take rBGH off the market due to human health safety concerns. (see Metlin depo, **Document 23**, page 687 line 16 through line 21)

When he made these admissions a year ago (on January 7, 1999), he offered the following explanation of why the station has not kept its word to provide coverage of this issue it has repeatedly said is so important to its viewers: “Unfortunately, our news gathering was not on top of it as much as I would like...I would say we obviously missed it...I’m not aware of any of these, Steve, and frankly I’m distressed to learn about two senators asking for investigation. I would think that would have made national news wires at the very least, and I haven’t heard that.” (see Metlin depo, **Document 23**, page 688 line 1 through line 19)

Despite Metlin’s public denial that the rBGH issue, Monsanto, and Jane and I have been such a problem that the station now prefers to never report about it again, WTVT failed to broadcast further reports on the issue for more than a year, despite significant developments in the field.

EXHIBIT 4

DECLARATION of CHARLES KNIGHT

My Name is Chuck Knight and I live at 1565 North Ed Wells Road. Wauchula, Hardee County, Florida 33873. I have been a farmer on and resident of this property having owned it since 1974. I am within the viewing area of WTVT-Fox 13, Tampa and a regular viewer of the station.

On May 21, 1998, I viewed on the station a 6pm news report about dairy farming which I had participated in. Reporter Nathan Lang, from WTVT-Fox 13 in Tampa, had come to my farm to interview me about a Monsanto product, Posilac, which I had used for a time on my dairy cows. I found that it increased mastitis in the animals as well as foot problems and I was not satisfied with the product. In fact, I felt as though it contributed to the decimation of my herd three-quarters of which had to be destroyed after use of the drug.

This was not my first discussion of the problem with the station. The year before I had spoken with WTVT investigative journalist, Jane Akre about Posilac and my use of the drug. I told her that its use had left my animals crippled and had contributed to the loss of my herd. I showed her the lame cows and we spent at least a half day on my property discussing the drug and filming an interview with me and also scenes of the product's negative effects on my animals.

Later, I also talked to Lang at length about dairy farming, my experience with the drug and its effect on my herd. In an interview, I told him that my biggest concern was the altered milk quality brought on by use of antibiotics to treat the symptoms of the health issues brought on by use of the drug. I specifically told him I did not drink milk and I explained to him the very negative experiences I had with Monsanto and the Food and Drug Administration when I and other farmers reported the adverse effects of Posilac.

I also specifically told him in no uncertain terms that I did not trust our state and federal regulators who had approved this drug, so I was very surprised when, on the May 21st broadcast of the Channel-13 Fox News, Lang reported that I still drink milk, which I do not. He reported about me that, "he still trusts the FDA's endorsement of the safety of milk." I absolutely do not believe that, nor did I tell him that or any such thing. In fact, I believe the opposite and I told him so—that, in my opinion, the FDA covered up the issue for Monsanto. That information was not made public in Lang's report and what he did report was false and also very misleading to anyone who saw it.

I had also told the very same things to Akre, too, when I met with her before. For some reason, Akre's report never aired and what Lang ultimately reported on television was exactly the opposite of what I said and his report that aired on television was a serious distortion of what I told him about my own experience with Posilac, Monsanto and the FDA.

I was so upset at the depiction of my opinion that I called Jane Akre, the reporter who had first come to my farm the year before. I asked Ms. Akre what I could do to complain about the story as Mr. Lang ran it. I told her that WTVT's report that I still believed the FDA thoroughly and adequately tested this product could not be farther from the truth. I asked her how could I protest the story? She suggested I contact the station managers. I never received any response from the station.

Mr. Lang distorted the facts as I stated them to him, twisting my words to soft pedal and minimize my criticism of our federal regulators about a product that should never been introduced into the marketplace. I have first-hand experience on the use of the drug and am qualified to discuss its effects.

I am very disappointed that the station I depend on for news and information chose to deliberately distort my words and my experience about this dairy drug. Accurately reporting on my bad experiences with the drug might have prevented other farmers from using it and might have caused consumers to question its approval and be aware that the use of this product on dairy cows also has a questionable health effect on the milk sold in grocery stores.

A local television station has an obligation to tell the truth and that was not done here and therefore I do not believe this station is operating in the public interest.

This statement is true to my personal knowledge and is made under penalty of perjury under the laws of the United States of America.

Charles Knight

Dated

EXHIBIT 5

Subject: BGHsuitFAX
Date: Sun, 16 Feb 2003 17:30:35 -0500
From: "Cayce Dalton" <cayce@wellsnerrcec.lib.me.us>
To: <Wilson@foxBGHsuit.com>

Here is a copy of a letter I have sent to the station as a result of what has happened.

Request recipient add this document to your FCC public file:

In Maine, a small tag on Oakhurst Dairy's label says their farmers pledge not to use artificial growth hormones (rBGH) (<http://www.oakhurstdairy.com>). According to Monsanto, Oakhurst should be taken to court for that label, and all such claims should be illegal. Monsanto Corporation (maker of rBGH and ex-maker of PCB's, Agent Orange, etc.) are complaining to the FDA and state regulators in California, Washington, Maine, New York, and New Jersey, because of Oakhurst's label and similar ones. They say the label implies that non-rBGH hormone milk is different than rBGH milk, and therefore informing the consumer of the use of this Monsanto product should be a criminal offense. Many people of Maine take this issue very seriously, and conclude that Oakhurst is right and Monsanto is wrong.

Monsanto's complaint ignores ethical or religious justifications for this label. Perhaps some consumers might choose not to buy rBGH products based on ethical objections to genetic engineering. For example, kosher labeling is legal, yet kosher foods are not FDA proven to be superior to non-kosher foods.

Fox news fired Steve Wilson and Jane Akre for reporting on this issue in 1997. Fox news was convicted of violating the law in airing an altered version of their report and in firing them (see <http://www.foxbghsuit.com/> for the Fox version and the reporter's original version, both of which were submitted as evidence in court). These two reporters have been financially devastated by their court battle against Fox news, by the way.

Here's an excerpt from a different, recent "news" story from an odd little web site. The website is odd because it implies that telling the truth equals lying (specifically, noting on a label that a product is made without rBGH). See the whole article at <http://www.stoplabelinglies.com/news/dpw.html> (which they took from Dairy Profit Weekly).

"Claims that advertise "hormone free" dairy products could be banned if the Food and Drug Administration gets serious about enforcing long-standing laws and regulations that prohibit false or misleading label and marketing claims. FDA's long enforcement arm could soon touch some of the nation's largest dairy companies if pressure groups prevail.

Without a lot of fanfare, several complaints have been filed over the past few months with FDA in response to the urging of state regulators in California, Washington, Maine, New York, and New Jersey, who want the agency to take action against misleading ads.

FDA Deputy Commissioner Les Crawford wrote to a Monsanto official last month (see DPW 1-6-03), articulating long-standing FDA policy that label claims must be "truthful and not misleading." Crawford added that claims must not imply a difference in safety or quality over competing milk products. "Statements that lead consumers to conclude that milk from untreated cows is safer or of higher quality than milk from treated cows would be false or misleading," Crawford told Monsanto's vice president for government affairs."

Monsanto's complaints about Oakhurst's label also seem to contradict their own pledge ("transparency" and "respect" to name two):

"The New Monsanto Pledge" as posted on
http://www.monsanto.com/monsanto/layout/our_pledge/default.asp

"Dialog: We will listen carefully to diverse points of view and engage in thoughtful dialogue to broaden our understanding of issues in order to better address the needs and concerns of society.

Transparency: We will ensure that information is available, accessible, and understandable.

Respect: We will respect the religious, cultural and ethical concerns of people throughout the world. We will act with integrity, courage, respect, candor, honesty, humility, and consistency. We will place our highest priority on the safety of our employees, the communities where we operate, our customers, consumers, and the environment.

Sharing: We will share knowledge and technology to advance science and understanding, improve agriculture and the environment, improve subsistence crops, and help small-holder farmers in developing countries.

Benefits: We will deliver high-quality products that are beneficial to our customers and for the environment, through sound and innovative science, thoughtful and effective stewardship, and a commitment to safety and health in everything we do."

Message sent by

Chris Dalton

email address: cayce@mail.com

Subject: BGHsuitFAX
Date: Thu, 27 Feb 2003 22:27:12 -0800
From: "Nat Holder" <nat@ArtEverywhere.org>
To: <Wilson@foxBGHsuit.com>

I have sent this message to WTVT.

To: David Boylan, VP&GM

Request recipient add this document to your FCC public file:

Regardless of how much money Fox has, or how powerful the media bores and advertisers are, truth will be told, from one person to another. When that happens, and Fox gets hit with the Erin Brokovich-level suit challenging the legitimacy of Fox to be trusted to tell the truth on public (mine and your) airways, what then for Mr. Boylan? I need to know the truth about what foods are and are not harmful for me, the cows, and the earth. You and I know that a product like rBGH, along with its maker Monsanto, need public scrutiny, not media coverups. Please support Akre & Wilson in their efforts toward truth. Thank you and blessings to you.

--

Nat Holder
Co-Director, Art Everywhere (arteverywhere.org)
1255 26th St, Suite H, Oakland, CA 94607

Phone: 510-452-4869
Fax: 510-268-1981

Subject: BGHsuitFAX (SIGNED)
Date: Thu, 27 Feb 2003 20:54:16 -0500
From: "Conlaw" <conlaw@att.net>
To: <Wilson@foxbghsuit.com>

Request recipient to please add this document to your FCC public file:

Hi, David, I found out about you through the Wilson & Akre website today. Is it true that you prevent facts from reaching your viewers?

If not true, then I'm truly sorry to have bothered you!

But I'm truly sorry, for you and for all of us, if you are.

And if you are, then I sincerely hope that one day you allow your conscience to get the better of you and recall that journalism is the pursuit and defense of truth. Our world always needs all the decent people it can get.

Gods's speed, and I thank you.
William Mongelli conlaw@attlnet

EXHIBIT 6

DECLARATION of JON SCOTT DUFFEY

1. My name is Jon Scott Duffey and I live at 13014 Royal George Avenue, Odessa FL 33556-5713.
2. On Monday morning, December 13, 2004 I visited the offices of WTVT Television at 3213 West Kennedy Boulevard in Tampa, Florida for the purposes of reviewing the station's public file.
3. With three others, I reviewed each and every written communication contained in the file provided to us by a station employee in the station's executive office.
4. We searched carefully and thoroughly for any and all communications received and filed by the station within the last three years related to the station's coverage of news about synthetic Bovine Growth Hormone. More specifically, we searched for communications sent by individuals who had earlier provided copies of the communications they sent.
5. None of the communications, copies of which we had brought to conduct our search, was found in the station's Public File. In fact, only one communication related to the station's Monsanto rBGH reporting was discovered, a hard-copy of an email dated April 17, 1998.
6. Missing entirely from the Public File were all email communications in electronic form that were sent to the station in September 2002. The station's program manager said he could not explain where those communications were but that he would attempt to find them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of December, 2004.

Jon Duffey

Dated

DECLARATION of BRUCE HOSKING

1. My name is Bruce Hosking and I live at 1847 Sunrise Blvd, Clearwater, Florida 33760.
2. On Monday morning, December 13, 2004 I visited the offices of WTVT Television at 3213 West Kennedy Boulevard in Tampa, Florida for the purposes of reviewing the station's public file.
3. With three others, I reviewed each and every written communication contained in the file provided to us by a station employee in the station's executive office.
4. We searched carefully and thoroughly for any and all communications received and filed by the station within the last three years related to the station's coverage of news about synthetic Bovine Growth Hormone. More specifically, we searched for communications sent by individuals who had earlier provided copies of the communications they sent.
5. None of the communications, copies of which we had brought to conduct our search, was found in the station's Public File. In fact, only one communication related to the station's Monsanto rBGH reporting was discovered, a hard-copy of an email dated April 17, 1998.
6. Missing entirely from the Public File were all email communications in electronic form that were sent to the station in September 2002. The station's program manager said he could not explain where those communications were but that he would attempt to find them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of December, 2004.

Bruce Hosking

Dated

EXHIBIT 7

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY – CIVIL DIVISION**

STEVE WILSON and JANE AKRE

CASE NO: 98-02439

Plaintiffs,

DIVISION "D"

vs.

**NEW WORLD COMMUNICATIONS
OF TAMPA, INC., a Florida Corporation,
d/b/a WTVT CHANNEL 13, TAMPA**

Defendant

_____ /

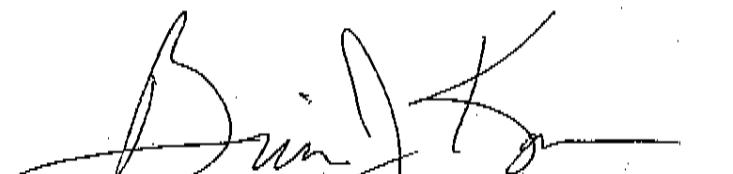
AFFIDAVIT OF BRIAN KAREM

STATE OF MARYLAND)
COUNTY OF MONTGOMERY)

BEFORE ME the undersigned Notary Public personally appeared Brian Karem who produced a valid Maryland Driver's License as identification and, upon being first duly sworn, deposes and says as follows:

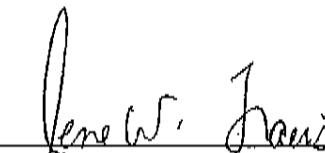
1. I, Brian Karem, am presently a freelance journalist and do reside in the State of Maryland.
2. I was employed by Fox Television as an investigative reporter at WDAF-TV, the Fox-owned-and-operated station in Kansas City, Missouri from July 21, 1997 through October 23, 1998.
3. On January 8, 1999 I was called and did provide pre-trial deposition testimony in the above-titled action with regard to my experience as an investigative journalist at WDAF. Specifically, I testified that the Vice President-News (my direct supervisor) at that station specifically rejected my proposal to produce and report an investigative news story about Bovine Growth Hormone (BGH), saying because of Fox's experiences with the same story at its Tampa station, "there is no way in hell we are going to touch that one (story)."
4. The Fox executive for whom I worked, Michael McDonald, the V-P News at the Fox-owned station in Kansas City, explained his decision to refuse to allow me to investigate the BGH issue in Kansas and Missouri by showing me an Internet website which documents details of the dispute and lawsuit pending in Tampa which were posted on a website.

5. Mr. McDonald also told me at the time that he had been directed not to proceed with any such story about BGH. I do not recall if he identified who directed him to not to allow investigation or broadcast of the BGH story.
6. The same Fox executive also told me at the time that the BGH story produced by Steve Wilson and Jane Akre in Tampa was "inaccurate," "not journalistically sound," and, more specifically, that Steve Wilson and his co-producer "didn't get their facts right" in the story they proposed to broadcast in Tampa. He offered no proof of those allegations.
7. Also while employed by WDAF-TV, I produced a series of investigative reports about a Dow Chemical product known as Dursban. As a result of these reports that raised questions about the safety of the product when used inside homes, I am aware that Dow Chemical pressured Fox Television to influence the news content of my reports. Specifically, I am aware that as a result of that pressure, advance copies of scripts and/or videotapes of my proposed news reports were provided to Dow and, as a result, Dow and its counsel then suggested to Fox numerous editorial changes to the story as I had written it. Subsequently, despite my strenuous objections to violations of journalistic freedom and ethical standards, I was directed by Fox Television attorneys and managers to edit and sanitize my reports in a way that would appease Dow. These changes I was directed to make resulted in final broadcasts which were inaccurate and misled viewers. This information was included in my broadcasts only under extreme duress, namely that it was clear to me that if I did not follow directions as dictated, I would be terminated as the station's investigative reporter.



 BRIAN J. KAREM

Sworn to and subscribed before me this
16 day of May, 2000.



 NOTARY PUBLIC

My Commission Expires:

JESSE W. TRAVIS
 NOTARY PUBLIC STATE OF MARYLAND
 My Commission Expires November 18, 2002

EXHIBIT 8

DECLARATION of JANE AKRE

1. My name is Jane Akre and I live at 406 Royal Tern Road South in Ponte Vedra Beach, Florida 32082.
2. From April 1992 until August 2002, I lived in the Tampa Bay area and was a regular viewer of WTVT Channel 13 in Tampa.
3. I was employed by WTVT as an investigative journalist from December 1996 until December 1997.
4. Jointly with Steve Wilson I have prepared this attached Petition To Deny the pending license renewal application filed by WTVT/New World Communications of Tampa Inc.
5. On December 13, 2004, I visited the offices of WTVT for the purposes of examining the station's Public File.
6. With three others, I reviewed each and every written communication contained in the file provided to us by a station employee in the station's executive office. I also reviewed computer disks which contained viewer comments sent to the station by e-mail. Each of these disks was duplicated and on that day and subsequently, I have reviewed that material, as well.
7. We searched carefully and thoroughly for any and all communications received and filed by the station within the last three years related to the station's coverage of news about synthetic Bovine Growth Hormone. More specifically, we searched for communications sent by individuals who had earlier provided copies of the communications they sent.
8. None of the communications, copies of which I had brought to conduct our search, was found in the station's Public File. In fact, only one communication related to the station's Monsanto rBGH reporting was discovered, a hard-copy of an email dated April 17, 1998.
9. Missing entirely from the Public File were all email communications in electronic form that were sent to the station in September 2002. The station's program manager said he could not explain where those communications were but that he would attempt to find them.

10. The facts stated in this Petition associated documents are true to my personal knowledge and is made under penalty of perjury under the laws of the United States of America.

This declaration was executed by me on December 30, 2004.

Jane Akre

Dated

DECLARATION of STEVE WILSON

1. My name is Steve Wilson and I live at 406 Royal Tern Road South in Ponte Vedra Beach, Florida 32082.
2. From October 1992 until July 28, 2004, I lived in the Tampa Bay area and was a regular viewer of WTVT Channel 13 in Tampa.
3. I was employed by WTVT as an investigative journalist from December 1996 until December 1997.
4. Jointly with Jane Akre I have prepared this attached Petition To Deny the pending license renewal application filed by WTVT/New World Communications of Tampa Inc.
5. On December 13, 2004, I visited the offices of WTVT for the purposes of examining the station's Public File.
6. With three others, I reviewed each and every written communication contained in the file provided to us by a station employee in the station's executive office. I also reviewed and copied what station officials said were all available computer disks which contained viewer comments sent to the station by e-mail.
7. We searched carefully and thoroughly for any and all communications received and filed by the station within the last three years related to the station's coverage of news about synthetic Bovine Growth Hormone. More specifically, we searched for communications sent by individuals who had earlier provided copies of the communications they sent.
8. None of the communications, copies of which I had brought to conduct our search, was found in the station's Public File. In fact, only one communication related to the station's Monsanto rBGH reporting was discovered, a hard-copy of an email dated April 17, 1998.
9. Missing entirely from the Public File were all email communications in electronic form that were sent to the station in September 2002. The station's program manager said he could not explain where those communications were but that he would attempt to find them. Two

electronic files purporting to be the missing emails were sent to me today by WTVT's program director. I have not had a chance to review them thoroughly.

10. The facts stated in this Petition associated documents are true to my personal knowledge and is made under penalty of perjury under the laws of the United States of America.

This declaration was executed by me on December 30, 2004.

Steve Wilson

Dated