

WEDNESDAY, JUNE 17, 1992

Denying Paternity

Monsanto Case Shows How Hard It Is to Tie Pollution to a Source

PCBs Taint Site Where Firm
Used to Produce Them,
But It Doesn't See a Link

The Deadlock on Dead Creek

By SCOTT McMURRAY

Staff Reporter of THE WALL STREET JOURNAL

SAUGET, Ill. — Monsanto Co. enjoys a pretty good reputation among environmentalists. Beginning in the mid-1980s, it pledged to make sharp cuts in the amount of pollution it emits, with "zero waste" being the goal for many processes.

And this week, Monsanto announced a cash settlement with people who claim to have been hurt by some of its chemicals. It will pay \$39 million to neighbors of a defunct Texas refinery to which Monsanto, among other firms, once sold chemicals.

But here in the tiny Mississippi River town of Sauget, Monsanto is showing another side of its strategy on the environmental front. It is a strategy that some other companies are pursuing as well, in the face of potentially enormous cleanup liabilities. It's called denial.

Sauget is the home of more than a dozen toxic dump sites. The Illinois Environmental Protection Agency has been trying for years to get the area designated a federal Superfund cleanup site. Dumps containing carcinogenic PCBs, or polychlorinated biphenyls, are clustered along a stream aptly named Dead Creek.

Sauget is also the home of a huge Monsanto plant that was the only nearby producer of PCBs. In fact, until shortly before PCBs were banned in 1979, the Monsanto plant in Sauget was the nation's largest single source of PCBs.

Not Us

So could the presence of the toxic waste along Dead Creek and the Monsanto plant be a mere coincidence? Monsanto's answer to that question is an emphatic yes. "Anyone could have dumped a generator full of PCBs along the creek," says a Monsanto environmental officer, Steven Smith.

Battles over responsibility for toxic wastes are common where there are many possible contributors to a toxic site. But here, where there is but one likely candidate for the type of toxic waste at issue, environmental regulators had thought it would be easy to make the connection between pollution and polluter. The deadlock at Dead Creek suggests the process can be as easily stymied with one alleged major polluter as with 100.

Corporate denial of paternity for hazardous chemicals "is one of the biggest issues in toxic-waste cleanups," says Nicholas Valkenburg of Geraghty & Miller, an environmental consulting firm working for Monsanto.

Coincidence Defense

The problem isn't limited to specific industries or regions. Indeed, that the strategy should be embraced by a company with as good an environmental record as Monsanto shows how tempting it is. Unocal Corp. has denied that it is liable for toxic wastes found last year on an oil tank farm in San Diego that it owned for more than 60 years. The current owner of part of the property sued the oil company in federal court in San Diego earlier this year, alleging that the toxic wastes match products that haven't been stored there since Unocal sold the tank farm.

And in Azusa, Calif., high levels of contaminants were found in drinking-water wells just south of an Aerojet Corp. rocket plant, contaminants that matched toxic solvents used by Aerojet and others in the area for decades. The same toxic solvents also were found at a Sacramento plant site of Aerojet, a unit of GenCorp Inc. But it wasn't until last October — 13 years after discovery of the contamination — that Aerojet, without admitting responsibility for any wastes, agreed to reimburse the Environmental Protection Agency for a study of area water supplies.

One consequence of what some are calling the "coincidence" defense could be that taxpayers will end up shouldering more of cleanup costs. The Superfund toxic-cleanup law requires polluters to pay for most dump-remediation costs, but the pace has been slow; only 84 of the 1,245 Superfund sites have been totally cleaned since the law was passed in 1980, even though more than \$11 billion has been spent. To speed the process some critics are calling for shifting more of the burden, directly or indirectly, from corporate shareholders to taxpayers, notes Michael Silverstein, president of Environmental Economics, a Philadelphia consultancy.

"There is a sense out there that ultimately we're all responsible as consumers for the waste that has been produced," Mr. Silverstein says.

Company Town

Though Sauget isn't a Superfund site, the delays in efforts to clean it illustrate what environmentalists are up against even in what some would consider a fairly clear-cut case. After more than a decade of studies and site investigations, state regulators haven't persuaded the company to clean up any wastes at sites near Dead Creek or any other dumps in town. Says Mary A. Gade, director of the Illinois EPA: "It must be extremely frustrating to local citizens that this isn't moving more quickly."

Sauget is such a company town that it
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Denying Paternity: It Isn't Easy To Tie Toxic Wastes to a Source

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even used to be called Monsanto. Over the years, most of the area's residents either worked at the Monsanto plant or were related to someone who did. People complained about the smell now and then; women working next door at the Sterling Steel factory jokingly referred to the fragrance as "Monsanto No. 5."

Mayor Paul Sauget works for Monsanto as a part-time truck driver. He has nothing but praise for the company, and little but expletives for the EPA. Life in the shadow of a chemical plant hasn't hurt him, he says, noting that as boys he and his friends used to go ice-skating on Dead Creek and come home "smelling like aspirin tablets" from the chemical residues. Mr. Sauget or members of his family own several parcels of land in the area, including some toxic-waste sites.

Monsanto supported changing the town's name to Sauget in 1964, honoring Mr. Sauget's father, mayor for 40 years. Monsanto also didn't like being associated with the seedy image the town had acquired because of a cluster of late-night bars. "The people over in headquarters were getting tired of reading headlines like 'Woman Raped in Monsanto,'" says plant manager William Boyle.

As the volume of chemicals Monsanto produced here increased, so did the wastes. Old gravel pits became convenient dump sites. They weren't waterproofed. In fact, ground water sometimes rose into the bottom of them in the spring.

The pits were better than nothing, Monsanto says. "You could argue that they were acting responsibly back then by not pouring the stuff directly into the river like a lot of companies were," says Mr. Smith.

A Fire in the Creek

Over the years wastes also poured into Dead Creek. During the dry summers of 1979 and 1980, sand in parched Dead Creek spontaneously combusted on several occasions. Firemen recall being summoned to "put out the creek." The state EPA said high levels of phosphorus in the sandy creek bed were probably responsible.

What triggered the first systematic investigation was the death of a dog. In 1980 Peter Lauman reported that his wire-haired terrier Patches died after digging in the creek bottom. There were chemical burns around the dog's mouth.

Human health is affected by so many factors that it's usually next to impossible to link a specific illness with a specific pollutant. Mr. Lauman, who often swam in Dead Creek and an adjacent pond as a boy, lost a kidney to cancer in 1985 at age 33. The owner of a trucking firm near Dead Creek and his son both died of cancer several years ago, the Illinois EPA says, but it adds that it isn't aware of any evidence linking local cancer cases to any of the known or suspected carcinogens along Dead Creek.

Monsanto says, moreover, that there isn't any evidence that its wastes were transported from the plant to the Dead Creek sites. That's what Monsanto attorney N. Cornell Boggs III wrote to the Illinois EPA in 1989, and that is still the company position.

Other evidence suggests the situation isn't quite so clear-cut. Monsanto said in a 1980 federal filing that unspecified wastes were dumped near Falling Spring Road, which roughly parallels Dead Creek a few hundred yards to the east. It is plant policy to destroy waste-hauling and similar records after four years.

Paul Takacs, the Illinois EPA project manager in Sauget, visits the sites frequently. Parking his state truck near Dead Creek, he ticks off the chlorine-based herbicide and chemical residues, as well as PCBs, found in the creek area and in surface soils of a fenced dump site. The

santo plant a half-mile to the north. "It's their wastes," Mr. Takacs asserts.

Monsanto's own contractor has trouble disputing the point. When asked if the match between wastes at the sites and wastes produced at the nearby plant don't suggest that Monsanto was responsible for both, Mr. Valkenburg of Geraghty & Miller says, "You could draw that conclusion."

Geraghty & Miller recently did a study of a pond and the creek section where the dog died. Mr. Valkenburg says it's too early to comment on the results. The Illinois EPA hasn't yet seen the study.

Environmentalists and industry often spar over the effect on human health of a few parts per million of PCBs. The threshold level above which the EPA considers PCBs to be toxic waste and a threat to human health is 50 parts per million. But at a dump near the intersection of Dead Creek and Queeney Avenue in Sauget, state investigators found PCBs in concentrations of no less than 74,000 parts per million in surface soils.

Monsanto's Mr. Smith says PCBs—oily compounds that transfer heat—once were a "ubiquitous product used by every major industry in the country." Although the Monsanto plant produced PCBs, the fact that their concentration is so high along Dead Creek doesn't prove they came from the plant, Mr. Smith says.

Superfund Application

Illinois has spent 12 years and \$1.3 million studying the area to try to get it listed as a Superfund toxic site. It is now sending the federal EPA its latest Superfund proposal, fattened by requested additional documentation. A Superfund listing would give regulators much more leverage. But a formal Superfund cleanup plan is still years away, they say.

One area polluter hasn't waited. Cerro Copper Products Co. agreed with the state EPA in 1990 to clean up a section of the creek next to its Sauget plant. It took that step mainly to beat a federal deadline that now bars sending any more toxics to special dumps; without a federal waiver, these wastes now have to be incinerated, at much greater cost. Cerro, a unit of Marmion Group Inc., spent \$12.8 million on cleanup and is trying to recover part of it from Monsanto, contending Monsanto contributed to pollution of the area it cleaned.

State regulators have had slightly better luck getting Monsanto to cooperate elsewhere in town. After years of negotiations, Monsanto signed a limited consent decree in February to study treatment alternatives at a dump on its own property next to the Mississippi River, where records show it dumped chemicals from 1954 to 1977. Monsanto has also agreed to pre-treat waste it sends to Sauget sewage plant, which regulators identified a few years ago as one of the worst sources of pollution on the upper Mississippi.

But chances are slim that much waste here will be removed or incinerated anytime soon. Monsanto didn't agree to study the option of incinerating the more than one million tons of wastes at the dump on its own property, a task that it estimates would take 23 years and cost \$540 million to \$720 million. Monsanto clearly favors less expensive treatments. "We may decide that the best course is simply to monitor the site," Mr. Smith says. Meanwhile, about 13 tons of local toxic wastes leach into the Mississippi each year, most of it from the Sauget dump, based on Illinois EPA figures that Monsanto doesn't dispute.

Monsanto says that projected toxic waste cleanup costs are too much for companies to bear. It proposes that government, academia and industry join forces to come up with a better technological solution. Richard J. Mahoney, Monsanto's chairman and chief executive, says, "Burning dirt is not my idea of high technology at work."

DSW 136125

Monsanto

FROM (NAME-LOCATION-PHONE)

L. W. Wassell - G4WF - 4-7002

DATE: June 17, 1992

cc: K. S. Cahill
D. C. Dryden
S. L. Foster
R. A. Hartmann
D. B. Herndon
L. J. O'Neill
N. L. Reding

SUBJECT: WALL STREET JOURNAL RESPONSE

REFERENCE:

TO: D. R. Bishop
T. M. Bistline
W. J. Boyle
M. R. Foresman
G. F. Fort
S. P. Krchma
T. H. Lafferre
M. W. McCombs
M. A. Pierle
R. G. Potter
D. L. Sliney
S. D. Smith
M. W. Winkel

Attached is a statement and Q&A material developed in response to this morning's story in *The Wall Street Journal*.

The content was largely drawn from existing preparedness materials, except for a few new issues raised by the story.

We are developing a brief, factual letter to the newspaper to respond to the story.

Thus far, there has been no further interest in the story from any other news media.



Loren W. Wassell

DSW 136126

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Response to The Wall Street Journal

In cooperation with the Illinois EPA, we're studying the former Krummrich landfill, as well as Dead Creek, in some detail -- to evaluate the need for action. It's important to note there are no immediate health threats from either site -- the landfill or Dead Creek.

We continue to believe that the source of contamination in Dead Creek is more complicated than *The Wall Street Journal* would have it appear. The chemicals came from a number of commercial and industrial sources over a period of 75 years. Dead Creek was used to discharge wastewater from a variety of operations in the industrial area.

Over the years, some of the materials may have come from Monsanto, but we were not the only source. We didn't cause the whole problem. We shouldn't have to pay the whole bill.

In addition to being produced at the Krummrich Plant, PCBs were widely used in electrical transformers and other industrial equipment at other plants in the area.

We are continuing to work with the state of Illinois to develop responsible solutions that will protect human health and the environment. We are willing to resolve the problems for which we bear responsibility, and we have committed millions of dollars toward that process in the Sauget area. We think other industries should join in a comprehensive response.

Landfill

- The public has been kept informed about the landfill project; Monsanto held a public meeting before the investigation began and will hold another one to announce the results of the investigation and the feasibility study. The Illinois EPA will closely monitor the landfill study and will select corrective action it believes is appropriate.
- The Krummrich Plant no longer uses landfills to dispose of routine process waste from its chemical manufacturing operations. Waste elimination and minimization efforts receive the highest priority. Efforts are made to reuse and recycle materials wherever possible. Incinerating waste is viewed as the next-best option. Landfilling -- even in a modern, protected landfill -- is viewed as the last option.

Dead Creek

- As far back as 1989, we began to secure access agreements from the owners of property adjoining Dead Creek to permit a study of that site.
- Last fall, we collected samples from a portion of Dead Creek and adjacent sites as part of a long-range environmental program to evaluate whether corrective action is warranted or feasible.
- The results of that study now are being reviewed by Monsanto and the Illinois EPA.

- Q. Will you clean up Dead Creek?
- A. It's premature to say what -- if any -- remedial action will be appropriate until the data has been reviewed by both Monsanto and the Illinois EPA. We are willing to resolve the problems for which we bear responsibility, and we have committed millions of dollars toward that process in the Sauget area. We think other industries should join in a comprehensive response.
Over the years, some of the materials may have come from Monsanto, but we were not the only source. We didn't cause the whole problem. We shouldn't have to pay the whole bill.
- Q. What will remediation of the former Krummrich landfill cost?
- A. The study is now in the process of defining the problem -- the nature and extent. The next step will be to review the options for remedial action -- methods and cost.
- Q. Will the remedy be incineration at a cost of \$540 million to \$720 million?
- A. At this point it would appear that incinerating the entire contents of that landfill is not an appropriate remedy. The Illinois EPA will closely monitor the landfill study and will select the corrective action which it believes is appropriate.
The study will review both the environmental impact of the site as well as the potential impacts of any remedial action. (Some remedial options could increase the risks.)
- Q. What's the source of the \$540 million to \$720 million?
- A. The engineering consultants cited those figures as part of their conclusion that incineration is not an appropriate remedy.
- Q. What's in your reserve for the landfill? For Dead Creek?
- A. We have an accrued liability for remediation of identified waste disposal sites where we can reasonably estimate the costs. We normally don't discuss reserves for specific sites, but the accrued liability does include the former Krummrich landfill and Dead Creek. (At December 31, 1991, this reserve was \$245 million for all projects.)
- Q. Did the Monsanto plant manufacture PCBs?
- A. Yes. PCBs were banned in 1979, but we stopped manufacturing them in 1977. We would have stopped much earlier, but there was no alternative product available -- a fire-resistant insulating fluid. That's why PCBs were so widely used.
- Q. Are PCBs carcinogenic, as *The Wall Street Journal* states?
- A. The consensus of the scientific community is that PCBs have not been shown to cause cancer in humans. The scientific evidence just isn't there.

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DSW 136128