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IN THE CIRCUIT COURT IN AND FOR
CALHOUN COUNTY, ALABAMA

CIVIL ACTION NUMBER
CV-96-657

JOHN E. MASSEY, et al.,
Plaintiffs,
vs.
MONSANTO COMPANY, et al.,
Defendants.

DEPOSITION TESTIMONY OF:
ALAN FAUST

November 12, 1997
1:02 p.m.

COURT REPORTER:
DAVID L. MILLER, RMR

0002

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by
and between the parties through their
respective counsel that the deposition of
ALAN FAUST, may be taken before David L.
Miller, Registered Merit Reporter and
Notary Public, State at Large, at the law
offices of Hollingsworth & Associates,
Birmingham, Alabama, on November 12, 1997,
commencing at approximately 1:02 p.m.

IT IS FURTHER STIPULATED AND
AGREED that the signature to and the
reading of the deposition by the witness
is waived, the deposition to have the same
force and effect as if full compliance had
been had with all laws and rules of Court
relating to the taking of depositions.

IT IS FURTHER STIPULATED AND
AGREED that it shall not be necessary for
any objections to be made by counsel to
any questions, except as to form or
leading questions and that counsel for the
parties may make objections and assign

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grounds at the time of trial or at the
time said deposition is offered in
evidence, or prior thereto.

IT IS FURTHER STIPULATED AND
AGREED that notice of filing of the
deposition by the Commissioner is waived.

I N D E X

EXAMINATION BY:	PAGE NO.
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(No exhibits marked)

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A P P E A R A N C E S

FOR THE PLAINTIFF:

Lucian B. Hodges
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1615 Financial Center
Birmingham, Alabama 35203

FOR THE DEFENDANT:

Adam K. Peck
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I, David Miller, a Registered
Merit Reporter of Birmingham, Alabama, and
a Notary Public for the State of Alabama
at Large, acting as Commissioner, certify
that on this date, pursuant to the Alabama
Rules of Civil Procedure, and the
foregoing stipulation of counsel, there
came before me at the law offices of
Hollingsworth & Associates, Birmingham,
Alabama, commencing at approximately 1:02
p.m. on November 12, 1997, ALAN FAUST,
witness in the above cause, for oral
examination, whereupon the following
proceedings were had:

ALAN FAUST,
being first duly sworn, was examined and
testified as follows:

COURT REPORTER: Usual
stipulations?

MR. HODGES: That's fine.
MR. PECK: That's fine.

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EXAMINATION BY MR. HODGES:

Q. would you state your name for
the record, please.

A. Alan G. Faust.

Q. Have you ever given a

06 deposition before?
07 A. No.
08 Q. I am going to ask you a series
09 of questions. If you don't understand
10 what I'm asking, I will be glad to repeat
11 it. And if you answer the question, I'm
12 going to assume that you understood what I
13 asked you; is that fair enough?
14 A. Sure.
15 Q. What is your address, Mr.
16 Faust?
17 A. 1220 Stillwater Road.
18 Q. What is your profession?
19 A. I'm the manager of remedial
20 projects.
21 Q. Who is your employer?
22 A. Solutia, S-O-L-U-T-I-A, Inc.
23 MR. PECK: Do you know why he

0007
01 is with Solutia now?
02 MR. HODGES: No, I don't.
03 MR. PECK: Okay.
04 Q. (BY MR. HODGES) Why are you
05 with Solutia now?
06 A. Solutia is the artifact of a
07 spin-off from Monsanto of the chemical
08 division. So it's a new company spun-off
09 from Monsanto.
10 Q. Okay.
11 MR. PECK: I don't want you to
12 think that I brought you the wrong rep.
13 MR. HODGES: That's okay.
14 Q. (BY MR. HODGES) What was your
15 job title again?
16 A. Manager of remedial projects.
17 Q. How long have you been working
18 for Solutia?
19 A. Well, Solutia, and then
20 formerly Monsanto since 1991.
21 Q. When did Solutia start-up?
22 A. This past September.
23 Q. September of '96?

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01 A. Yes -- no, '97.
02 Q. '97? Okay. You started at
03 Monsanto when?
04 A. In June of 1991.
05 Q. What was your job title at
06 Monsanto?
07 A. When I started?
08 Q. Sure.
09 A. Was -- I was a hydrogeologist.
10 Q. And what other job titles did
11 you hold at Monsanto?
12 A. I went from hydrogeologist to
13 remedial project manager to manager of
14 remedial projects.
15 Q. What were your duties as a
16 hydrogeologist?
17 A. I was a, basically an in-house
18 consultant for a number of facilities,
19 advising them on environmental issues,
20 mainly revolving around investigations and

21 ground water.
 22 Q. And was contamination of
 23 ground water part of that?
 0009
 01 A. Impact of ground water, yes.
 02 Q. What facilities were you an
 03 in-house consultant for?
 04 A. Anniston. Trenton, Michigan.
 05 Q. Okay.
 06 A. Corondolet, Missouri.
 07 Q. Okay. Anymore facilities?
 08 A. There was about five or six
 09 others, but I don't remember the names
 10 particularly.
 11 Q. And after you were a
 12 hydrogeologist for them, you became a
 13 remedial project manager?
 14 A. Right.
 15 Q. What were your duties?
 16 A. My duties there were oversight
 17 and communication to upper management on a
 18 number of sites that Monsanto was involved
 19 in clean-ups across the US.
 20 Q. And then you were promoted
 21 from that position?
 22 A. To manager of remedial
 23 projects.
 0010
 01 Q. Did your duties change?
 02 A. Well, in that my sole
 03 responsibility is the Anniston project.
 04 Q. Okay. Before you were solely
 05 responsible for the Anniston project, were
 06 there other facilities that you were --
 07 A. That was when I was a project
 08 -- project manager in remediation.
 09 MR. PECK: Remedial project
 10 manager?
 11 A. Remedial project manager.
 12 Q. It sounds like the same job?
 13 A. More or less.
 14 Q. Okay. What jobs have you held
 15 before you started working for Monsanto?
 16 A. I graduated in 1980. I went
 17 to work for, at that time it was City
 18 Service Oil and Gas, later bought out by
 19 Occidental Petroleum, and worked for them,
 20 what was Occi-USA until 1989, as a
 21 geologist and geophysicist.
 22 Q. And then did you work anywhere
 23 after that before Monsanto?
 0011
 01 A. In '89 I went to work for an
 02 environmental consulting firm in St.
 03 Louis, McClelland, M-c-C-l-e-l-l-a-n-d,
 04 Consultants, until '91, when I went to
 05 work for Monsanto.
 06 Q. Okay. What was your job at
 07 McClelland Consultants?
 08 A. Ground water investigation and
 09 hydrogeology. Hydrogeologist.
 10 Q. Were you employed by different
 11 companies or --

12 A. Right. As a consulting firm
 13 we worked for other companies doing, you
 14 know, sight assessments and ground water
 15 work.
 16 Q. What companies, if you can
 17 think off the top of your head?
 18 A. We did work for Olin, did some
 19 work for Phillips Petroleum.
 20 Q. Okay. Off the record a
 21 second.
 22 (Off-the-record discussion)
 23 Q (BY MR. HODGES) Back on the
 0012
 01 record. Tell me about your educational
 02 background, Mr. Faust.
 03 A. Okay. I went to Southwest
 04 Missouri State University in Springfield,
 05 Missouri; graduated in 1980 with a
 06 Bachelor's degree in geology.
 07 Q. That's a BS?
 08 A. Right. And then in '89 I
 09 graduated from Oklahoma City University
 10 with an MBA, which I took night school
 11 doing that.
 12 Q. Do you regularly attend any
 13 continuing education seminars?
 14 A. Occasionally we try and make
 15 room for one, one seminar a year or so. I
 16 didn't seem to get away to one this year.
 17 Q. What is the last one you
 18 attended?
 19 A. It would have been the -- I
 20 guess the last one would have been October
 21 of '96, the Ala-Chem fall meetings in
 22 Montgomery -- or Mobile.
 23 Q. Where are you from?
 0013
 01 A. St. Louis.
 02 Q. St. Louis? Okay. Did you
 03 grow up there your whole life?
 04 A. Uh-huh (Nodding head).
 05 Q. Okay. Going to Southwest
 06 Missouri State and Oklahoma City
 07 University, is that the extent of your
 08 college education?
 09 A. Uh-huh (Nodding head).
 10 Q. Okay. I'm going to ask you
 11 some questions now about Monsanto.
 12 A. Okay.
 13 Q. If you don't know the answer,
 14 just tell me.
 15 A. All right.
 16 Q. We will move along. What is
 17 the exact name of that corporation?
 18 A. Solutia, Incorporated.
 19 Q. Who owns that?
 20 A. Stockholders.
 21 Q. Do you know how many people
 22 work for Solutia?
 23 A. I believe it's about
 0014
 01 eighty-eight hundred.
 02 Q. Eighty-eight hundred?

03 A. Right.
04 Q. Okay. What is its usual
05 course of business?
06 A. It's a chemical company,
07 predominantly in the fibers, carpet
08 business. That's about fifty percent of
09 it.
10 Q. What is the size of that
11 company? You say there is eighty-eight
12 hundred people that work there?
13 A. Right.
14 Q. How many manufacturing
15 facilities does it have?
16 A. I believe we have around
17 nineteen in the US.
18 Q. Do you know why it changed
19 from Monsanto to Solutia?
20 A. Right. It was, basically the
21 CEO of Monsanto wanted to get into
22 biotechnology, and no longer in the
23 chemicals business. They are into seeds
0015 and pharmaceutical.
02 Q. Do you know why they wanted to
03 get out of the chemical business?
04 A. I think it was all
05 philosophical.
06 Q. Okay.
07 A. I'm sure there were some money
08 issues.
09 Q. Where is its home office?
10 A. St. Louis.
11 Q. Do you know where it's
12 incorporated?
13 A. No.
14 Q. Does it have a principal place
15 of business, if you know?
16 MR. PECK: St. Louis.
17 A. Yes. That's the headquarters
18 with plants throughout the US.
19 Q. Any plants in Alabama?
20 A. Yes, two.
21 Q. Where are those located?
22 A. Anniston and Decatur.
23 Q. Tell me about your duties
0016 right now as part of your job.
02 A. My job is I'm responsible for
03 all of the remediation activities at the
04 Anniston facility.
05 Q. What is -- what do you mean by
06 remediation activities?
07 A. Basically the, the development
08 of work plans and the -- getting approval
09 from the State of Alabama of those work
10 plans for doing projects around the plant
11 which are termed remediation.
12 Q. What type of projects do you
13 mean?
14 A. Right now we are about to
15 finish up a cap and cover and storm water
16 diversion project, which involves
17 diversion of all of the storm water that

18 falls on the eastern half of our property,
19 the retention of that storm water, the
20 multi-layer capping of thirteen acres of
21 landfill, and the capping of roughly
22 thirty to forty acres of area impacted
23 with -- impacted sediments and soils.

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01 Q. Okay. Why is the storm water
02 being diverted?

03 A. For several reasons. One, we
04 have to sample all of our storm water. We
05 have an NPDS permit that requires us to
06 sample our storm water discharge from our
07 property. And, as such, we needed to
08 basically control it, capture it so that
09 it comes to one source, one area that we
10 can sample it.

11 But, additionally, to reroute
12 storm water so that it no longer flows
13 across the landfills or the impacted areas
14 that we are capping and covering. And
15 then, thirdly, to control it so that it
16 doesn't erode any of those areas.

17 Q. What is the -- what are you
18 sampling for when you said that you are
19 sampling the storm water?

20 A. We have requirements for
21 suspended solids, pH, chlorine, and PCBs.

22 Q. What kind of suspended solids?
23 I don't understand what you mean by that.

0018

01 A. Basically, how muddy the water
02 is.

03 Q. How often do they -- do you
04 sample that storm water?

05 A. We have to sample a storm once
06 a quarter.

07 Q. And this is mandated by the
08 state?

09 A. Mandated by our NPDS permit,
10 which the state has primacy.

11 Q. What was the permit? I'm
12 sorry.

13 A. NPDS is National Pollutant
14 Elimination and Discharge, something. I'm
15 not sure. But basically there are two
16 types of NPDS permits; one for discharges
17 from plants, outfall of your normal
18 process water, and then a second would be
19 for storm water. And this is regulations
20 that all facilities have to comply with.

21 Q. How far out from the plant
22 does your remediation activities take
23 place?

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01 A. Basically, to the east
02 probably a quarter of a mile. I would say
03 roughly a quarter of a mile around the
04 plant.

05 Q. If you had a map of the plant,
06 and you drew a quarter of a mile circle?

07 A. Yeah.

08 Q. Roughly?

09 A. The areas would fall within
10 that, yes.
11 Q. I understand from reading some
12 newspaper articles that you are the head
13 of the clean-up effort at Monsanto?
14 A. Right.
15 Q. Okay.
16 A. Which we would call
17 remediation.
18 Q. How many current or former
19 residents of Anniston have filed suit
20 against Monsanto concerning PCB
21 contamination, if you know?
22 A. I have no idea.
23 Q. Do you know when that plant
0020
01 opened?
02 A. I believe it was in the -- the
03 plant itself, I think it was in the teens.
04 I'm not -- I don't recall exactly.
05 Q. When did that plant start
06 manufacturing PCBs?
07 A. I don't know.
08 Q. How many people serve under
09 you in the clean-up effort?
10 A. Well, it varies. Currently
11 with the work we are doing this year,
12 actual solutia employees is only two. But
13 we do most of our work with outside
14 contractors. The outside contractors we
15 have under contract this year are probably
16 a hundred.
17 Q. What are the duties of those
18 outside contractors?
19 A. Technical consulting, to
20 develop the design. Then construction
21 management of the project. And then
22 construction crews to actually implement
23 the project.
0021
01 Q. Do you have outside
02 contractors that are responsible for
03 moving the soil from the area?
04 A. Right. That would be the
05 general contractor, earth works contractor
06 does the soil work.
07 Q. When did this clean-up project
08 start?
09 A. The first project that we
10 implemented from a remedial project
11 standpoint was the west-end landfill. And
12 construction of that began in '95.
13 Q. Tell me a little bit about
14 that project.
15 A. That was a piece of property
16 to the west of the plant that was a
17 landfill used in the past by the facility.
18 The design that was approved in the
19 consent order with Alabama, the Department
20 of Environmental Management, was a
21 multi-layer cap cover of that property and
22 drainage controls.
23 Q. When was that landfill built?

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A. I don't know.

Q. Do you know what contaminants were in that landfill?

A. It was used -- it was used during the operation of the facility, but I'm not sure what went in it.

Q. Well, did you do any sampling of the soil?

A. We did a soil sampling and ground water sampling program prior to implementation of the design.

Q. What was detected?

A. Soil samples detected PCBs. Ground water, there were no detections.

Q. Do you know where those PCBs came from in that landfill?

A. No.

Q. Were you aware that Monsanto manufactured PCBs?

A. Yes.

Q. And you don't know when they started manufacturing them?

A. No. I'm not the expert on the

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history of -- of really any of the production at the plant.

Q. Do you know when they stopped manufacturing them?

A. '71.

Q. Do you know why they stopped manufacturing them?

A. No, I'm not -- I'm not the one that knows the details on that.

Q. Well, do you -- as part of your expertise and training, are you aware of any environmental or health hazards related to PCBs?

A. I know -- my knowledge of it is that it's a regulated industrial chemical that is regulated by federal regulations, like many other industrial chemicals.

Q. Are you aware of any kind of health consequences related to the ingestion of PCBs?

A. My only knowledge is that, what I have read about the exposure to

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people that dealt with PCBs on a regular basis at many facilities; no health claims.

Q. So you are not aware that there are any health hazards associated with ingestion of PCBs?

A. No.

Q. Do you know if Monsanto or --

A. Solutia --

Q. -- Solutia has done any kind of independent research into the health consequences of PCB ingestion?

A. No, I don't know.

MR. PECK: If you want to you

15 -- if y'all just want to call -- we can
16 agree that you can call it Monsanto or
17 call it Solutia. We will take it to mean
18 both companies.

19 Q. If I say Monsanto or Solutia,
20 I mean both.

21 A. Right.

22 Q. Do you know what substances
23 PCBs adhere to?

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01 A. well, they adhere to -- they
02 have an affinity to adhere to carbon.

03 Q. Are you aware that they adhere
04 to soil?

05 A. Sure.

06 Q. Sediment?

07 A. Uh-huh (Nodding head).

08 Q. Dust, water?

09 A. Not water. But fine clay, and
10 sediment particles.

11 Q. In any of the sampling that
12 you have done -- you stated earlier that
13 you sampled the soil at the west-end
14 landfill and the ground water in that
15 facility?

16 A. Uh-huh (Nodding head).

17 Q. Did you sample anything else
18 besides those two?

19 A. You mean the two medias, like
20 soil and ground water?

21 Q. Yes, sir.

22 A. We sampled storm water, ground
23 water, and surface soils.

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01 Q. How far out from the landfill
02 did y'all sample?

03 A. We have sampled to the north
04 where the drainage flows -- I don't know
05 specifically how far, but several thousand
06 feet, probably.

07 Q. Did you sample the blood from
08 any animals or anything from any animals?

09 A. We didn't, no.

10 Q. Are you aware of anybody else
11 who has?

12 A. I'm aware that some blood
13 samples were taken.

14 Q. From people?

15 A. Yeah, I'm assuming. I don't
16 know.

17 Q. Do you know if they took any
18 dust samples from anyone's homes?

19 A. There were dust samples taken
20 in the east of the plant.

21 Q. In the plant or outside the
22 plant?

23 A. No, outside the plant.

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01 Q. Do you know where they were
02 taken from?

03 A. I'm not really the expert -- I
04 wasn't involved in that.

05 Q. Who was involved in that, if

06 you know?

07 A. Bob Kaley.

08 MR. PECK: Just to be clear,
09 no one at Monsanto did that. He is
10 telling you, I think, Bob Kaley knows
11 about it.

12 A. Knows of the sampling.

13 MR. PECK: I didn't want you
14 to get confused about that.

15 Q. (BY MR. HODGES) Do you know
16 who it was that performed that sampling?

17 A. I don't know.

18 Q. Who is Bob Kaley?

19 A. He is director of
20 environmental affairs with Monsanto,
21 Solutia.

22 Q. He still works there?

23 A. Yes.

0028

01 Q. You told me about the first
02 project, which was the west-end landfill?

03 A. Right.

04 Q. When was that project
05 finished?

06 A. That was finished in August of
07 '96.

08 Q. Okay. Were there any other
09 concurrent projects that were going on at
10 that time?

11 A. Uh-huh (Nodding head). We
12 were doing soil sampling and sediment
13 sampling.

14 Q. Where at?

15 A. Around the plant, east of the
16 plant and north of the plant. We were
17 building a storm water retention basin
18 east of the plant in '96.

19 Q. Is that -- has that project
20 been completed?

21 A. Uh-huh (Nodding head). Yes.
22 The basin was completed in November of
23 '96.

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01 Q. When was that project started,
02 if you know?

03 A. Basically, summer of '96.

04 Q. Okay. What other projects
05 have been done or are underway?

06 A. That would get us into '97 and
07 the projects that we have got going right
08 now, which we talked about earlier, the
09 storm water detention, and cap and cover
10 of the landfill, and cover of the acreage
11 to the east of the plant.

12 Q. What is that acreage being
13 covered up with?

14 A. We're first laying down a
15 geosynthetic fabric. It's a black fabric.
16 And then --

17 Q. What is that fabric -- what is
18 the purpose of it? What does it prevent?

19 A. The purpose of it is to, one,
20 mark the existing layer or the preexisting

21 surface. And then, secondly, it acts as
22 an erosions barrier. On top of that is
23 sixteen inches of soil that is graft and
0030 covered.
01 covered.
02 Q. Is that project finished?
03 A. No. It will be complete in
04 December.
05 Q. Okay. Is there any other
06 projects that you are working on or have
07 planned for the future?
08 A. Next year we will be working
09 in the north -- north of the plant doing a
10 similar cap and cover and storm water
11 control project.
12 Q. Is there any reason that you
13 are not doing them both at the same time?
14 A. Just -- just the magnitude
15 mostly.
16 Q. The logistics?
17 A. Right.
18 Q. How many acres is it that you
19 are capping and covering?
20 MR. PECK: You mean in the
21 project that he is going on right now?
22 Q. Yes, that we are talking about
23 right now?

0031 A. Right. We are capping
01 thirteen acres of landfill, and between
02 seventy and eighty acres of cover with the
03 fabric and soil.
04 Q. What is the purpose of that
05 project?
06 A. Well, three main emphases;
07 one, control of storm water, as we
08 discussed earlier. And then, two, is the
09 -- the multi-media cap over the landfill
10 cells is to reduce surface water
11 infiltration, and to secure it from any
12 erosion. The cover of the seventy to
13 eighty acres is to mitigate any potential
14 for storm water to erode impacted soil and
15 sediments and transport them off-site.
16 Q. Is the purpose of that project
17 also to prevent dispersion of PCBs?
18 A. Well, like I said, it's to
19 eliminate storm water from coming in
20 contact with impacted soils that are
21 impacted with PCBs, and thus pick them up
22 in the sediment and disperse them

0032 off-site.
01 off-site.
02 Q. Do you know why your company
03 doesn't want the PCBs to be dispersed?
04 A. Well, again, it's a regulated
05 chemical like many industrial chemicals
06 that have requirements to control. It's
07 an industrial chemical that needs to be
08 controlled as it impacted soils and
09 sediments. It needs to be controlled so
10 that it doesn't move off-site.
11 Q. Okay. Do you know why it

12 needs to be controlled?

13 A. It was established by the US
14 EPA as a regulated substance. And those
15 regulations are set up using very
16 conservative approaches and to protect
17 human health and the environment.

18 Q. Do you disagree with what you
19 stated about the EPA's determination of
20 how dangerous PCBs are?

21 MR. PECK: I object to the
22 form of the question. I think it
23 mischaracterizes what he said about PCBs.

0033

01 Go ahead.

02 A. I again am not the expert on
03 the effect of PCBs.

04 Q. Okay. I read somewhere that
05 there was a fence around the Monsanto
06 plant area.

07 A. Uh-huh (Nodding head).

08 Q. Can you tell me about that?

09 A. The fence around the facility?

10 Q. Yes.

11 A. There is a -- I believe it's a
12 eight-foot chain link fence around the
13 facility.

14 Q. Were you responsible for
15 having that implemented?

16 A. No. That has been in
17 existence for a long time.

18 Q. Are the areas that you have
19 been working on such as the landfill and
20 the -- the capped areas, is that fenced
21 off?

22 A. Yes.

23 Q. What is the purpose of those

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01 fences?

02 A. Securing and trespass.

03 Q. Do you know why they want to
04 keep people out from those areas?

05 A. It's a federal -- it's a
06 requirement of the regulations that these
07 areas be controlled access.

08 Q. Are you aware of how many
09 acres of soil, cubic yards of soil has
10 been dug up and moved by Monsanto?

11 A. Well, the only soil that has
12 been dug up and moved are clean soils that
13 we have used in the cap and cover project.
14 And that -- our current estimates are
15 roughly three hundred and fifty to five
16 hundred thousand cubic yards. Again, we
17 are not complete. We are not done yet.

18 Q. Do you have any estimate of
19 when you will be done?

20 A. With the projects we have
21 going, in December of this year. And
22 we'll be done with the north side next
23 year.

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01 Q. Was there any particular
02 reason that you are doing one particular

03 area instead of another?

04 A. Well, the -- the area that the
05 emphasis was started in was the east side.
06 And, again, it was contiguous with the
07 other projects that we are doing this
08 year.

09 Q. Do you know why you started on
10 the east side instead of the north side?

11 A. Right. That's where the
12 original storm water samples were taken.
13 And the storm water from the plant outfall
14 and the south landfills flow through that
15 area.

16 Q. Okay. Is the level of PCB
17 contamination in that area higher than it
18 is, or was it higher than it was in other
19 areas?

20 A. Well, I mean, the -- the area
21 on the east side is -- I'm not sure I
22 understand the question.

23 Q. Okay. I'm sorry. It may not
0036 have made any sense.

02 what I want to know is, is
03 there any area around the plant that has
04 been found to be any more contaminated
05 with PCBs than other areas?

06 A. The -- when you are talking
07 soil samples, it's fairly heterogeneous.
08 It can vary. The areas with the highest
09 levels of impact were in the ditch where
10 drainage flowed.

11 Q. That -- where with respect to
12 the plant did that lie?

13 A. There is the drainage ditch
14 that flows east of the plant, as well as
15 the drainage ditch that flows to the west
16 of the plant and to the north.

17 Q. Was there any particular ditch
18 that was more contaminated than another
19 ditch?

20 A. I wouldn't say anything stood
21 out one as opposed to the other.

22 Q. You stated earlier that you
23 are almost finished building a sediment
0037 basin?

02 A. We finished construction of
03 the sediment basin last year. And we are
04 doing storm water controls in the project
05 this year.

06 Q. How large is that basin?

07 A. That we completed last year?

08 Q. Yes, sir.

09 A. I believe it's about ten
10 acres.

11 Q. Is that basin regularly
12 tested?

13 A. It's part of all of the
14 outflow that gets tested on a quarterly
15 basis.

16 Q. How many samples do they take
17 from that basin?

18 A. It's one sample during a
19 storm.

20 Q. When you stated you were
21 working on storm water controls right now,
22 what do you mean by that?

23 A. Well, the project that we have
0038 got this year, we are capturing storm
02 water that flows down off of the mountain,
03 uphill of the south landfill, capturing
04 that, diverting that into a pipe, and
05 piping it roughly a mile around the area.
06 And storm waters that fall on the landfill
07 area get diverted into the sediment basin
08 that we finished last year.

09 The storm water from the
10 plant, it's converted and piped to the
11 east. And the areas that are capped to
12 the east of the plant are all captured and
13 diverted into piping. All of that piping
14 goes into one catchment basin that gets
15 sampled.

16 Q. Okay. Do you know how the
17 area around the Monsanto plant became
18 contaminated with PCBs?

19 A. The areas that we've been
20 investigating are in the storm water
21 ditches, which transport PCBs. It would
22 have been in the storm ditches,
23 transported by sediment and soil.

0039 Q. Would the origin of those PCBs
02 have been in the Monsanto plant?

03 A. The storm water from the plant
04 and from the south landfill at Monsanto
05 goes down through those ditches.

06 Q. That south landfill, do you
07 know what was dumped into that landfill?

08 A. It was used during the
09 operation in the facility for solid waste
10 and some production waste, as well as
11 dismantling of the PCB unit, and other
12 units as we dismantled different
13 production units.

14 Q. Do you know when that landfill
15 was used?

16 A. No.

17 Q. Some of the waste that was
18 dumped in the landfill, did it contain
19 PCBs?

20 A. The PCB production unit was
21 dismantled and put in there. As to what
22 other was in there, I don't know.

23 Q. Well, would some of the

0040 production waste contain PCBs, if you are
02 aware?

03 A. I'm not aware.

04 Q. Okay. Do you know when
05 Monsanto began testing for PCBs around
06 that plant?

07 A. We -- as far as the projects
08 that I'm involved with, we began sampling

09 storm water in the areas around the plant
10 in '93.

11 Q. Are you aware of any testing
12 that was done for PCBs before 1993?

13 A. I'm aware that there was some,
14 but I'm not the expert on that.

15 Q. Who would be, if you know?

16 A. Bob Kaley would be, would know
17 that sampling.

18 Q. What is his job title?

19 A. Director of environmental
20 affairs.

21 Q. PCBs don't occur naturally in
22 the environment, do they?

23 A. They are a manufactured

0041
01 chemical.

02 Q. But there is no instances of
03 an environment, of it being a natural
04 substance?

05 A. I couldn't tell you that.

06 Q. Are you aware of any federal
07 or state fines that have been levied
08 against Monsanto?

09 A. No, I'm not aware of any.

10 Q. Do you work in conjunction
11 with, or do you have any contact with
12 anybody from the ADEM?

13 A. Sure.

14 Q. Who do you have contact with
15 there?

16 A. We work with the RCRA branch,
17 solid waste division, out of Montgomery.

18 Q. When you mean you work with
19 them, what does that entail?

20 A. All of the work that we are
21 doing currently and in the past was
22 approved work plans, or currently the work
23 we are doing is interim measures plans per

0042
01 RCRA regulations that are administered by
02 ADEM. We work with their review and
03 approval on-site.

04 Q. Is there any particular person
05 there that you work with more than others?

06 A. Stephen Cobb.

07 Q. Do you know his position
08 there?

09 A. No.

10 Q. Okay. When you say RCRA, what
11 do you mean by that?

12 A. That's the set of regulations.
13 And it stands for Resource Conservation
14 and Recovery Act. And it's the permit
15 that we currently have for the facility,
16 the Part B post-closure permit.

17 Q. Do you know how many people
18 currently work at that Anniston facility?

19 A. I think it's roughly a
20 hundred.

21 Q. That facility doesn't produce
22 any chemicals any longer, does it?

23 A. It makes -- it has several

0043
01 product lines. I don't know specifically
02 what they are.
03 MR. PECK: They don't make
04 PCBs.
05 Q. I'm glad. Okay. who -- how
06 many people work under you at the moment?
07 A. Right now, those that work on
08 the projects that I'm responsible for is
09 about a hundred.
10 Q. Are those employees of --
11 A. No. Those are subcontractors
12 to solutia.
13 Q. spell solutia for me.
14 A. S-O-L-U-T-I-A.
15 Q. who are your supervisors?
16 A. My supervisor is Michael
17 Foresman.
18 Q. F-O-R-S-M-A-N?
19 A. F-O-R-E-S-M-A-N.
20 Q. Is he in Anniston?
21 A. No. He is in St. Louis.
22 Q. What is his job title, do you
23 know?

0044
01 A. He is director of remedial
02 projects.
03 Q. Do you know how many remedial
04 projects Monsanto has going on right now?
05 A. No.
06 Q. We have kind of gone into this
07 already. But you are not aware of when
08 Monsanto began producing PCBs?
09 A. No, I don't know the specific
10 date when PCBs began manufacture.
11 Q. You don't know how much of it
12 they produced, do you?
13 A. No.
14 Q. Are you -- do you know how
15 much of it was dumped in that landfill?
16 A. I don't know that any was
17 dumped in the landfill.
18 Q. Okay. But you know that the
19 equipment that manufactured the PCBs was
20 in the landfill?
21 A. was put in the landfill, yes.
22 Q. Okay. When is the last time
23 you have done any sampling of the area?

0045
01 A. we -- we finished our soil and
02 sediment sampling per the 1996 consent
03 order, we finished that the fall of last
04 year.
05 Q. About a year ago?
06 A. Yeah.
07 Q. What were the results of that
08 testing?
09 A. Quite a number of soil and
10 sediment samples. And we have found the
11 limits of detectable PCBs in sediments and
12 soils around the plant.
13 Q. What were the results of that
14 testing? I mean, you found PCBs --

15 A. Found PCBs in the ditch and
16 immediately adjacent to the ditches in the
17 east side, and to the west and north of
18 the plant. All those results were filed
19 with the State of Alabama.

20 Q. Has the level of PCBs in your
21 sampling lowered over the years?

22 A. I couldn't answer that. The
23 only part that I'm -- I have dealt with is

0046
01 the current sampling that we have done.

02 Q. Okay. Do you know who could
03 answer that question at Monsanto?

04 A. I think Bob Kaley could answer
05 that.

06 Q. Have you read a copy of the
07 complaint that has been filed in this
08 case.

09 A. I don't recall that I have.

10 Q. Okay. Do you know what this
11 case is generally about?

12 A. Generally, I believe it's
13 claims by Mr. Massey of, I believe,
14 property and health claims.

15 Q. Are you aware that he has
16 given blood and he has tested positive for
17 PCBs in it?

18 A. No, I'm not aware of that.

19 Q. Are you aware -- we have gone
20 over this already. I just want to make
21 sure -- are you aware of any kind of
22 health consequences for having PCBs in
23 your blood?

0047

01 A. No.

02 Q. Have you ever had your blood
03 tested for them?

04 A. No.

05 Q. Have you seen a copy of the
06 answer filed by Monsanto to this
07 complaint?

08 A. No.

09 Q. Do you know how the plaintiffs
10 -- when I say plaintiffs, I mean Mr. and
11 Mrs. Massey -- how they could have assumed
12 the risk of the injuries which they are --
13 the basis of this lawsuit?

14 A. I don't understand the
15 question.

16 Q. Well, part of the answer was
17 that Mr. and Mrs. Massey assumed the
18 risk -- that's one of the defenses of
19 Monsanto -- of the injuries which they
20 allege?

21 MR. PECK: Object to the form
22 of the question, calls for a legal
23 conclusion.

0048

01 A. I have no answer.

02 Q. Well, do you think that
03 Monsanto owed a duty to the people that
04 lived around that facility?

05 A. Well, any operating facility

06 works in the community as a neighbor and
07 has a duty to work with those people.
08 Q. Okay. Do you know when
09 Monsanto first became aware of PCB
10 contamination around that facility?
11 A. It was during a storm water
12 sampling in '93.
13 Q. Earlier you testified that
14 there was some sampling for PCBs before
15 that time?
16 A. Yeah. That was my
17 recollection. But, again, I'm not the
18 expert on that.
19 Q. Do you know when the
20 government first started regulating the
21 production of PCBs?
22 A. No.
23 Q. You stated earlier that it was
0049 a regulated chemical?
01 A. Uh-huh (Nodding head).
02 Q. Do you know when it started
03 becoming regulated?
04 A. No, I don't.
05 Q. Are you aware of what the
06 standards are governing PCBs?
07 A. Other than it's a regulated
08 chemical that needs to be considered in
09 sampling, I don't have any other
10 knowledge.
11 Q. Well, do you know that it's
12 regulated by the US Government and by the
13 State of Alabama?
14 A. I think it's regulated by the
15 US Government, and then Alabama complies
16 with those regulations, yes, sir.
17 Q. Do you know what agencies of
18 the US Government regulate the production
19 of PCBs?
20 A. TSCA, I believe, is the
21 specific agency that deals with PCBs.
22 Q. TSCA?
0050 A. TSCA.
01 Q. What does that stand for?
02 A. Toxic --
03 MR. PECK: Toxic Substance
04 Control Act.
05 A. Control Act, yeah, T-S-C-A.
06 Q. Do you work with any agencies
07 of the US Government in your job
08 presently?
09 A. Not directly. But the work
10 that -- that the Alabama Department of
11 Environmental Management, oversight for us
12 and approval of work plans, is -- they
13 consult with the US EPA.
14 Q. Do you work with any other
15 state agencies besides ADEM?
16 A. The Alabama Department of
17 Health, Public Health.
18 Q. What is your relationship to
19 the Alabama Department of Public Health?
20

21 A. They are advised and they
22 comment on -- like the Alabama Department
23 of Environmental Management -- work plans

0051

01 and submittals for work that we have.

02 Q. Okay. What kind of safety
03 precautions do you or the people under you
04 partake of when you are handling
05 contaminated substances that are
06 contaminated with PCBs?

07 A. Well, there are federal
08 regulations, OSHA regulations, that
09 dictate the level of protection that you
10 need to wear.

11 Q. What does the level of
12 protection start with?

13 A. The -- it's classified into
14 three or four levels.

15 Q. What are those levels?

16 A. I don't -- I couldn't recite
17 them specifically.

18 Q. I mean, when -- is there
19 certain times when you might wear a suit
20 versus --

21 A. In the -- in the projects that
22 we are working, in area where there is
23 known levels of impacted material --

0052

01 Q. I'm sorry to interrupt you.
02 By impacted material, you mean PCB
03 contamination?

04 A. Sediments and soils impacted
05 by PCBs. They are required to wear
06 long-sleeve shirts, long pants, and Tyvek
07 suits, which are basically disposable
08 outerwear so that they don't have to
09 dispose of their clothes.

10 Q. Is there any particular
11 footwear that is used?

12 A. Just normal steel-toed --
13 normal construction steel-toed shoes.

14 Q. How does -- what is the
15 increase in protection, and when is it
16 increased?

17 A. For what we are doing, there
18 is no, no increase.

19 Q. Okay. Do your men ever wear
20 any kind of mask or anything?

21 A. No.

22 Q. Do they wear gloves when they
23 are handling the soil and the water?

0053

01 A. No. They are required to wash
02 their hands after leaving the -- before
03 they leave the site.

04 Q. Are they required to wash
05 their boots?

06 A. Yeah, or they would put
07 disposable booties on.

08 Q. Like they wear at hospitals,
09 that kind of thing?

10 A. Yeah.

11 Q. Off the record.

12 (Off-the-record discussion)
13 Q. (BY MR. HODGES) Tell me what
14 you know about the manufacturing of PCBs
15 and what the purpose of those are.
16 A. Well, PCBs were a heat
17 transfer fluid used extensively, a lot in
18 the electrical business, in transformers.
19 Q. What do you know about the
20 health consequences of PCB ingestion?
21 A. I don't know of any --
22 anything specific about it.
23 Q. Well, are you aware that it's
0054
01 been found to be a carcinogen?
02 A. No, I'm not aware of that.
03 Q. Are you aware that it can be
04 ingested into the human body and found in
05 the fat of that body?
06 A. Well, I know like any
07 industrial chemical, it can -- or any
08 particle can be ingested in the human
09 body.
10 Q. But is it fat soluble, or do
11 you know?
12 A. I don't know.
13 Q. Who owns that facility now?
14 A. Solutia.
15 Q. Solutia? Okay. Do you know
16 who the CEO of Solutia is?
17 A. It would be Robert Potter,
18 P-O-T-T-E-R.
19 Q. Okay. Where is he, do you
20 know?
21 A. St. Louis.
22 Q. When does your job run out, or
23 when are you going to be completed with
0055
01 this job in Anniston?
02 A. We will be completed with the
03 major construction projects around the
04 plant in late '98. We are currently, in
05 '98 we will be doing a facility
06 investigation under RCRA, under that
07 post-closure permit that I talked about.
08 Q. Sure.
09 A. And that will go on for some
10 period of time. No real end necessarily.
11 Q. So that the major construction
12 projects end, but there will be continual
13 testing?
14 A. Continual involvement by me in
15 the project handling. We will have care-
16 taking responsibilities for all of these
17 areas for a long time.
18 Q. Do you know how long Monsanto
19 --
20 A. Current permit stipulates
21 thirty years of operation and maintenance.
22 Q. When did that permit start?
23 A. I don't recall specifically,
0056
01 but I think it was January of -- January
02 of this year, January of '97.

03 Q. Is there -- who decides
04 whether that permit continues after thirty
05 years?
06 A. The State of Alabama.
07 Q. Do you know what the terms are
08 of --
09 A. The permit isn't thirty years.
10 The permit is for ten years, and it is
11 renewed at that time. The remedial
12 projects that we do under that permit have
13 an initial thirty-year operation and
14 maintenance responsibility.
15 Q. Do you know if PCBs are still
16 manufactured?
17 A. I don't know.
18 MR. PECK: Do you mean
19 anywhere in the world?
20 Q. I want to know if you know
21 anywhere in the US.
22 MR. HODGES: That's all the
23 questions that I have.

0057 MR. PECK: All right.
01 2:08 pm
02 FURTHER DEPONENT SAITH NOT
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0058
01 C E R T I F I C A T E
02
03 STATE OF ALABAMA)
04 JEFFERSON COUNTY)
05
06 I hereby certify that the above
07 and foregoing deposition was taken down by
08 me in stenotype, and the questions and
09 answers thereto were transcribed by means
10 of computer-aided transcription, and that
11 the foregoing represents a true and
12 correct transcript of the deposition given
13 by said witness upon said hearing.
14 I further certify that I am
15 neither of counsel nor of kin to the
16 parties to the action, nor am I in anywise
17 interested in the result of said cause.

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DAVID L. MILLER, RMR